
HOUSE BILL 2257

State of Washington 54th Legislature 1996 Regular Session

By Representatives Morris, Conway, Costa, Ogden, Romero, Wolfe, Poulson, Regala, Dickerson, Hatfield, Rust, Cody, Scheuerman, Appelwick, Keiser, Patterson, Linville and Kessler

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1 AN ACT Relating to juveniles; amending RCW 5.60.060, 13.40.010,
2 13.40.025, 13.40.027, 13.40.030, 13.40.0357, 13.40.0357, 13.40.0357,
3 13.40.045, 13.40.050, 13.40.060, 13.40.080, 13.40.130, 13.40.150,
4 13.40.160, 13.40.185, 13.40.193, 13.40.210, and 35.20.030; reenacting
5 and amending RCW 13.04.030 and 13.40.020; adding a new section to
6 chapter 13.04 RCW; adding new sections to chapter 13.40 RCW; adding a
7 new section to chapter 28A.175 RCW; adding a new section to chapter
8 28A.225 RCW; creating new sections; prescribing penalties; providing
9 effective dates; and providing expiration dates.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

11 **Sec. 1.** RCW 5.60.060 and 1995 c 240 s 1 are each amended to read
12 as follows:

13 (1) A husband shall not be examined for or against his wife,
14 without the consent of the wife, nor a wife for or against her husband
15 without the consent of the husband; nor can either during marriage or
16 afterward, be without the consent of the other, examined as to any
17 communication made by one to the other during marriage. But this
18 exception shall not apply to a civil action or proceeding by one
19 against the other, nor to a criminal action or proceeding for a crime

1 committed by one against the other, nor to a criminal action or
2 proceeding against a spouse if the marriage occurred subsequent to the
3 filing of formal charges against the defendant, nor to a criminal
4 action or proceeding for a crime committed by said husband or wife
5 against any child of whom said husband or wife is the parent or
6 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:
7 PROVIDED, That the spouse of a person sought to be detained under
8 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall
9 be so informed by the court prior to being called as a witness.

10 (2)(a) An attorney or counselor shall not, without the consent of
11 his or her client, be examined as to any communication made by the
12 client to him or her, or his or her advice given thereon in the course
13 of professional employment.

14 (b) A parent shall not be examined as to a communication made by
15 that parent's minor child to the child's attorney after the filing of
16 juvenile offender or adult criminal charges, if the parent was present
17 at the time of the communication. This privilege does not extend to
18 communications made prior to filing of charges.

19 (3) A member of the clergy or a priest shall not, without the
20 consent of a person making the confession, be examined as to any
21 confession made to him or her in his or her professional character, in
22 the course of discipline enjoined by the church to which he or she
23 belongs.

24 (4) Subject to the limitations under RCW 70.96A.140 or 71.05.250,
25 a physician or surgeon or osteopathic physician or surgeon shall not,
26 without the consent of his or her patient, be examined in a civil
27 action as to any information acquired in attending such patient, which
28 was necessary to enable him or her to prescribe or act for the patient,
29 except as follows:

30 (a) In any judicial proceedings regarding a child's injury,
31 neglect, or sexual abuse or the cause thereof; and

32 (b) Ninety days after filing an action for personal injuries or
33 wrongful death, the claimant shall be deemed to waive the physician-
34 patient privilege. Waiver of the physician-patient privilege for any
35 one physician or condition constitutes a waiver of the privilege as to
36 all physicians or conditions, subject to such limitations as a court
37 may impose pursuant to court rules.

1 (5) A public officer shall not be examined as a witness as to
2 communications made to him or her in official confidence, when the
3 public interest would suffer by the disclosure.

4 (6)(a) A peer support group counselor shall not, without consent of
5 the law enforcement officer making the communication, be compelled to
6 testify about any communication made to the counselor by the officer
7 while receiving counseling. The counselor must be designated as such
8 by the sheriff, police chief, or chief of the Washington state patrol,
9 prior to the incident that results in counseling. The privilege only
10 applies when the communication was made to the counselor while acting
11 in his or her capacity as a peer support group counselor. The
12 privilege does not apply if the counselor was an initial responding
13 officer, a witness, or a party to the incident which prompted the
14 delivery of peer support group counseling services to the law
15 enforcement officer.

16 (b) For purposes of this section, "peer support group counselor"
17 means a:

18 (i) Law enforcement officer, or civilian employee of a law
19 enforcement agency, who has received training to provide emotional and
20 moral support and counseling to an officer who needs those services as
21 a result of an incident in which the officer was involved while acting
22 in his or her official capacity; or

23 (ii) Nonemployee counselor who has been designated by the sheriff,
24 police chief, or chief of the Washington state patrol to provide
25 emotional and moral support and counseling to an officer who needs
26 those services as a result of an incident in which the officer was
27 involved while acting in his or her official capacity.

28 **Sec. 2.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are
29 each reenacted and amended to read as follows:

30 (1) Except as provided in subsection (2) of this section, the
31 juvenile courts in the several counties of this state, shall have
32 exclusive original jurisdiction over all proceedings:

33 (a) Under the interstate compact on placement of children as
34 provided in chapter 26.34 RCW;

35 (b) Relating to children alleged or found to be dependent as
36 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

37 (c) Relating to the termination of a parent and child relationship
38 as provided in RCW 13.34.180 through 13.34.210;

1 (d) To approve or disapprove out-of-home placement as provided in
2 RCW 13.32A.170;

3 (e) Relating to juveniles alleged or found to have committed
4 offenses, traffic infractions, civil infractions, or violations as
5 provided in RCW 13.40.020 through 13.40.230, unless:

6 (i) The juvenile court transfers jurisdiction of a particular
7 juvenile to adult criminal court pursuant to RCW 13.40.110; or

8 (ii) The statute of limitations applicable to adult prosecution for
9 the offense, traffic infraction, civil infraction, or violation has
10 expired; or

11 (iii) The alleged offense or infraction is a traffic, fish,
12 boating, or game offense or traffic or civil infraction committed by a
13 juvenile sixteen years of age or older and would, if committed by an
14 adult, be tried or heard in a court of limited jurisdiction, in which
15 instance the appropriate court of limited jurisdiction shall have
16 jurisdiction over the alleged offense or infraction: PROVIDED, That if
17 such an alleged offense or infraction and an alleged offense or
18 infraction subject to juvenile court jurisdiction arise out of the same
19 event or incident, the juvenile court may have jurisdiction of both
20 matters: PROVIDED FURTHER, That the jurisdiction under this subsection
21 does not constitute "transfer" or a "decline" for purposes of RCW
22 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER, That
23 courts of limited jurisdiction which confine juveniles for an alleged
24 offense or infraction may place juveniles in juvenile detention
25 facilities under an agreement with the officials responsible for the
26 administration of the juvenile detention facility in RCW 13.04.035 and
27 13.20.060; or

28 (iv) The alleged offense is a traffic or civil infraction, a
29 violation of compulsory school attendance provisions under chapter
30 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has
31 assumed concurrent jurisdiction over those offenses as provided in
32 section 4 of this act; or

33 (v) The juvenile is sixteen or seventeen years old and the alleged
34 offense is: (A) A serious violent offense as defined in RCW 9.94A.030
35 committed on or after June 13, 1994; or (B) a violent offense as
36 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the
37 juvenile has a criminal history consisting of: ((+I)) One or more
38 prior serious violent offenses; ((+II)) two or more prior violent
39 offenses; or ((+III)) three or more of any combination of the

1 following offenses: Any class A felony, any class B felony, vehicular
2 assault, or manslaughter in the second degree, all of which must have
3 been committed after the juvenile's thirteenth birthday and prosecuted
4 separately. In such a case the adult criminal court shall have
5 exclusive original jurisdiction.

6 If the juvenile challenges the state's determination of the
7 juvenile's criminal history, the state may establish the offender's
8 criminal history by a preponderance of the evidence. If the criminal
9 history consists of adjudications entered upon a plea of guilty, the
10 state shall not bear a burden of establishing the knowing and
11 voluntariness of the plea;

12 (f) Under the interstate compact on juveniles as provided in
13 chapter 13.24 RCW;

14 (g) Relating to termination of a diversion agreement under RCW
15 13.40.080, including a proceeding in which the divertee has attained
16 eighteen years of age;

17 (h) Relating to court validation of a voluntary consent to an out-
18 of-home placement under chapter 13.34 RCW, by the parent or Indian
19 custodian of an Indian child, except if the parent or Indian custodian
20 and child are residents of or domiciled within the boundaries of a
21 federally recognized Indian reservation over which the tribe exercises
22 exclusive jurisdiction; and

23 (i) Relating to petitions to compel disclosure of information filed
24 by the department of social and health services pursuant to RCW
25 74.13.042.

26 (2) The family court shall have concurrent original jurisdiction
27 with the juvenile court over all proceedings under this section if the
28 superior court judges of a county authorize concurrent jurisdiction as
29 provided in RCW 26.12.010.

30 (3) A juvenile subject to adult superior court jurisdiction under
31 subsection (1)(e)(i) through ~~((iv))~~ (v) of this section, who is
32 detained pending trial, may be detained in a county detention facility
33 as defined in RCW 13.40.020 pending sentencing or a dismissal.

34 (4) A parent, guardian, or custodian who has custody of any
35 juvenile described in this section, if such parent, guardian, or
36 custodian was served with a summons, shall be subject to the
37 jurisdiction of the court for purposes of enforcing required attendance
38 at juvenile court hearings.

1 NEW SECTION. **Sec. 3.** The legislature finds that a swift and
2 certain response to a juvenile who begins engaging in acts of
3 delinquency may prevent the offender from becoming a chronic or more
4 serious offender. However, given pressing demands to address serious
5 offenders, the system does not always respond to minor offenders
6 expeditiously and effectively. Consequently, sections 4, 31, and 32 of
7 this act are adopted to implement an experiment to determine whether
8 granting courts of limited jurisdiction concurrent jurisdiction over
9 certain juvenile offenses will improve the system's effectiveness in
10 curbing delinquency. The legislature may ascertain whether this
11 approach might be successful on a larger scale by conducting an
12 experiment with local governments, which are the laboratories of
13 democracy.

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 13.04 RCW
15 to read as follows:

16 (1) Any county with a population of at least one hundred seventy-
17 five thousand but less than two hundred fifty thousand that has a city
18 with a population of at least fifty-nine thousand may authorize a pilot
19 project to allow courts of limited jurisdiction within the county to
20 exercise concurrent jurisdiction with the juvenile court under certain
21 circumstances. District and municipal courts of limited jurisdiction
22 at the local option of the county or any city or town located within
23 the county may exercise concurrent original jurisdiction with the
24 juvenile court over traffic or civil infractions, violations of
25 compulsory school attendance provisions under chapter 28A.225 RCW, and
26 misdemeanors when those offenses are allegedly committed by juveniles
27 and:

28 (a)(i) The offense, which if committed by an adult, is punishable
29 by sanctions that do not include incarceration; or

30 (ii) The offender's standard range disposition does not include
31 more than ten days in confinement as defined in RCW 13.40.020;

32 (b) The court of limited jurisdiction has a computer system that is
33 linked to the state-wide criminal history information data system used
34 by juvenile courts to track and record juvenile offenders' criminal
35 history;

36 (c) The county legislative authority of the county has authorized
37 creation of concurrent jurisdiction between the court of limited
38 jurisdiction and the juvenile court; and

1 (d) The court of limited jurisdiction has an agreement with
2 officials responsible for administering the county juvenile detention
3 facility pursuant to RCW 13.04.035 and 13.20.060 that the court may
4 order juveniles into the detention facility for an offense in cases in
5 which the court finds that a disposition without confinement would be
6 a manifest injustice.

7 (2) The juvenile court shall retain jurisdiction over the offense
8 if the juvenile is charged with another offense arising out of the same
9 incident and the juvenile court has jurisdiction over the other
10 offense.

11 (3) Jurisdiction under this section does not constitute a decline
12 or transfer of juvenile court jurisdiction under RCW 13.40.110.

13 (4) The procedural and disposition provisions of chapter 13.40 RCW
14 shall apply to offenses prosecuted under this section.

15 (5) All diversions and adjudications entered by a court of limited
16 jurisdiction shall be included in an offender's criminal history as
17 provided in chapter 13.40 RCW.

18 (6) The provisions of this section shall be implemented as a pilot
19 project in the county and this section shall expire June 30, 1998.

20 **Sec. 5.** RCW 13.40.010 and 1992 c 205 s 101 are each amended to
21 read as follows:

22 (1) This chapter shall be known and cited as the Juvenile Justice
23 Act of 1977.

24 (2) It is the intent of the legislature that a system capable of
25 having primary responsibility for, being accountable for, and
26 responding to the needs of youthful offenders, as defined by this
27 chapter, be established. It is the further intent of the legislature
28 that youth, in turn, be held accountable for their offenses and that
29 (~~both~~) communities, families, and the juvenile courts carry out their
30 functions consistent with this intent. To effectuate these policies,
31 the legislature declares the following to be equally important purposes
32 of this chapter:

33 (a) Protect the citizenry from criminal behavior;

34 (b) Provide for determining whether accused juveniles have
35 committed offenses as defined by this chapter;

36 (c) Make the juvenile offender accountable for his or her criminal
37 behavior;

1 (d) Provide for punishment commensurate with the age, crime, and
2 criminal history of the juvenile offender;

3 (e) Provide due process for juveniles alleged to have committed an
4 offense;

5 (f) Provide necessary treatment, supervision, and custody for
6 juvenile offenders;

7 (g) Provide for the handling of juvenile offenders by communities
8 whenever consistent with public safety;

9 (h) Provide for restitution to victims of crime;

10 (i) Develop effective standards and goals for the operation,
11 funding, and evaluation of all components of the juvenile justice
12 system and related services at the state and local levels; ((and))

13 (j) Provide for a clear policy to determine what types of offenders
14 shall receive punishment, treatment, or both, and to determine the
15 jurisdictional limitations of the courts, institutions, and community
16 services;

17 (k) Encourage the parents, guardian, or custodian of the juvenile
18 to actively participate in the juvenile justice process; and

19 (l) Ensure that racial and ethnic minority families are not
20 disproportionately affected by the juvenile justice system because of
21 their race or ethnicity.

22 **Sec. 6.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are
23 each reenacted and amended to read as follows:

24 For the purposes of this chapter:

25 (1) "Serious offender" means a person (~~(fifteen years of age or~~
26 ~~older)~~) who has committed an offense which if committed by an adult
27 would be:

28 (a) A class A felony, or an attempt to commit a class A felony;

29 (b) Manslaughter in the first degree; or

30 (c) Assault in the second degree, extortion in the first degree,
31 child molestation in the second degree, kidnapping in the second
32 degree, robbery in the second degree, residential burglary, or burglary
33 in the second degree, where such offenses include the infliction of
34 bodily harm upon another or where during the commission of or immediate
35 withdrawal from such an offense the perpetrator is armed with a deadly
36 weapon;

37 (2) "Community service" means compulsory service, without
38 compensation, performed for the benefit of the community by the

1 offender as punishment for committing an offense. Community service
2 may be performed through public or private organizations or through
3 work crews;

4 (3) "Community supervision" means an order of disposition by the
5 court of an adjudicated youth not committed to the department or an
6 order granting a deferred adjudication pursuant to RCW 13.40.125. A
7 community supervision order for a single offense may be for a period of
8 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
9 one year for other offenses. As a mandatory condition of any term of
10 community supervision, the court shall order the juvenile to refrain
11 from committing new offenses. As a mandatory condition of community
12 supervision, the court shall order the juvenile to comply with the
13 mandatory school attendance provisions of chapter 28A.225 RCW and to
14 inform the school of the existence of this requirement. Community
15 supervision is an individualized program comprised of one or more of
16 the following:

- 17 (a) Community-based sanctions;
- 18 (b) Community-based rehabilitation;
- 19 (c) Monitoring and reporting requirements;
- 20 (d) Posting of a probation bond imposed pursuant to RCW 13.40.0357;

21 (4) Community-based sanctions may include one or more of the
22 following:

- 23 (a) A fine, not to exceed one hundred dollars;
- 24 (b) Community service not to exceed one hundred fifty hours of
25 service;

26 (5) "Community-based rehabilitation" means one or more of the
27 following: Attendance of information classes; counseling, outpatient
28 substance abuse treatment programs, outpatient mental health programs,
29 anger management classes, education or outpatient treatment programs to
30 prevent animal cruelty, or other services; or attendance at school or
31 other educational programs appropriate for the juvenile as determined
32 by the school district. Placement in community-based rehabilitation
33 programs is subject to available funds;

34 (6) "Monitoring and reporting requirements" means one or more of
35 the following: Curfews; requirements to remain at home, school, work,
36 or court-ordered treatment programs during specified hours;
37 restrictions from leaving or entering specified geographical areas;
38 requirements to report to the probation officer as directed and to
39 remain under the probation officer's supervision; and other conditions

1 or limitations as the court may require which may not include
2 confinement;

3 (7) "Confinement" means physical custody by the department of
4 social and health services in a facility operated by or pursuant to a
5 contract with the state, or physical custody in a detention facility
6 operated by or pursuant to a contract with any county. The county may
7 operate or contract with vendors to operate county detention
8 facilities. The department may operate or contract to operate
9 detention facilities for juveniles committed to the department.
10 Pretrial confinement or confinement of less than thirty-one days
11 imposed as part of a disposition or modification order may be served
12 consecutively or intermittently, in the discretion of the court;

13 (8) "Court", when used without further qualification, means the
14 juvenile court judge(s) or commissioner(s);

15 (9) "Criminal history" includes all criminal complaints against the
16 respondent for which, prior to the commission of a current offense:

17 (a) The allegations were found correct by a court. If a respondent
18 is convicted of two or more charges arising out of the same course of
19 conduct, only the highest charge from among these shall count as an
20 offense for the purposes of this chapter; or

21 (b) The criminal complaint was diverted by a prosecutor pursuant to
22 the provisions of this chapter on agreement of the respondent and after
23 an advisement to the respondent that the criminal complaint would be
24 considered as part of the respondent's criminal history. A
25 successfully completed deferred adjudication shall not be considered
26 part of the respondent's criminal history;

27 (10) "Department" means the department of social and health
28 services;

29 (11) "Detention facility" means a county facility, paid for by the
30 county, for the physical confinement of a juvenile alleged to have
31 committed an offense or an adjudicated offender subject to a
32 disposition or modification order. "Detention facility" includes
33 county group homes, inpatient substance abuse programs, juvenile basic
34 training camps, and electronic monitoring;

35 (12) "Diversion unit" means any probation counselor who enters into
36 a diversion agreement with an alleged youthful offender, or any other
37 person, community accountability board, or other entity except a law
38 enforcement official or entity, with whom the juvenile court
39 administrator has contracted to arrange and supervise such agreements

1 pursuant to RCW 13.40.080, or any person, community accountability
2 board, or other entity specially funded by the legislature to arrange
3 and supervise diversion agreements in accordance with the requirements
4 of this chapter. For purposes of this subsection, "community
5 accountability board" means a board comprised of members of the local
6 community in which the juvenile offender resides. The superior court
7 shall appoint the members. The boards shall consist of at least three
8 and not more than seven members. If possible, the board should include
9 a variety of representatives from the community, such as a law
10 enforcement officer, teacher or school administrator, high school
11 student, parent, and business owner, and should represent the cultural
12 diversity of the local community;

13 (13) "Institution" means a juvenile facility established pursuant
14 to chapters 72.05 and 72.16 through 72.20 RCW;

15 (14) "Juvenile," "youth," and "child" mean any individual who is
16 under the chronological age of eighteen years and who has not been
17 previously transferred to adult court pursuant to RCW 13.40.110 or who
18 is otherwise under adult court jurisdiction;

19 (15) "Juvenile offender" means any juvenile who has been found by
20 the juvenile court to have committed an offense, including a person
21 eighteen years of age or older over whom jurisdiction has been extended
22 under RCW 13.40.300;

23 (16) "Manifest injustice" means a disposition that would either
24 impose an excessive penalty on the juvenile or would impose a serious,
25 and clear danger to society in light of the purposes of this chapter;

26 (17) "Middle offender" means a person who has committed an offense
27 and who is neither a minor or first offender nor a serious offender;

28 (18) "Minor or first offender" means a person whose current
29 offense(s) and criminal history fall entirely within one of the
30 following categories:

31 (a) Four misdemeanors;

32 (b) Two misdemeanors and one gross misdemeanor;

33 (c) One misdemeanor and two gross misdemeanors; and

34 (d) Three gross misdemeanors.

35 For purposes of this definition, current violations shall be
36 counted as misdemeanors;

37 (19) "Offense" means an act designated a violation or a crime if
38 committed by an adult under the law of this state, under any ordinance

1 of any city or county of this state, under any federal law, or under
2 the law of another state if the act occurred in that state;

3 (20) "Respondent" means a juvenile who is alleged or proven to have
4 committed an offense;

5 (21) "Restitution" means financial reimbursement by the offender to
6 the victim, and shall be limited to easily ascertainable damages for
7 injury to or loss of property, actual expenses incurred for medical
8 treatment for physical injury to persons, lost wages resulting from
9 physical injury, and costs of the victim's counseling reasonably
10 related to the offense if the offense is a sex offense. Restitution
11 shall not include reimbursement for damages for mental anguish, pain
12 and suffering, or other intangible losses. Nothing in this chapter
13 shall limit or replace civil remedies or defenses available to the
14 victim or offender;

15 (22) "Secretary" means the secretary of the department of social
16 and health services. "Assistant secretary" means the assistant
17 secretary for juvenile rehabilitation for the department;

18 (23) "Services" mean services which provide alternatives to
19 incarceration for those juveniles who have pleaded or been adjudicated
20 guilty of an offense or have signed a diversion agreement pursuant to
21 this chapter;

22 (24) "Sex offense" means an offense defined as a sex offense in RCW
23 9.94A.030;

24 (25) "Sexual motivation" means that one of the purposes for which
25 the respondent committed the offense was for the purpose of his or her
26 sexual gratification;

27 (26) "Foster care" means temporary physical care in a foster family
28 home or group care facility as defined in RCW 74.15.020 and licensed by
29 the department, or other legally authorized care;

30 (27) "Violation" means an act or omission, which if committed by an
31 adult, must be proven beyond a reasonable doubt, and is punishable by
32 sanctions which do not include incarceration;

33 (28) "Violent offense" means a violent offense as defined in RCW
34 9.94A.030;

35 (29) "Probation bond" means a bond, posted with sufficient security
36 by a surety justified and approved by the court, to secure the
37 offender's appearance at required court proceedings and compliance with
38 court-ordered community supervision or conditions of release ordered
39 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of

1 cash or posting of other collateral in lieu of a bond if approved by
2 the court;

3 (30) "Surety" means an entity licensed under state insurance laws
4 or by the state department of licensing, to write corporate, property,
5 or probation bonds within the state, and justified and approved by the
6 superior court of the county having jurisdiction of the case.

7 **Sec. 7.** RCW 13.40.025 and 1995 c 269 s 302 are each amended to
8 read as follows:

9 (1) There is established a juvenile disposition standards
10 commission to propose disposition standards to the legislature in
11 accordance with RCW 13.40.030 and perform the other responsibilities
12 set forth in this chapter.

13 (2) The commission shall be composed of the secretary or the
14 secretary's designee and the following nine members appointed by the
15 governor, subject to confirmation by the senate: (a) A superior court
16 judge; (b) a prosecuting attorney or deputy prosecuting attorney; (c)
17 a law enforcement officer; (d) an administrator of juvenile court
18 services; (e) a public defender actively practicing in juvenile court;
19 (f) a county legislative official or county executive; and (g) three
20 other persons who have demonstrated significant interest in the
21 adjudication and disposition of juvenile offenders. In making the
22 appointments, the governor shall seek the recommendations of the
23 association of superior court judges in respect to the member who is a
24 superior court judge; of Washington prosecutors in respect to the
25 prosecuting attorney or deputy prosecuting attorney member; of the
26 Washington association of sheriffs and police chiefs in respect to the
27 member who is a law enforcement officer; of juvenile court
28 administrators in respect to the member who is a juvenile court
29 administrator; and of the state bar association in respect to the
30 public defender member; and of the Washington association of counties
31 in respect to the member who is either a county legislative official or
32 county executive.

33 (3) The secretary or the secretary's designee shall serve as
34 chairman of the commission.

35 (4) The secretary shall serve on the commission during the
36 secretary's tenure as secretary of the department. The term of the
37 remaining members of the commission shall be three years. The initial
38 terms shall be determined by lot conducted at the commission's first

1 meeting as follows: (a) Four members shall serve a two-year term; and
2 (b) four members shall serve a three-year term. In the event of a
3 vacancy, the appointing authority shall designate a new member to
4 complete the remainder of the unexpired term.

5 (5) Commission members shall be reimbursed for travel expenses as
6 provided in RCW 43.03.050 and 43.03.060. Members shall be compensated
7 in accordance with RCW 43.03.240.

8 (6) The commission shall cease to exist on June 30, ~~((1997))~~ 1996,
9 and its powers and duties shall be transferred to the sentencing
10 guidelines commission established under RCW 9.94A.040.

11 **Sec. 8.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to read
12 as follows:

13 (1) It is the responsibility of the sentencing guidelines
14 commission to: (a)(i) Evaluate the effectiveness of existing
15 disposition standards and related statutes in implementing policies set
16 forth in RCW 13.40.010 generally, (ii) specifically review the
17 guidelines relating to the confinement of minor and first offenders as
18 well as the use of diversion, and (iii) review the application of
19 current and proposed juvenile sentencing standards and guidelines for
20 potential adverse impacts on the sentencing outcomes of racial and
21 ethnic minority youth; (b) solicit the comments and suggestions of the
22 juvenile justice community concerning disposition standards; and (c)
23 make recommendations to the legislature regarding revisions or
24 modifications of the disposition standards in accordance with RCW
25 13.40.030. The evaluations shall be submitted to the legislature on
26 December 1 of each even-numbered year ~~((thereafter))~~.

27 (2) It is the responsibility of the department to: (a) Provide the
28 commission with available data concerning the implementation of the
29 disposition standards and related statutes and their effect on the
30 performance of the department's responsibilities relating to juvenile
31 offenders; and (b) ~~((at the request of the commission, provide~~
32 ~~technical and administrative assistance to the commission in the~~
33 ~~performance of its responsibilities; and (c))~~ provide the commission
34 and legislature with recommendations for modification of the
35 disposition standards.

36 **Sec. 9.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read
37 as follows:

1 (1)((~~a~~)) The (~~juvenile disposition standards~~) sentencing
2 guidelines commission shall recommend to the legislature no later than
3 (~~November 1st of each year~~) December 1, 1996, disposition standards
4 for all offenses. The standards shall establish, in accordance with
5 the purposes of this chapter, ranges which may include terms of
6 confinement and/or community supervision established on the basis of
7 (~~a youth's age,~~) the instant offense(~~(7)~~) and the history and
8 seriousness of previous offenses, but in no case may the period of
9 confinement and supervision exceed that to which an adult may be
10 subjected for the same offense(s). Standards recommended for offenders
11 listed in RCW 13.40.020(1) shall include a range of confinement which
12 may not be less than thirty days. No standard range may include a
13 period of confinement which includes both more than thirty, and thirty
14 or less, days. Disposition standards recommended by the commission
15 shall provide that in all cases where a youth is sentenced to a term of
16 confinement in excess of thirty days the department may impose an
17 additional period of parole (~~not to exceed eighteen months~~)).
18 Standards of confinement which may be proposed may relate only to the
19 length of the proposed terms and not to the nature of the security to
20 be imposed. (~~In developing recommended disposition standards, the~~
21 ~~commission shall consider the capacity of the state juvenile facilities~~
22 ~~and the projected impact of the proposed standards on that capacity.~~

23 (b) ~~The secretary shall submit guidelines pertaining to the nature~~
24 ~~of the security to be imposed on youth placed in his or her custody~~
25 ~~based on the age, offense(s), and criminal history of the juvenile~~
26 ~~offender. Such guidelines shall be submitted to the legislature for~~
27 ~~its review no later than November 1st of each year. At the same time~~
28 ~~the secretary shall submit a report on security at juvenile facilities~~
29 ~~during the preceding year. The report shall include the number of~~
30 ~~escapes from each juvenile facility, the most serious offense for which~~
31 ~~each escapee had been confined, the number and nature of offenses found~~
32 ~~to have been committed by juveniles while on escape status, the number~~
33 ~~of authorized leaves granted, the number of failures to comply with~~
34 ~~leave requirements, the number and nature of offenses committed while~~
35 ~~on leave, and the number and nature of offenses committed by juveniles~~
36 ~~while in the community on minimum security status; to the extent this~~
37 ~~information is available to the secretary. The department shall~~
38 ~~include security status definitions in the security guidelines it~~
39 ~~submits to the legislature pursuant to this section.))~~

1 (2) (~~(In developing recommendations for the permissible ranges of~~
2 ~~confinement under this section the commission shall be subject to the~~
3 ~~following limitations:~~

4 (a) ~~Where the maximum term in the range is ninety days or less, the~~
5 ~~minimum term in the range may be no less than fifty percent of the~~
6 ~~maximum term in the range;~~

7 (b) ~~Where the maximum term in the range is greater than ninety days~~
8 ~~but not greater than one year, the minimum term in the range may be no~~
9 ~~less than seventy-five percent of the maximum term in the range; and~~

10 (c) ~~Where the maximum term in the range is more than one year, the~~
11 ~~minimum term in the range may be no less than eighty percent of the~~
12 ~~maximum term in the range.))~~ The commission's recommendations for new

13 disposition standards shall result in a simplified disposition system.
14 In setting the new standards, the commission shall focus on the need to
15 protect public safety by emphasizing punishment, deterrence, and
16 confinement for violent and repeat offenders. The seriousness of the
17 offense shall be the most important factor in determining the length of
18 confinement, while the offender's age and criminal history shall count
19 as contributing factors. The commission shall increase judicial
20 flexibility and discretion by broadening standard ranges of
21 confinement. The commission shall provide for the use of basic
22 training camp programs. Alternatives to total confinement shall be
23 considered for nonviolent offenders. The commission shall take into
24 account, but not be limited by, the capacity of state juvenile
25 facilities, including the additional capacity that is being developed
26 or that can feasibly be developed in the near future.

27 In setting new standards, the commission must also recommend
28 disposition and institutional options for serious or chronic offenders
29 between the ages of fifteen and twenty-five who currently must either
30 be released from juvenile court jurisdiction at age twenty-one or who
31 are prosecuted as adults because the juvenile system is inadequate to
32 address their rehabilitation needs or protect the public. One option
33 must include development of a youthful offender disposition option that
34 combines adult criminal sentencing guidelines and juvenile disposition
35 standards and addresses: (a) Whether youthful offenders would be under
36 jurisdiction of the department of corrections or the department of
37 social and health services; (b) whether current age restrictions on
38 juvenile court jurisdiction would be modified; and (c) whether the
39 department of social and health services or the department of

1 corrections would provide institutional and community correctional
2 services. The option must also recommend an implementation timeline
3 and plan, identify funding and capital construction or improvement
4 options to provide separate facilities for youthful offenders, and
5 identify short and long-term fiscal impacts.

6 In developing the new standards, the commission must review
7 disposition options in other states and consult with interested parties
8 including superior court judges, prosecutors, defense attorneys,
9 juvenile court administrators, victims advocates, the department of
10 corrections, the department of social and health services, and members
11 of the legislature.

12 NEW SECTION. Sec. 10. A new section is added to chapter 13.40 RCW
13 to read as follows:

14 The secretary shall submit a report on security at juvenile
15 facilities during the preceding year. The report shall include the
16 number of escapes from each juvenile facility, the most serious offense
17 for which each escapee had been confined, the number and nature of
18 offenses found to have been committed by juveniles while on escape
19 status, the number of authorized leaves granted, the number of failures
20 to comply with leave requirements, the number and nature of offenses
21 committed while on leave, and the number and nature of offenses
22 committed by juveniles while in the community on minimum security
23 status; to the extent this information is available to the secretary.
24 The department shall include security status definitions in the report
25 it submits to the legislature pursuant to this section. The report
26 shall be submitted no later than December 15th of each year.

27 NEW SECTION. Sec. 11. The legislature finds that the current
28 terms of confinement for juvenile offenders committed to the department
29 of social and health services are too short to provide meaningful
30 punishment and rehabilitation programs. The legislature intends to
31 increase those terms of confinement but recognizes that the state
32 currently lacks the facilities that are needed to confine more
33 juveniles for longer periods. Therefore, the legislature intends to
34 delay the effective date of increased disposition ranges to allow
35 sufficient time to site, remodel, or build facilities to house an
36 increased number of juvenile offenders committed to the state.

1		Burglary and Trespass	
2	B+	Burglary 1 (9A.52.020)	C+
3	<u>B</u>	<u>Residential Burglary (9A.52.025)</u>	<u>C</u>
4	B	Burglary 2 (9A.52.030)	C
5	D	Burglary Tools (Possession of)	
6		(9A.52.060)	E
7	D	Criminal Trespass 1 (9A.52.070)	E
8	E	Criminal Trespass 2 (9A.52.080)	E
9	D	Vehicle Prowling (9A.52.100)	E
10		Drugs	
11	E	Possession/Consumption of Alcohol	
12		(66.44.270)	E
13	C	Illegally Obtaining Legend Drug	
14		(69.41.020)	D
15	C+	Sale, Delivery, Possession of Legend	
16		Drug with Intent to Sell	
17		(69.41.030)	D+
18	E	Possession of Legend Drug	
19		(69.41.030)	E
20	B+	Violation of Uniform Controlled	
21		Substances Act - Narcotic Sale	
22		(69.50.401(a)(1)(i))	B+
23	C	Violation of Uniform Controlled	
24		Substances Act - Nonnarcotic Sale	
25		(69.50.401(a)(1)(ii))	C
26	E	Possession of Marihuana <40 grams	
27		(69.50.401(e))	E
28	C	Fraudulently Obtaining Controlled	
29		Substance (69.50.403)	C
30	C+	Sale of Controlled Substance	
31		for Profit (69.50.410)	C+
32	E	Unlawful Inhalation (9.47A.020)	E
33	B	Violation of Uniform Controlled	
34		Substances Act - Narcotic	
35		Counterfeit Substances	
36		(69.50.401(b)(1)(i))	B
37	C	Violation of Uniform Controlled	
38		Substances Act - Nonnarcotic	

1		Counterfeit Substances	
2		(69.50.401(b)(1) (ii), (iii), (iv))	C
3	C	Violation of Uniform Controlled	
4		Substances Act - Possession of a	
5		Controlled Substance	
6		(69.50.401(d))	C
7	C	Violation of Uniform Controlled	
8		Substances Act - Possession of a	
9		Controlled Substance	
10		(69.50.401(c))	C
11		Firearms and Weapons	
12	E	Carrying Loaded Pistol Without	
13		Permit (9.41.050)	E
14	C	Possession of Firearms by	
15		Minor (<18) (9.41.040(1)((e))(b)(iv))	C
16	D+	Possession of Dangerous Weapon	
17		(9.41.250)	E
18	D	Intimidating Another Person by use	
19		of Weapon (9.41.270)	E
20		Homicide	
21	A+	Murder 1 (9A.32.030)	A
22	A+	Murder 2 (9A.32.050)	B+
23	B+	Manslaughter 1 (9A.32.060)	C+
24	C+	Manslaughter 2 (9A.32.070)	D+
25	B+	Vehicular Homicide (46.61.520)	C+
26		Kidnapping	
27	A	Kidnap 1 (9A.40.020)	B+
28	B+	Kidnap 2 (9A.40.030)	C+
29	C+	Unlawful Imprisonment	
30		(9A.40.040)	D+
31		Obstructing Governmental Operation	
32	E	Obstructing a Law Enforcement	
33		Officer (9A.76.020)	E
34	E	Resisting Arrest (9A.76.040)	E

1	B	Introducing Contraband 1	
2		(9A.76.140)	C
3	C	Introducing Contraband 2	
4		(9A.76.150)	D
5	E	Introducing Contraband 3	
6		(9A.76.160)	E
7	B+	Intimidating a Public Servant	
8		(9A.76.180)	C+
9	B+	Intimidating a Witness	
10		(9A.72.110)	C+
11		Public Disturbance	
12	C+	Riot with Weapon (9A.84.010)	D+
13	D+	Riot Without Weapon	
14		(9A.84.010)	E
15	E	Failure to Disperse (9A.84.020)	E
16	E	Disorderly Conduct (9A.84.030)	E
17		Sex Crimes	
18	A	Rape 1 (9A.44.040)	B+
19	A-	Rape 2 (9A.44.050)	B+
20	C+	Rape 3 (9A.44.060)	D+
21	A-	Rape of a Child 1 (9A.44.073)	B+
22	B	Rape of a Child 2 (9A.44.076)	C+
23	B	Incest 1 (9A.64.020(1))	C
24	C	Incest 2 (9A.64.020(2))	D
25	D+	Indecent Exposure	
26		(Victim <14) (9A.88.010)	E
27	E	Indecent Exposure	
28		(Victim 14 or over) (9A.88.010)	E
29	B+	Promoting Prostitution 1	
30		(9A.88.070)	C+
31	C+	Promoting Prostitution 2	
32		(9A.88.080)	D+
33	E	O & A (Prostitution) (9A.88.030)	E
34	B+	Indecent Liberties (9A.44.100)	C+
35	B+	Child Molestation 1 (9A.44.083)	C+
36	C+	Child Molestation 2 (9A.44.086)	C
37	C	<u>Failure to Register</u>	

1		<u>(For Class A Felony)</u>	<u>D</u>
2	D	<u>Failure to Register</u>	
3		<u>(For Class B Felony or Less)</u>	<u>E</u>
4		Theft, Robbery, Extortion, and Forgery	
5	B	Theft 1 (9A.56.030)	C
6	C	Theft 2 (9A.56.040)	D
7	D	Theft 3 (9A.56.050)	E
8	B	Theft of Livestock (9A.56.080)	C
9	C	Forgery (9A.60.020)	D
10	A	Robbery 1 (9A.56.200)	B+
11	B+	Robbery 2 (9A.56.210)	C+
12	B+	Extortion 1 (9A.56.120)	C+
13	C+	Extortion 2 (9A.56.130)	D+
14	B	Possession of Stolen Property 1	
15		(9A.56.150)	C
16	C	Possession of Stolen Property 2	
17		(9A.56.160)	D
18	D	Possession of Stolen Property 3	
19		(9A.56.170)	E
20	C	Taking Motor Vehicle Without	
21		Owner's Permission (9A.56.070)	D
22		Motor Vehicle Related Crimes	
23	E	Driving Without a License	
24		(46.20.021)	E
25	C	Hit and Run - Injury	
26		(46.52.020(4))	D
27	D	Hit and Run-Attended	
28		(46.52.020(5))	E
29	E	Hit and Run-Unattended	
30		(46.52.010)	E
31	C	Vehicular Assault (46.61.522)	D
32	C	Attempting to Elude Pursuing	
33		Police Vehicle (46.61.024)	D
34	E	Reckless Driving (46.61.500)	E
35	D	Driving While Under the Influence	
36		(46.61.502 and 46.61.504)	E
37	D	Vehicle Prowling (9A.52.100)	E

1	C	Taking Motor Vehicle Without	
2		Owner's Permission (9A.56.070)	D
3		Other	
4	B	Bomb Threat (9.61.160)	C
5	C	Escape 1 (9A.76.110)	C
6	C	Escape 2 (9A.76.120)	C
7	D	Escape 3 (9A.76.130)	E
8	<u>C</u>	<u>Stalking (For Class C Felony)</u>	<u>D</u>
9	<u>D</u>	<u>Stalking (For Gross Misdemeanor)</u>	<u>E</u>
10	E	Obscene, Harassing, Etc.,	
11		Phone Calls (9.61.230)	E
12	A	Other Offense Equivalent to an	
13		Adult Class A Felony	B+
14	B	Other Offense Equivalent to an	
15		Adult Class B Felony	C
16	C	Other Offense Equivalent to an	
17		Adult Class C Felony	D
18	D	Other Offense Equivalent to an	
19		Adult Gross Misdemeanor	E
20	E	Other Offense Equivalent to an	
21		Adult Misdemeanor	E
22	V	Violation of Order of Restitution,	
23		Community Supervision, or	
24		Confinement (13.40.200)	V

25 Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
26 and the standard range is established as follows:

27 1st escape or attempted escape during 12-month period - 4 weeks
28 confinement

29 2nd escape or attempted escape during 12-month period - 8 weeks
30 confinement

31 3rd and subsequent escape or attempted escape during 12-month
32 period - 12 weeks confinement

33 If the court finds that a respondent has violated terms of an order,
34 it may impose a penalty of up to 30 days of confinement.

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SCHEDULE B
PRIOR OFFENSE INCREASE FACTOR

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

TIME SPAN

OFFENSE	0-12	13-24	25 Months
CATEGORY	Months	Months	or More
.....			
A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
C+	.6	.3	.2
C	.5	.2	.2
D+	.3	.2	.1
D	.2	.1	.1
E	.1	.1	.1

Prior history - Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).

SCHEDULE C
CURRENT OFFENSE POINTS

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

1

AGE

2 OFFENSE	12 &						
3 CATEGORY	Under	13	14	15	16	17	
4							
5 A+	STANDARD	RANGE	180-224	WEEKS			
6 A	250	300	350	375	375	375	
7 A-	150	150	150	200	200	200	
8 B+	110	110	120	130	140	150	
9 B	45	45	50	50	57	57	
10 C+	44	44	49	49	55	55	
11 C	40	40	45	45	50	50	
12 D+	16	18	20	22	24	26	
13 D	14	16	18	20	22	24	
14 E	4	4	4	6	8	10	

15 JUVENILE SENTENCING STANDARDS
 16 SCHEDULE D-1

17 This schedule may only be used for minor/first offenders. After the
 18 determination is made that a youth is a minor/first offender, the court
 19 has the discretion to select sentencing option A, B, or C.

20 MINOR/FIRST OFFENDER

21 OPTION A
 22 STANDARD RANGE

23	Community			
24	Community	Supervision	Service	Fine
25	Points		Hours	
26	((1-9	0-3 months	and/or 0-8	and/or 0-\$10
27	10-19	0-3 months	and/or 0-8	and/or 0-\$10
28	20-29	0-3 months	and/or 0-16	and/or 0-\$10
29	30-39	0-3 months	and/or 8-24	and/or 0-\$25
30	40-49	3-6 months	and/or 16-32	and/or 0-\$25
31	50-59	3-6 months	and/or 24-40	and/or 0-\$25
32	60-69	6-9 months	and/or 32-48	and/or 0-\$50

MIDDLE OFFENDER

OPTION A

STANDARD RANGE

Points	Community Supervision	Community Service Hours	Fine	Confinement ((Days-Weeks))
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30))
				(Days)
<u>1-109</u>	<u>0-12 months</u>	<u>and/or 0-150</u>	<u>and/or 0-\$100</u>	<u>and/or 0-30</u>
				(Weeks)
110-129				8-12
130-149				13-16
150-199				21-28
200-249				30-40
250-299				52-65
300-374				80-100
375+				103-129

Middle offenders with less than 110 points do not have to receive a disposition under option A. They may be sent to inpatient substance abuse treatment under option D.

Middle offenders with 110 points or more do not have to be committed to the department. They may be assigned community supervision under option B.

All A+ offenses 180-224 weeks

OR

1
2 OPTION B
3 STATUTORY OPTION

4 OFFENDERS WITH 110 POINTS OR MORE

5 ~~((0-12 Months Community Supervision~~
6 ~~0-150 Hours Community Service~~
7 ~~0-100 Fine~~
8 ~~Posting of a Probation Bond))~~

9 If the offender has ~~((less than))~~ 110 points or more, the court may
10 impose ~~((a determinate disposition of community supervision and/or up~~
11 ~~to 30 days confinement; in which case, if confinement has been imposed,~~
12 ~~the court shall state either aggravating or mitigating factors as set~~
13 ~~forth in RCW 13.40.150))~~ an option B disposition as provided in RCW
14 13.40.160(4)(b).

15 ~~((If the middle offender has 110 points or more, the court may~~
16 ~~impose a disposition under option A and may suspend the disposition on~~
17 ~~the condition that the offender serve up to thirty days of confinement~~
18 ~~and follow all conditions of community supervision. If the offender~~
19 ~~fails to comply with the terms of community supervision, the court may~~
20 ~~impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended~~
21 ~~disposition and order execution of the disposition. If the court~~
22 ~~imposes confinement for offenders with 110 points or more, the court~~
23 ~~shall state either aggravating or mitigating factors set forth in RCW~~
24 ~~13.40.150.))~~

25 OR

26
27 OPTION C
28 MANIFEST INJUSTICE
29 ALL MIDDLE OFFENDERS

30 If the court determines that a disposition under A ~~((or))~~, B, or D as
31 applicable would effectuate a manifest injustice, the court shall
32 sentence the juvenile to a maximum term and the provisions of RCW
33 13.40.030(2) shall be used to determine the range.

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OPTION D
OFFENDERS UNDER 110 POINTS

- 0-90 Days Inpatient Substance Abuse Treatment
- 0-12 Months Community Supervision
- Posting of a Probation Bond

JUVENILE SENTENCING STANDARDS
SCHEDULE D-3

This schedule may only be used for serious offenders. After the determination is made that a youth is a serious offender, the court has the discretion to select sentencing option A or B.

SERIOUS OFFENDER
OPTION A
STANDARD RANGE

Points	Institution Time
0-129	8-12 weeks
130-149	13-16 weeks
150-199	21-28 weeks
200-249	30-40 weeks
250-299	52-65 weeks
300-374	80-100 weeks
375+	103-129 weeks
All A+ Offenses	180-224 weeks

OR

OPTION B
MANIFEST INJUSTICE

A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision including posting a probation bond or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30

1 days, the court shall sentence the juvenile to a maximum term, and the
2 provisions of RCW 13.40.030(2) shall be used to determine the range.

3 **Sec. 13.** RCW 13.40.0357 and 1995 c 395 s 3 are each amended to
4 read as follows:

5 SCHEDULE A
6 DESCRIPTION AND OFFENSE CATEGORY

7			JUVENILE
8	JUVENILE		DISPOSITION
9	DISPOSITION		CATEGORY FOR ATTEMPT,
10	OFFENSE		BAILJUMP, CONSPIRACY,
11	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
12

13 **Arson and Malicious Mischief**

14	A	Arson 1 (9A.48.020)	B+
15	B	Arson 2 (9A.48.030)	C
16	C	Reckless Burning 1 (9A.48.040)	D
17	D	Reckless Burning 2 (9A.48.050)	E
18	B	Malicious Mischief 1 (9A.48.070)	C
19	C	Malicious Mischief 2 (9A.48.080)	D
20	D	Malicious Mischief 3 (<\$50 is	
21		E class) (9A.48.090)	E
22	E	Tampering with Fire Alarm	
23		Apparatus (9.40.100)	E
24	A	Possession of Incendiary Device	
25		(9.40.120)	B+

26 **Assault and Other Crimes**
27 **Involving Physical Harm**

28	A	Assault 1 (9A.36.011)	B+
29	B+	Assault 2 (9A.36.021)	C+
30	C+	Assault 3 (9A.36.031)	D+
31	D+	Assault 4 (9A.36.041)	E
32	D+	Reckless Endangerment	
33		(9A.36.050)	E
34	C+	Promoting Suicide Attempt	
35		(9A.36.060)	D+

1	D+	Coercion (9A.36.070)	E
2	C+	Custodial Assault (9A.36.100)	D+
3		Burglary and Trespass	
4	B+	Burglary 1 (9A.52.020)	C+
5	<u>B</u>	<u>Residential Burglary (9A.52.025)</u>	<u>C</u>
6	B	Burglary 2 (9A.52.030)	C
7	D	Burglary Tools (Possession of)	
8		(9A.52.060)	E
9	D	Criminal Trespass 1 (9A.52.070)	E
10	E	Criminal Trespass 2 (9A.52.080)	E
11	D	Vehicle Prowling (9A.52.100)	E
12		Drugs	
13	E	Possession/Consumption of Alcohol	
14		(66.44.270)	E
15	C	Illegally Obtaining Legend Drug	
16		(69.41.020)	D
17	C+	Sale, Delivery, Possession of Legend	
18		Drug with Intent to Sell	
19		(69.41.030)	D+
20	E	Possession of Legend Drug	
21		(69.41.030)	E
22	B+	Violation of Uniform Controlled	
23		Substances Act - Narcotic Sale	
24		(69.50.401(a)(1)(i))	B+
25	C	Violation of Uniform Controlled	
26		Substances Act - Nonnarcotic Sale	
27		(69.50.401(a)(1)(ii))	C
28	E	Possession of Marihuana <40 grams	
29		(69.50.401(e))	E
30	C	Fraudulently Obtaining Controlled	
31		Substance (69.50.403)	C
32	C+	Sale of Controlled Substance	
33		for Profit (69.50.410)	C+
34	E	Unlawful Inhalation (9.47A.020)	E
35	B	Violation of Uniform Controlled	
36		Substances Act - Narcotic	

1		Counterfeit Substances	
2		(69.50.401(b)(1)(i))	B
3	C	Violation of Uniform Controlled	
4		Substances Act - Nonnarcotic	
5		Counterfeit Substances	
6		(69.50.401(b)(1) (ii), (iii), (iv))	C
7	C	Violation of Uniform Controlled	
8		Substances Act - Possession of a	
9		Controlled Substance	
10		(69.50.401(d))	C
11	C	Violation of Uniform Controlled	
12		Substances Act - Possession of a	
13		Controlled Substance	
14		(69.50.401(c))	C
15		Firearms and Weapons	
16	E	Carrying Loaded Pistol Without	
17		Permit (9.41.050)	E
18	C	Possession of Firearms by	
19		Minor (<18) (9.41.040(1)((e))(b)(iv))	C
20	D+	Possession of Dangerous Weapon	
21		(9.41.250)	E
22	D	Intimidating Another Person by use	
23		of Weapon (9.41.270)	E
24		Homicide	
25	A+	Murder 1 (9A.32.030)	A
26	A+	Murder 2 (9A.32.050)	B+
27	B+	Manslaughter 1 (9A.32.060)	C+
28	C+	Manslaughter 2 (9A.32.070)	D+
29	B+	Vehicular Homicide (46.61.520)	C+
30		Kidnapping	
31	A	Kidnap 1 (9A.40.020)	B+
32	B+	Kidnap 2 (9A.40.030)	C+
33	C+	Unlawful Imprisonment	
34		(9A.40.040)	D+

1		Obstructing Governmental Operation	
2	E	Obstructing a Law Enforcement	
3		Officer (9A.76.020)	E
4	E	Resisting Arrest (9A.76.040)	E
5	B	Introducing Contraband 1	
6		(9A.76.140)	C
7	C	Introducing Contraband 2	
8		(9A.76.150)	D
9	E	Introducing Contraband 3	
10		(9A.76.160)	E
11	B+	Intimidating a Public Servant	
12		(9A.76.180)	C+
13	B+	Intimidating a Witness	
14		(9A.72.110)	C+
15		Public Disturbance	
16	C+	Riot with Weapon (9A.84.010)	D+
17	D+	Riot Without Weapon	
18		(9A.84.010)	E
19	E	Failure to Disperse (9A.84.020)	E
20	E	Disorderly Conduct (9A.84.030)	E
21		Sex Crimes	
22	A	Rape 1 (9A.44.040)	B+
23	A-	Rape 2 (9A.44.050)	B+
24	C+	Rape 3 (9A.44.060)	D+
25	A-	Rape of a Child 1 (9A.44.073)	B+
26	B	Rape of a Child 2 (9A.44.076)	C+
27	B	Incest 1 (9A.64.020(1))	C
28	C	Incest 2 (9A.64.020(2))	D
29	D+	Indecent Exposure	
30		(Victim <14) (9A.88.010)	E
31	E	Indecent Exposure	
32		(Victim 14 or over) (9A.88.010)	E
33	B+	Promoting Prostitution 1	
34		(9A.88.070)	C+
35	C+	Promoting Prostitution 2	
36		(9A.88.080)	D+
37	E	O & A (Prostitution) (9A.88.030)	E

1	B+	Indecent Liberties (9A.44.100)	C+
2	B+	Child Molestation 1 (9A.44.083)	C+
3	C+	Child Molestation 2 (9A.44.086)	C
4	<u>C</u>	<u>Failure to Register</u>	
5		<u>(For Class A Felony)</u>	<u>D</u>
6	<u>D</u>	<u>Failure to Register</u>	
7		<u>(For Class B Felony or Less)</u>	<u>E</u>
8		Theft, Robbery, Extortion, and Forgery	
9	B	Theft 1 (9A.56.030)	C
10	C	Theft 2 (9A.56.040)	D
11	D	Theft 3 (9A.56.050)	E
12	B	Theft of Livestock (9A.56.080)	C
13	C	Forgery (9A.60.020)	D
14	A	Robbery 1 (9A.56.200)	B+
15	B+	Robbery 2 (9A.56.210)	C+
16	B+	Extortion 1 (9A.56.120)	C+
17	C+	Extortion 2 (9A.56.130)	D+
18	B	Possession of Stolen Property 1	
19		(9A.56.150)	C
20	C	Possession of Stolen Property 2	
21		(9A.56.160)	D
22	D	Possession of Stolen Property 3	
23		(9A.56.170)	E
24	C	Taking Motor Vehicle Without	
25		Owner's Permission (9A.56.070)	D
26		Motor Vehicle Related Crimes	
27	E	Driving Without a License	
28		(46.20.021)	E
29	C	Hit and Run - Injury	
30		(46.52.020(4))	D
31	D	Hit and Run-Attended	
32		(46.52.020(5))	E
33	E	Hit and Run-Unattended	
34		(46.52.010)	E
35	C	Vehicular Assault (46.61.522)	D
36	C	Attempting to Elude Pursuing	
37		Police Vehicle (46.61.024)	D

1	E	Reckless Driving (46.61.500)	E
2	D	Driving While Under the Influence	
3		(46.61.502 and 46.61.504)	E
4	D	Vehicle Prowling (9A.52.100)	E
5	C	Taking Motor Vehicle Without	
6		Owner's Permission (9A.56.070)	D
7		Other	
8	B	Bomb Threat (9.61.160)	C
9	C	Escape 1 (9A.76.110)	C
10	C	Escape 2 (9A.76.120)	C
11	D	Escape 3 (9A.76.130)	E
12	<u>C</u>	<u>Stalking (For Class C Felony)</u>	<u>D</u>
13	<u>D</u>	<u>Stalking (For Gross Misdemeanor)</u>	<u>E</u>
14	E	Obscene, Harassing, Etc.,	
15		Phone Calls (9.61.230)	E
16	A	Other Offense Equivalent to an	
17		Adult Class A Felony	B+
18	B	Other Offense Equivalent to an	
19		Adult Class B Felony	C
20	C	Other Offense Equivalent to an	
21		Adult Class C Felony	D
22	D	Other Offense Equivalent to an	
23		Adult Gross Misdemeanor	E
24	E	Other Offense Equivalent to an	
25		Adult Misdemeanor	E
26	V	Violation of Order of Restitution,	
27		Community Supervision, or	
28		Confinement ² (13.40.200)	V

29 Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
30 and the standard range is established as follows:

31 1st escape or attempted escape during 12-month period - 4 weeks
32 confinement

33 2nd escape or attempted escape during 12-month period - 8 weeks
34 confinement

35 3rd and subsequent escape or attempted escape during 12-month
36 period - 12 weeks confinement

1 if the court finds that a respondent has violated terms of an order,
2 it may impose a penalty of up to 30 days of confinement.

3 SCHEDULE B
4 PRIOR OFFENSE INCREASE FACTOR

5 For use with all CURRENT OFFENSES occurring on or after July 1,
6 1989.

7 TIME SPAN

8 OFFENSE	0-12	13-24	25 Months
9 CATEGORY	Months	Months	or More
10			
11 A+	.9	.9	.9
12 A	.9	.8	.6
13 A-	.9	.8	.5
14 B+	.9	.7	.4
15 B	.9	.6	.3
16 C+	.6	.3	.2
17 C	.5	.2	.2
18 D+	.3	.2	.1
19 D	.2	.1	.1
20 E	.1	.1	.1

21 Prior history - Any offense in which a diversion agreement or counsel
22 and release form was signed, or any offense which has been adjudicated
23 by court to be correct prior to the commission of the current
24 offense(s).

25 SCHEDULE C
26 CURRENT OFFENSE POINTS

27 For use with all CURRENT OFFENSES occurring on or after July 1,
28 1989.

1

AGE

2 OFFENSE	12 &						
3 CATEGORY	Under	13	14	15	16	17	
4							
5 A+		STANDARD	RANGE	180-224	WEEKS		
6 A	250	300	350	375	375	375	
7 A-	150	150	150	200	200	200	
8 B+	110	110	120	130	140	150	
9 B	45	45	50	50	57	57	
10 C+	44	44	49	49	55	55	
11 C	40	40	45	45	50	50	
12 D+	16	18	20	22	24	26	
13 D	14	16	18	20	22	24	
14 E	4	4	4	6	8	10	

15 JUVENILE SENTENCING STANDARDS
 16 SCHEDULE D-1

17 This schedule may only be used for minor/first offenders. After the
 18 determination is made that a youth is a minor/first offender, the court
 19 has the discretion to select sentencing option A, B, or C.

20 MINOR/FIRST OFFENDER

21 OPTION A
 22 STANDARD RANGE

23	Community			
24	Community	Supervision	Service	Fine
25	Points		Hours	
26	((1-9	0-3 months	and/or 0-8	and/or 0-\$10
27	10-19	0-3 months	and/or 0-8	and/or 0-\$10
28	20-29	0-3 months	and/or 0-16	and/or 0-\$10
29	30-39	0-3 months	and/or 8-24	and/or 0-\$25
30	40-49	3-6 months	and/or 16-32	and/or 0-\$25
31	50-59	3-6 months	and/or 24-40	and/or 0-\$25
32	60-69	6-9 months	and/or 32-48	and/or 0-\$50

1 ~~70-79~~ ~~6-9 months~~ ~~and/or~~ ~~40-56~~ ~~and/or~~ ~~0-\$50~~
2 ~~80-89~~ ~~9-12 months~~ ~~and/or~~ ~~48-64~~ ~~and/or~~ ~~10-\$100~~
3 ~~90-109~~ ~~9-12 months~~ ~~and/or~~ ~~56-72~~ ~~and/or~~ ~~10-\$100))~~
4 1-109 0-12 months and/or 0-150 and/or 0-\$100

5 A minor/first offender receiving an option A disposition may also be
6 required to serve 0 to 10 days in confinement.

7 OR

8 OPTION B
9 STATUTORY OPTION

10 0-90 Days Inpatient Substance Abuse Treatment
11 0-12 Months Community Supervision
12 ~~((0-150 Hours Community Service~~
13 ~~0-100 Fine))~~
14 Posting of a Probation Bond
15 ~~((A term of community supervision with a maximum of 150 hours, \$100.00~~
16 ~~fine, and 12 months supervision.))~~

17 OR

18 OPTION C
19 MANIFEST INJUSTICE

20 When a term of community supervision would effectuate a manifest
21 injustice, another disposition may be imposed. When a judge imposes a
22 sentence of confinement exceeding 30 days, the court shall sentence the
23 juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall
24 be used to determine the range.

25 JUVENILE SENTENCING STANDARDS
26 SCHEDULE D-2

27 This schedule may only be used for middle offenders. After the
28 determination is made that a youth is a middle offender, the court has
29 the discretion to select sentencing option A, B, ~~((or))~~ C, or D as
30 applicable.

MIDDLE OFFENDER

OPTION A

STANDARD RANGE

Points	Community Supervision	Community Service Hours	Fine	Confinement ((Days-Weeks))
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30))
1-109	0-12 months	and/or 0-150	and/or 0-\$100	and/or 0-30
110-129				8-12
130-149				13-16
150-199				21-28
200-249				30-40
250-299				52-65
300-374				80-100
375+				103-129

Middle offenders with less than 110 points do not have to receive a disposition under option A. They may be sent to inpatient substance abuse treatment under option D.

Middle offenders with 110 points or more do not have to be committed to the department. They may be assigned community supervision under option B.

All A+ offenses 180-224 weeks

1 OR

2
3 OPTION B

4 STATUTORY OPTION

5 OFFENDERS WITH 110 POINTS OR MORE

6 (~~0-12 Months Community Supervision~~
7 ~~0-150 Hours Community Service~~
8 ~~0-100 Fine~~
9 ~~Posting of a Probation Bond~~))

10 If the offender has (~~less than~~) 110 points or more, the court may
11 impose (~~a determinate disposition of community supervision and/or up~~
12 ~~to 30 days confinement; in which case, if confinement has been imposed,~~
13 ~~the court shall state either aggravating or mitigating factors as set~~
14 ~~forth in RCW 13.40.150~~) an option B disposition as provided in RCW
15 13.40.160(4)(b).

16 (~~If the middle offender has 110 points or more, the court may~~
17 ~~impose a disposition under option A and may suspend the disposition on~~
18 ~~the condition that the offender serve up to thirty days of confinement~~
19 ~~and follow all conditions of community supervision. If the offender~~
20 ~~fails to comply with the terms of community supervision, the court may~~
21 ~~impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended~~
22 ~~disposition and order execution of the disposition. If the court~~
23 ~~imposes confinement for offenders with 110 points or more, the court~~
24 ~~shall state either aggravating or mitigating factors set forth in RCW~~
25 ~~13.40.150.)~~)

26 OR

27
28 OPTION C

29 MANIFEST INJUSTICE

30 ALL MIDDLE OFFENDERS

31 If the court determines that a disposition under A (~~or~~) B, or D as
32 applicable would effectuate a manifest injustice, the court shall
33 sentence the juvenile to a maximum term and the provisions of RCW
34 13.40.030(2) shall be used to determine the range.

1 days, the court shall sentence the juvenile to a maximum term, and the
2 provisions of RCW 13.40.030(2) shall be used to determine the range.

3 **Sec. 14.** RCW 13.40.0357 and 1995 c 395 s 3 are each amended to
4 read as follows:

5 SCHEDULE A
6 DESCRIPTION AND OFFENSE CATEGORY

7			JUVENILE
8	JUVENILE		DISPOSITION
9	DISPOSITION		CATEGORY FOR ATTEMPT,
10	OFFENSE		BAILJUMP, CONSPIRACY,
11	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
12

13 **Arson and Malicious Mischief**

14	A	Arson 1 (9A.48.020)	B+
15	B	Arson 2 (9A.48.030)	C
16	C	Reckless Burning 1 (9A.48.040)	D
17	D	Reckless Burning 2 (9A.48.050)	E
18	B	Malicious Mischief 1 (9A.48.070)	C
19	C	Malicious Mischief 2 (9A.48.080)	D
20	D	Malicious Mischief 3 (<\$50 is	
21		E class) (9A.48.090)	E
22	E	Tampering with Fire Alarm	
23		Apparatus (9.40.100)	E
24	A	Possession of Incendiary Device	
25		(9.40.120)	B+

26 **Assault and Other Crimes**
27 **Involving Physical Harm**

28	A	Assault 1 (9A.36.011)	B+
29	B+	Assault 2 (9A.36.021)	C+
30	C+	Assault 3 (9A.36.031)	D+
31	D+	Assault 4 (9A.36.041)	E
32	D+	Reckless Endangerment	
33		(9A.36.050)	E
34	C+	Promoting Suicide Attempt	
35		(9A.36.060)	D+

1	D+	Coercion (9A.36.070)	E
2	C+	Custodial Assault (9A.36.100)	D+
3		Burglary and Trespass	
4	B+	Burglary 1 (9A.52.020)	C+
5	<u>B</u>	<u>Residential Burglary (9A.52.025)</u>	<u>C</u>
6	B	Burglary 2 (9A.52.030)	C
7	D	Burglary Tools (Possession of)	
8		(9A.52.060)	E
9	D	Criminal Trespass 1 (9A.52.070)	E
10	E	Criminal Trespass 2 (9A.52.080)	E
11	D	Vehicle Prowling (9A.52.100)	E
12		Drugs	
13	E	Possession/Consumption of Alcohol	
14		(66.44.270)	E
15	C	Illegally Obtaining Legend Drug	
16		(69.41.020)	D
17	C+	Sale, Delivery, Possession of Legend	
18		Drug with Intent to Sell	
19		(69.41.030)	D+
20	E	Possession of Legend Drug	
21		(69.41.030)	E
22	B+	Violation of Uniform Controlled	
23		Substances Act - Narcotic Sale	
24		(69.50.401(a)(1)(i))	B+
25	C	Violation of Uniform Controlled	
26		Substances Act - Nonnarcotic Sale	
27		(69.50.401(a)(1)(ii))	C
28	E	Possession of Marihuana <40 grams	
29		(69.50.401(e))	E
30	C	Fraudulently Obtaining Controlled	
31		Substance (69.50.403)	C
32	C+	Sale of Controlled Substance	
33		for Profit (69.50.410)	C+
34	E	Unlawful Inhalation (9.47A.020)	E
35	B	Violation of Uniform Controlled	
36		Substances Act - Narcotic	

1		Counterfeit Substances	
2		(69.50.401(b)(1)(i))	B
3	C	Violation of Uniform Controlled	
4		Substances Act - Nonnarcotic	
5		Counterfeit Substances	
6		(69.50.401(b)(1) (ii), (iii), (iv))	C
7	C	Violation of Uniform Controlled	
8		Substances Act - Possession of a	
9		Controlled Substance	
10		(69.50.401(d))	C
11	C	Violation of Uniform Controlled	
12		Substances Act - Possession of a	
13		Controlled Substance	
14		(69.50.401(c))	C
15		Firearms and Weapons	
16	E	Carrying Loaded Pistol Without	
17		Permit (9.41.050)	E
18	C	Possession of Firearms by	
19		Minor (<18) (9.41.040(1)((e))(b)(iv))	C
20	D+	Possession of Dangerous Weapon	
21		(9.41.250)	E
22	D	Intimidating Another Person by use	
23		of Weapon (9.41.270)	E
24		Homicide	
25	A+	Murder 1 (9A.32.030)	A
26	A+	Murder 2 (9A.32.050)	B+
27	B+	Manslaughter 1 (9A.32.060)	C+
28	C+	Manslaughter 2 (9A.32.070)	D+
29	B+	Vehicular Homicide (46.61.520)	C+
30		Kidnapping	
31	A	Kidnap 1 (9A.40.020)	B+
32	B+	Kidnap 2 (9A.40.030)	C+
33	C+	Unlawful Imprisonment	
34		(9A.40.040)	D+

1		Obstructing Governmental Operation	
2	E	Obstructing a Law Enforcement	
3		Officer (9A.76.020)	E
4	E	Resisting Arrest (9A.76.040)	E
5	B	Introducing Contraband 1	
6		(9A.76.140)	C
7	C	Introducing Contraband 2	
8		(9A.76.150)	D
9	E	Introducing Contraband 3	
10		(9A.76.160)	E
11	B+	Intimidating a Public Servant	
12		(9A.76.180)	C+
13	B+	Intimidating a Witness	
14		(9A.72.110)	C+
15		Public Disturbance	
16	C+	Riot with Weapon (9A.84.010)	D+
17	D+	Riot Without Weapon	
18		(9A.84.010)	E
19	E	Failure to Disperse (9A.84.020)	E
20	E	Disorderly Conduct (9A.84.030)	E
21		Sex Crimes	
22	A	Rape 1 (9A.44.040)	B+
23	A-	Rape 2 (9A.44.050)	B+
24	C+	Rape 3 (9A.44.060)	D+
25	A-	Rape of a Child 1 (9A.44.073)	B+
26	B	Rape of a Child 2 (9A.44.076)	C+
27	B	Incest 1 (9A.64.020(1))	C
28	C	Incest 2 (9A.64.020(2))	D
29	D+	Indecent Exposure	
30		(Victim <14) (9A.88.010)	E
31	E	Indecent Exposure	
32		(Victim 14 or over) (9A.88.010)	E
33	B+	Promoting Prostitution 1	
34		(9A.88.070)	C+
35	C+	Promoting Prostitution 2	
36		(9A.88.080)	D+
37	E	O & A (Prostitution) (9A.88.030)	E

1	B+	Indecent Liberties (9A.44.100)	C+
2	B+	Child Molestation 1 (9A.44.083)	C+
3	C+	Child Molestation 2 (9A.44.086)	C
4	<u>C</u>	<u>Failure to Register</u>	
5		<u>(For Class A Felony)</u>	<u>D</u>
6	<u>D</u>	<u>Failure to Register</u>	
7		<u>(For Class B Felony or Less)</u>	<u>E</u>
8		Theft, Robbery, Extortion, and Forgery	
9	B	Theft 1 (9A.56.030)	C
10	C	Theft 2 (9A.56.040)	D
11	D	Theft 3 (9A.56.050)	E
12	B	Theft of Livestock (9A.56.080)	C
13	C	Forgery (9A.60.020)	D
14	A	Robbery 1 (9A.56.200)	B+
15	B+	Robbery 2 (9A.56.210)	C+
16	B+	Extortion 1 (9A.56.120)	C+
17	C+	Extortion 2 (9A.56.130)	D+
18	B	Possession of Stolen Property 1	
19		(9A.56.150)	C
20	C	Possession of Stolen Property 2	
21		(9A.56.160)	D
22	D	Possession of Stolen Property 3	
23		(9A.56.170)	E
24	C	Taking Motor Vehicle Without	
25		Owner's Permission (9A.56.070)	D
26		Motor Vehicle Related Crimes	
27	E	Driving Without a License	
28		(46.20.021)	E
29	C	Hit and Run - Injury	
30		(46.52.020(4))	D
31	D	Hit and Run-Attended	
32		(46.52.020(5))	E
33	E	Hit and Run-Unattended	
34		(46.52.010)	E
35	C	Vehicular Assault (46.61.522)	D
36	C	Attempting to Elude Pursuing	
37		Police Vehicle (46.61.024)	D

1	E	Reckless Driving (46.61.500)	E
2	D	Driving While Under the Influence	
3		(46.61.502 and 46.61.504)	E
4	D	Vehicle Prowling (9A.52.100)	E
5	C	Taking Motor Vehicle Without	
6		Owner's Permission (9A.56.070)	D
7		Other	
8	B	Bomb Threat (9.61.160)	C
9	C	Escape 1 (9A.76.110)	C
10	C	Escape 2 (9A.76.120)	C
11	D	Escape 3 (9A.76.130)	E
12	<u>C</u>	<u>Stalking (For Class C Felony)</u>	<u>D</u>
13	<u>D</u>	<u>Stalking (For Gross Misdemeanor)</u>	<u>E</u>
14	E	Obscene, Harassing, Etc.,	
15		Phone Calls (9.61.230)	E
16	A	Other Offense Equivalent to an	
17		Adult Class A Felony	B+
18	B	Other Offense Equivalent to an	
19		Adult Class B Felony	C
20	C	Other Offense Equivalent to an	
21		Adult Class C Felony	D
22	D	Other Offense Equivalent to an	
23		Adult Gross Misdemeanor	E
24	E	Other Offense Equivalent to an	
25		Adult Misdemeanor	E
26	V	Violation of Order of Restitution,	
27		Community Supervision, or	
28		Confinement ² (13.40.200)	V

29 Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
30 and the standard range is established as follows:

31 1st escape or attempted escape during 12-month period - 4 weeks
32 confinement

33 2nd escape or attempted escape during 12-month period - 8 weeks
34 confinement

35 3rd and subsequent escape or attempted escape during 12-month
36 period - 12 weeks confinement

1 if the court finds that a respondent has violated terms of an order,
2 it may impose a penalty of up to 30 days of confinement.

3 SCHEDULE B
4 PRIOR OFFENSE INCREASE FACTOR

5 For use with all CURRENT OFFENSES occurring on or after July 1,
6 1989.

7 TIME SPAN

8 OFFENSE	0-12	13-24	25 Months
9 CATEGORY	Months	Months	or More
10			
11 A+	.9	.9	.9
12 A	.9	.8	.6
13 A-	.9	.8	.5
14 B+	.9	.7	.4
15 B	.9	.6	.3
16 C+	.6	.3	.2
17 C	.5	.2	.2
18 D+	.3	.2	.1
19 D	.2	.1	.1
20 E	.1	.1	.1

21 Prior history - Any offense in which a diversion agreement or counsel
22 and release form was signed, or any offense which has been adjudicated
23 by court to be correct prior to the commission of the current
24 offense(s).

25 SCHEDULE C
26 CURRENT OFFENSE POINTS

27 For use with all CURRENT OFFENSES occurring on or after July 1,
28 1989.

1

AGE

2 OFFENSE	12 &						
3 CATEGORY	Under	13	14	15	16	17	
4							
5 A+	STANDARD	RANGE	180-224	WEEKS			
6 A	250	300	350	375	375	375	
7 A-	150	150	150	200	200	200	
8 B+	110	110	120	130	140	150	
9 B	45	45	50	50	57	57	
10 C+	44	44	49	49	55	55	
11 C	40	40	45	45	50	50	
12 D+	16	18	20	22	24	26	
13 D	14	16	18	20	22	24	
14 E	4	4	4	6	8	10	

15 JUVENILE SENTENCING STANDARDS
 16 SCHEDULE D-1

17 This schedule may only be used for minor/first offenders. After the
 18 determination is made that a youth is a minor/first offender, the court
 19 has the discretion to select sentencing option A, B, or C.

20 MINOR/FIRST OFFENDER

21 OPTION A
 22 STANDARD RANGE

23	Community			
24	Community	Supervision	Service	Hours
25	Points			Fine
26	((1-9	0-3 months	and/or 0-8	and/or 0-\$10
27	10-19	0-3 months	and/or 0-8	and/or 0-\$10
28	20-29	0-3 months	and/or 0-16	and/or 0-\$10
29	30-39	0-3 months	and/or 8-24	and/or 0-\$25
30	40-49	3-6 months	and/or 16-32	and/or 0-\$25
31	50-59	3-6 months	and/or 24-40	and/or 0-\$25
32	60-69	6-9 months	and/or 32-48	and/or 0-\$50

1 ~~70-79~~ ~~6-9 months~~ ~~and/or~~ ~~40-56~~ ~~and/or~~ ~~0-\$50~~
2 ~~80-89~~ ~~9-12 months~~ ~~and/or~~ ~~48-64~~ ~~and/or~~ ~~10-\$100~~
3 ~~90-109~~ ~~9-12 months~~ ~~and/or~~ ~~56-72~~ ~~and/or~~ ~~10-\$100))~~
4 1-109 0-12 months and/or 0-150 and/or 0-\$100

5 A minor/first offender receiving an option A disposition may also be
6 required to serve 0 to 10 days in confinement.

7 OR

8 OPTION B
9 STATUTORY OPTION

10 0-90 Days Inpatient Substance Abuse Treatment
11 0-12 Months Community Supervision
12 ~~((0-150 Hours Community Service~~
13 ~~0-100 Fine))~~
14 Posting of a Probation Bond
15 ~~((A term of community supervision with a maximum of 150 hours, \$100.00~~
16 ~~fine, and 12 months supervision.))~~

17 OR

18 OPTION C
19 MANIFEST INJUSTICE

20 When a term of community supervision would effectuate a manifest
21 injustice, another disposition may be imposed. When a judge imposes a
22 sentence of confinement exceeding 30 days, the court shall sentence the
23 juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall
24 be used to determine the range.

25 JUVENILE SENTENCING STANDARDS
26 SCHEDULE D-2

27 This schedule may only be used for middle offenders. After the
28 determination is made that a youth is a middle offender, the court has
29 the discretion to select sentencing option A, B, ~~((or))~~ C, or D as
30 applicable.

MIDDLE OFFENDER

OPTION A

STANDARD RANGE

Points	Community Supervision	Community Service Hours	Fine	Confinement ((Days-Weeks))
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
110-129				8-12
130-149				13-16
150-199				21-28
200-249))				
				(Days)
<u>1-109</u>	<u>0-12 months</u>	<u>and/or 0-150</u>	<u>and/or 0-\$100</u>	<u>and/or 0-30</u>
				(Weeks)
<u>110-249</u>				30-40
250-299				52-65
300-374				80-100
375+				103-129

29 Middle offenders with less than 110 points do not have to receive a
 30 disposition under option A. They may be sent to inpatient substance
 31 abuse treatment under option D.

32 Middle offenders with 110 points or more do not have to be committed to
 33 the department. They may be assigned community supervision under
 34 option B.

35 All A+ offenses 180-224 weeks

1 OR

2
3 OPTION B

4 STATUTORY OPTION

5 OFFENDERS WITH 110 POINTS OR MORE

6 ~~((0-12 Months Community Supervision~~
7 ~~0-150 Hours Community Service~~
8 ~~0-100 Fine~~
9 ~~Posting of a Probation Bond))~~

10 If the offender has ~~((less than))~~ 110 points or more, the court may
11 impose ~~((a determinate disposition of community supervision and/or up~~
12 ~~to 30 days confinement; in which case, if confinement has been imposed,~~
13 ~~the court shall state either aggravating or mitigating factors as set~~
14 ~~forth in RCW 13.40.150))~~ an option B disposition as provided in RCW
15 13.40.160(4)(b).

16 ~~((If the middle offender has 110 points or more, the court may~~
17 ~~impose a disposition under option A and may suspend the disposition on~~
18 ~~the condition that the offender serve up to thirty days of confinement~~
19 ~~and follow all conditions of community supervision. If the offender~~
20 ~~fails to comply with the terms of community supervision, the court may~~
21 ~~impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended~~
22 ~~disposition and order execution of the disposition. If the court~~
23 ~~imposes confinement for offenders with 110 points or more, the court~~
24 ~~shall state either aggravating or mitigating factors set forth in RCW~~
25 ~~13.40.150.))~~

26 OR

27
28 OPTION C

29 MANIFEST INJUSTICE

30 ALL MIDDLE OFFENDERS

31 If the court determines that a disposition under A ~~((or))~~ B, or D as
32 applicable would effectuate a manifest injustice, the court shall
33 sentence the juvenile to a maximum term and the provisions of RCW
34 13.40.030(2) shall be used to determine the range.

1 days, the court shall sentence the juvenile to a maximum term, and the
2 provisions of RCW 13.40.030(2) shall be used to determine the range.

3 **Sec. 15.** RCW 13.40.045 and 1994 sp.s. c 7 s 518 are each amended
4 to read as follows:

5 The secretary, assistant secretary, or the secretary's designee
6 shall issue arrest warrants for juveniles who escape from department
7 residential custody or abscond from parole supervision or fail to meet
8 conditions of parole. These arrest warrants shall authorize any law
9 enforcement, probation and parole, or peace officer of this state, or
10 any other state where the juvenile is located, to arrest the juvenile
11 and to place the juvenile in physical custody pending the juvenile's
12 return to confinement in a state juvenile rehabilitation facility.

13 **Sec. 16.** RCW 13.40.050 and 1995 c 395 s 5 are each amended to read
14 as follows:

15 (1) When a juvenile taken into custody is held in detention:

16 (a) An information, a community supervision modification or
17 termination of diversion petition, or a parole modification petition
18 shall be filed within seventy-two hours, Saturdays, Sundays, and
19 holidays excluded, or the juvenile shall be released; and

20 (b) A detention hearing, a community supervision modification or
21 termination of diversion petition, or a parole modification petition
22 shall be held within seventy-two hours, Saturdays, Sundays, and
23 holidays excluded, from the time of filing the information or petition,
24 to determine whether continued detention is necessary under RCW
25 13.40.040.

26 (2) Notice of the detention hearing, stating the time, place, and
27 purpose of the hearing, (~~and~~) stating the right to counsel, and
28 requiring attendance, shall be given to the parent, guardian, or
29 custodian if such person can be found and shall also be given to the
30 juvenile if over twelve years of age.

31 (3) At the commencement of the detention hearing, the court shall
32 advise the parties of their rights under this chapter and shall appoint
33 counsel as specified in this chapter.

34 (4) The court shall, based upon the allegations in the information,
35 determine whether the case is properly before it or whether the case
36 should be treated as a diversion case under RCW 13.40.080. If the case

1 is not properly before the court the juvenile shall be ordered
2 released.

3 (5) Notwithstanding a determination that the case is properly
4 before the court and that probable cause exists, a juvenile shall at
5 the detention hearing be ordered released on the juvenile's personal
6 recognizance pending further hearing unless the court finds detention
7 is necessary under RCW 13.40.040 (~~as now or hereafter amended~~)).

8 (6) If detention is not necessary under RCW 13.40.040, (~~as now or~~
9 ~~hereafter amended,~~) the court shall impose the most appropriate of the
10 following conditions or, if necessary, any combination of the following
11 conditions:

12 (a) Place the juvenile in the custody of a designated person
13 agreeing to supervise such juvenile;

14 (b) Place restrictions on the travel of the juvenile during the
15 period of release;

16 (c) Require the juvenile to report regularly to and remain under
17 the supervision of the juvenile court;

18 (d) Impose any condition other than detention deemed reasonably
19 necessary to assure appearance as required;

20 (e) Require that the juvenile return to detention during specified
21 hours; or

22 (f) Require the juvenile to post a probation bond set by the court
23 under terms and conditions as provided in RCW 13.40.040(4).

24 (7) A juvenile shall not be released except to a responsible adult.

25 (8) If the parent, guardian, or custodian of the juvenile in
26 detention is available, the court shall consult with them prior to a
27 determination to further detain or release the juvenile or treat the
28 case as a diversion case under RCW 13.40.080.

29 (9) If the parent, guardian, or custodian notified as provided in
30 this section fails without reasonable cause to appear, that person may
31 be proceeded against as for contempt of court for failing to appear.

32 **Sec. 17.** RCW 13.40.060 and 1989 c 71 s 1 are each amended to read
33 as follows:

34 (1) All actions under this chapter shall be commenced and tried in
35 the county where any element of the offense was committed except as
36 otherwise specially provided by statute. In cases in which diversion
37 is provided by statute, venue is in the county in which the juvenile

1 resides or in the county in which any element of the offense was
2 committed.

3 (2) For juveniles whose standard range disposition would include
4 confinement in excess of thirty days, the case and copies of all legal
5 and social documents pertaining thereto may in the discretion of the
6 court be transferred to the county where the juvenile resides for a
7 disposition hearing. All costs and arrangements for care and
8 transportation of the juvenile in custody shall be the responsibility
9 of the receiving county as of the date of the transfer of the juvenile
10 to such county, unless the counties otherwise agree.

11 (3) The case and copies of all legal and social documents
12 pertaining thereto may in the discretion of the court be transferred to
13 the county in which the juvenile resides for supervision and
14 enforcement of the disposition order. The court of the receiving
15 county has jurisdiction to modify and enforce the disposition order.

16 (4) The court upon motion of any party or upon its own motion may,
17 at any time, transfer a proceeding to another juvenile court when there
18 is reason to believe that an impartial proceeding cannot be held in the
19 county in which the proceeding was begun.

20 **Sec. 18.** RCW 13.40.080 and 1994 sp.s. c 7 s 544 are each amended
21 to read as follows:

22 (1) A diversion agreement shall be a contract between a juvenile
23 accused of an offense and a diversionary unit whereby the juvenile
24 agrees to fulfill certain conditions in lieu of prosecution. Such
25 agreements may be entered into only after the prosecutor, or probation
26 counselor pursuant to this chapter, has determined that probable cause
27 exists to believe that a crime has been committed and that the juvenile
28 committed it. Such agreements shall be entered into as expeditiously
29 as possible.

30 (2) A diversion agreement shall be limited to one or more of the
31 following:

32 (a) Community service not to exceed one hundred fifty hours, not to
33 be performed during school hours if the juvenile is attending school;

34 (b) Restitution limited to the amount of actual loss incurred by
35 the victim, and to an amount the juvenile has the means or potential
36 means to pay;

37 (c) Attendance at (~~up to ten hours of~~) counseling and/or (~~up to~~
38 ~~twenty hours of~~) educational or informational sessions at a community

1 agency for a specified period of time as determined by the diversion
2 unit. The educational or informational sessions may include sessions
3 relating to respect for self, others, and authority; victim awareness;
4 accountability; self-worth; responsibility; work ethics; good
5 citizenship; and life skills. For purposes of this section, "community
6 agency" may also mean a community-based nonprofit organization, if
7 approved by the diversion unit. The state shall not be liable for
8 costs resulting from the diversionary unit exercising the option to
9 permit diversion agreements to mandate attendance at (~~up to ten hours~~
10 ~~of~~) counseling and/or (~~up to twenty hours of~~) educational or
11 informational sessions;

12 (d) A fine, not to exceed one hundred dollars. In determining the
13 amount of the fine, the diversion unit shall consider only the
14 juvenile's financial resources and whether the juvenile has the means
15 to pay the fine. The diversion unit shall not consider the financial
16 resources of the juvenile's parents, guardian, or custodian in
17 determining the fine to be imposed; and

18 (e) Requirements to remain during specified hours at home, school,
19 or work, and restrictions on leaving or entering specified geographical
20 areas.

21 (3) In assessing periods of community service to be performed and
22 restitution to be paid by a juvenile who has entered into a diversion
23 agreement, the court officer to whom this task is assigned shall
24 consult with the juvenile's custodial parent or parents or guardian and
25 victims who have contacted the diversionary unit and, to the extent
26 possible, involve members of the community. Such members of the
27 community shall meet with the juvenile and advise the court officer as
28 to the terms of the diversion agreement and shall supervise the
29 juvenile in carrying out its terms.

30 (4) A diversion agreement may not exceed a period of six months and
31 may include a period extending beyond the eighteenth birthday of the
32 diveree. Any restitution assessed during its term may not exceed an
33 amount which the juvenile could be reasonably expected to pay during
34 this period. If additional time is necessary for the juvenile to
35 complete restitution to the victim, the time period limitations of this
36 subsection may be extended by an additional six months.

37 (5) The juvenile shall retain the right to be referred to the court
38 at any time prior to the signing of the diversion agreement.

1 (6) Divertees and potential divertees shall be afforded due process
2 in all contacts with a diversionary unit regardless of whether the
3 juveniles are accepted for diversion or whether the diversion program
4 is successfully completed. Such due process shall include, but not be
5 limited to, the following:

6 (a) A written diversion agreement shall be executed stating all
7 conditions in clearly understandable language;

8 (b) Violation of the terms of the agreement shall be the only
9 grounds for termination;

10 (c) No divertee may be terminated from a diversion program without
11 being given a court hearing, which hearing shall be preceded by:

12 (i) Written notice of alleged violations of the conditions of the
13 diversion program; and

14 (ii) Disclosure of all evidence to be offered against the divertee;

15 (d) The hearing shall be conducted by the juvenile court and shall
16 include:

17 (i) Opportunity to be heard in person and to present evidence;

18 (ii) The right to confront and cross-examine all adverse witnesses;

19 (iii) A written statement by the court as to the evidence relied on
20 and the reasons for termination, should that be the decision; and

21 (iv) Demonstration by evidence that the divertee has substantially
22 violated the terms of his or her diversion agreement.

23 (e) The prosecutor may file an information on the offense for which
24 the divertee was diverted:

25 (i) In juvenile court if the divertee is under eighteen years of
26 age; or

27 (ii) In superior court or the appropriate court of limited
28 jurisdiction if the divertee is eighteen years of age or older.

29 (7) The diversion unit shall, subject to available funds, be
30 responsible for providing interpreters when juveniles need interpreters
31 to effectively communicate during diversion unit hearings or
32 negotiations.

33 (8) The diversion unit shall be responsible for advising a divertee
34 of his or her rights as provided in this chapter.

35 (9) The diversion unit may refer a juvenile to community-based
36 counseling or treatment programs.

37 (10) The right to counsel shall inure prior to the initial
38 interview for purposes of advising the juvenile as to whether he or she
39 desires to participate in the diversion process or to appear in the

1 juvenile court. The juvenile may be represented by counsel at any
2 critical stage of the diversion process, including intake interviews
3 and termination hearings. The juvenile shall be fully advised at the
4 intake of his or her right to an attorney and of the relevant services
5 an attorney can provide. For the purpose of this section, intake
6 interviews mean all interviews regarding the diversion agreement
7 process.

8 The juvenile shall be advised that a diversion agreement shall
9 constitute a part of the juvenile's criminal history as defined by RCW
10 13.40.020(9). A signed acknowledgment of such advisement shall be
11 obtained from the juvenile, and the document shall be maintained by the
12 diversionary unit together with the diversion agreement, and a copy of
13 both documents shall be delivered to the prosecutor if requested by the
14 prosecutor. The supreme court shall promulgate rules setting forth the
15 content of such advisement in simple language.

16 (11) When a juvenile enters into a diversion agreement, the
17 juvenile court may receive only the following information for
18 dispositional purposes:

- 19 (a) The fact that a charge or charges were made;
- 20 (b) The fact that a diversion agreement was entered into;
- 21 (c) The juvenile's obligations under such agreement;
- 22 (d) Whether the alleged offender performed his or her obligations
23 under such agreement; and
- 24 (e) The facts of the alleged offense.

25 (12) A diversionary unit may refuse to enter into a diversion
26 agreement with a juvenile. When a diversionary unit refuses to enter
27 a diversion agreement with a juvenile, it shall immediately refer such
28 juvenile to the court for action and shall forward to the court the
29 criminal complaint and a detailed statement of its reasons for refusing
30 to enter into a diversion agreement. The diversionary unit shall also
31 immediately refer the case to the prosecuting attorney for action if
32 such juvenile violates the terms of the diversion agreement.

33 (13) A diversionary unit may, in instances where it determines that
34 the act or omission of an act for which a juvenile has been referred to
35 it involved no victim, or where it determines that the juvenile
36 referred to it has no prior criminal history and is alleged to have
37 committed an illegal act involving no threat of or instance of actual
38 physical harm and involving not more than fifty dollars in property
39 loss or damage and that there is no loss outstanding to the person or

1 firm suffering such damage or loss, counsel and release or release such
2 a juvenile without entering into a diversion agreement. A diversion
3 unit's authority to counsel and release a juvenile under this
4 subsection shall include the authority to refer the juvenile to
5 community-based counseling or treatment programs. Any juvenile
6 released under this subsection shall be advised that the act or
7 omission of any act for which he or she had been referred shall
8 constitute a part of the juvenile's criminal history as defined by RCW
9 13.40.020(9). A signed acknowledgment of such advisement shall be
10 obtained from the juvenile, and the document shall be maintained by the
11 unit, and a copy of the document shall be delivered to the prosecutor
12 if requested by the prosecutor. The supreme court shall promulgate
13 rules setting forth the content of such advisement in simple language.
14 A juvenile determined to be eligible by a diversionary unit for release
15 as provided in this subsection shall retain the same right to counsel
16 and right to have his or her case referred to the court for formal
17 action as any other juvenile referred to the unit.

18 (14) A diversion unit may supervise the fulfillment of a diversion
19 agreement entered into before the juvenile's eighteenth birthday and
20 which includes a period extending beyond the diverttee's eighteenth
21 birthday.

22 (15) If a fine required by a diversion agreement cannot reasonably
23 be paid due to a change of circumstance, the diversion agreement may be
24 modified at the request of the diverttee and with the concurrence of the
25 diversion unit to convert an unpaid fine into community service. The
26 modification of the diversion agreement shall be in writing and signed
27 by the diverttee and the diversion unit. The number of hours of
28 community service in lieu of a monetary penalty shall be converted at
29 the rate of the prevailing state minimum wage per hour.

30 (16) Fines imposed under this section shall be collected and paid
31 into the county general fund in accordance with procedures established
32 by the juvenile court administrator under RCW 13.04.040 and may be used
33 only for juvenile services. In the expenditure of funds for juvenile
34 services, there shall be a maintenance of effort whereby counties
35 exhaust existing resources before using amounts collected under this
36 section.

37 **Sec. 19.** RCW 13.40.130 and 1981 c 299 s 10 are each amended to
38 read as follows:

1 (1) The respondent shall be advised of the allegations in the
2 information and shall be required to plead guilty or not guilty to the
3 allegation(s). The state or the respondent may make preliminary
4 motions up to the time of the plea.

5 (2) If the respondent pleads guilty, the court may proceed with
6 disposition or may continue the case for a dispositional hearing. If
7 the respondent denies guilt, an adjudicatory hearing date shall be set.
8 The court shall notify the parent, guardian, or custodian who has
9 custody of any juvenile described in the charging document of the date,
10 time, and place of the dispositional or adjudicatory hearing, and
11 require attendance.

12 (3) At the adjudicatory hearing it shall be the burden of the
13 prosecution to prove the allegations of the information beyond a
14 reasonable doubt.

15 (4) The court shall record its findings of fact and shall enter its
16 decision upon the record. Such findings shall set forth the evidence
17 relied upon by the court in reaching its decision.

18 (5) If the respondent is found not guilty he or she shall be
19 released from detention.

20 (6) If the respondent is found guilty the court may immediately
21 proceed to disposition or may continue the case for a dispositional
22 hearing. Notice of the time and place of the continued hearing may be
23 given in open court. If notice is not given in open court to a party,
24 the party and the parent, guardian, or custodian who has custody of the
25 juvenile shall be notified by mail of the time and place of the
26 continued hearing.

27 (7) The court following an adjudicatory hearing may request that a
28 predisposition study be prepared to aid the court in its evaluation of
29 the matters relevant to disposition of the case.

30 (8) The disposition hearing shall be held within fourteen days
31 after the adjudicatory hearing or plea of guilty unless good cause is
32 shown for further delay, or within twenty-one days if the juvenile is
33 not held in a detention facility, unless good cause is shown for
34 further delay.

35 (9) In sentencing an offender, the court shall use the disposition
36 standards in effect on the date of the offense.

37 (10) If the parent, guardian, or custodian notified as provided in
38 this section fails without reasonable cause to appear, that person may
39 be proceeded against as for contempt of court for failing to appear.

1 **Sec. 20.** RCW 13.40.150 and 1995 c 268 s 5 are each amended to read
2 as follows:

3 (1) In disposition hearings all relevant and material evidence,
4 including oral and written reports, may be received by the court and
5 may be relied upon to the extent of its probative value, even though
6 such evidence may not be admissible in a hearing on the information.
7 The youth or the youth's counsel and the prosecuting attorney shall be
8 afforded an opportunity to examine and controvert written reports so
9 received and to cross-examine individuals making reports when such
10 individuals are reasonably available, but sources of confidential
11 information need not be disclosed. The prosecutor and counsel for the
12 juvenile may submit recommendations for disposition.

13 (2) For purposes of disposition:

14 (a) Violations which are current offenses count as misdemeanors;

15 (b) Violations may not count as part of the offender's criminal
16 history;

17 (c) In no event may a disposition for a violation include
18 confinement.

19 (3) Before entering a dispositional order as to a respondent found
20 to have committed an offense, the court shall hold a disposition
21 hearing, at which the court shall:

22 (a) Consider the facts supporting the allegations of criminal
23 conduct by the respondent;

24 (b) Consider information and arguments offered by parties and their
25 counsel;

26 (c) Consider any predisposition reports;

27 (d) Consult with the respondent's parent, guardian, or custodian on
28 the appropriateness of dispositional options under consideration and
29 afford the respondent and the respondent's parent, guardian, or
30 custodian an opportunity to speak in the respondent's behalf;

31 (e) Allow the victim or a representative of the victim and an
32 investigative law enforcement officer to speak;

33 (f) Determine the amount of restitution owing to the victim, if
34 any;

35 (g) Determine whether the respondent is a serious offender, a
36 middle offender, or a minor or first offender;

37 (h) Consider whether or not any of the following mitigating factors
38 exist:

1 (i) The respondent's conduct neither caused nor threatened serious
2 bodily injury or the respondent did not contemplate that his or her
3 conduct would cause or threaten serious bodily injury;

4 (ii) The respondent acted under strong and immediate provocation;

5 (iii) The respondent was suffering from a mental or physical
6 condition that significantly reduced his or her culpability for the
7 offense though failing to establish a defense;

8 (iv) Prior to his or her detection, the respondent compensated or
9 made a good faith attempt to compensate the victim for the injury or
10 loss sustained; and

11 (v) There has been at least one year between the respondent's
12 current offense and any prior criminal offense;

13 (i) Consider whether or not any of the following aggravating
14 factors exist:

15 (i) In the commission of the offense, or in flight therefrom, the
16 respondent inflicted or attempted to inflict serious bodily injury to
17 another;

18 (ii) The offense was committed in an especially heinous, cruel, or
19 depraved manner;

20 (iii) The victim or victims were particularly vulnerable;

21 (iv) The respondent has a recent criminal history or has failed to
22 comply with conditions of a recent dispositional order or diversion
23 agreement;

24 (v) The current offense included a finding of sexual motivation
25 pursuant to RCW 13.40.135;

26 (vi) The respondent was the leader of a criminal enterprise
27 involving several persons; ((and))

28 (vii) There are other complaints which have resulted in diversion
29 or a finding or plea of guilty but which are not included as criminal
30 history; and

31 (viii) The respondent is a sex offender eligible for the special
32 sex offender disposition alternative under RCW 13.40.160(5) and the
33 court finds that a longer disposition is necessary to provide an
34 incentive to comply with the terms of the disposition.

35 (4) The following factors may not be considered in determining the
36 punishment to be imposed:

37 (a) The sex of the respondent;

38 (b) The race or color of the respondent or the respondent's family;

1 (c) The creed or religion of the respondent or the respondent's
2 family;

3 (d) The economic or social class of the respondent or the
4 respondent's family; and

5 (e) Factors indicating that the respondent may be or is a dependent
6 child within the meaning of this chapter.

7 (5) A court may not commit a juvenile to a state institution solely
8 because of the lack of facilities, including treatment facilities,
9 existing in the community.

10 **Sec. 21.** RCW 13.40.160 and 1995 c 395 s 7 are each amended to read
11 as follows:

12 (1) When the respondent is found to be a serious offender, the
13 court shall commit the offender to the department for the standard
14 range of disposition for the offense, as indicated in option A of
15 schedule D-3, RCW 13.40.0357 except as provided in subsections (5) and
16 (6) of this section.

17 If the court concludes, and enters reasons for its conclusion, that
18 disposition within the standard range would effectuate a manifest
19 injustice the court shall impose a disposition outside the standard
20 range, as indicated in option B of schedule D-3, RCW 13.40.0357. The
21 court's finding of manifest injustice shall be supported by clear and
22 convincing evidence.

23 A disposition outside the standard range shall be determinate and
24 shall be comprised of confinement or community supervision, or a
25 combination thereof. When a judge finds a manifest injustice and
26 imposes a sentence of confinement exceeding thirty days, the court
27 shall sentence the juvenile to a maximum term, and the provisions of
28 RCW 13.40.030(2) shall be used to determine the range. A disposition
29 outside the standard range is appealable under RCW 13.40.230 by the
30 state or the respondent. A disposition within the standard range is
31 not appealable under RCW 13.40.230.

32 (2) Where the respondent is found to be a minor or first offender,
33 the court shall order that the respondent serve a term of community
34 supervision as indicated in option A or option B of schedule D-1, RCW
35 13.40.0357 except as provided in subsections (5) and (6) of this
36 section. A minor/first offender receiving an option A disposition may
37 also be required to serve 0 to 10 days in confinement. If the court
38 determines that a disposition of community supervision would effectuate

1 a manifest injustice the court may impose another disposition under
2 option C of schedule D-1, RCW 13.40.0357. Except as provided in
3 subsection (5) of this section, a disposition other than a community
4 supervision may be imposed only after the court enters reasons upon
5 which it bases its conclusions that imposition of community supervision
6 would effectuate a manifest injustice. When a judge finds a manifest
7 injustice and imposes a sentence of confinement exceeding thirty days,
8 the court shall sentence the juvenile to a maximum term, and the
9 provisions of RCW 13.40.030(2) shall be used to determine the range.
10 The court's finding of manifest injustice shall be supported by clear
11 and convincing evidence.

12 Except for disposition of community supervision or a disposition
13 imposed pursuant to subsection (5) of this section, a disposition may
14 be appealed as provided in RCW 13.40.230 by the state or the
15 respondent. A disposition of community supervision or a disposition
16 imposed pursuant to subsection (5) of this section may not be appealed
17 under RCW 13.40.230.

18 (3) Where a respondent is found to have committed an offense for
19 which the respondent declined to enter into a diversion agreement, the
20 court shall impose a term of community supervision limited to the
21 conditions allowed in a diversion agreement as provided in RCW
22 13.40.080(2).

23 (4) If a respondent is found to be a middle offender:

24 (a) The court shall impose a determinate disposition within the
25 standard range(s) for such offense, as indicated in option A of
26 schedule D-2, RCW 13.40.0357 except as provided in subsections (5) and
27 (6) of this section. If the standard range includes a term of
28 confinement exceeding thirty days, commitment shall be to the
29 department for the standard range of confinement; or

30 (b)(i) If the middle offender has less than 110 points, the court
31 shall impose a determinate disposition of community supervision and/or
32 up to ~~((thirty))~~ ninety days ~~((confinement))~~ inpatient substance abuse
33 treatment, as indicated in option ~~((B))~~ (D) of schedule D-2, RCW
34 13.40.0357 ~~((in which case, if confinement has been imposed, the court~~
35 ~~shall state either aggravating or mitigating factors as set forth in~~
36 ~~RCW 13.40.150))~~.

37 (ii) If the middle offender has 110 points or more, the court may
38 impose a disposition under option A and may suspend the disposition and
39 impose a determinate disposition of community supervision of up to one

1 year or the maximum term allowed by the standard range, whichever is
2 longer, on the condition that the offender serve up to thirty days of
3 confinement and follow all conditions of community supervision. If
4 confinement has been imposed, the court shall state either aggravating
5 or mitigating factors as set forth in RCW 13.40.150. If the offender
6 violates any condition of the disposition including conditions of a
7 probation bond, the court may impose sanctions pursuant to RCW
8 13.40.200 or may revoke the suspension and order execution of the
9 disposition. The court shall give credit for any confinement time
10 previously served if that confinement was for the offense for which the
11 suspension is being revoked.

12 (iii) If the respondent is a middle offender with 110 points or
13 more the court may impose the special disposition option under section
14 28 of this act.

15 (c) Only if the court concludes, and enters reasons for its
16 conclusions, that disposition as provided in subsection (4)(a) or (b)
17 of this section would effectuate a manifest injustice, the court shall
18 sentence the juvenile to a maximum term, and the provisions of RCW
19 13.40.030(2) shall be used to determine the range. The court's finding
20 of manifest injustice shall be supported by clear and convincing
21 evidence.

22 (d) A disposition pursuant to subsection (4)(c) of this section is
23 appealable under RCW 13.40.230 by the state or the respondent. A
24 disposition pursuant to subsection (4)(a) or (b) of this section is not
25 appealable under RCW 13.40.230.

26 (5) When a serious, middle, or minor first offender is found to
27 have committed a sex offense, other than a sex offense that is also a
28 serious violent offense as defined by RCW 9.94A.030, and has no history
29 of a prior sex offense, the court, on its own motion or the motion of
30 the state or the respondent, may order an examination to determine
31 whether the respondent is amenable to treatment.

32 The report of the examination shall include at a minimum the
33 following: The respondent's version of the facts and the official
34 version of the facts, the respondent's offense history, an assessment
35 of problems in addition to alleged deviant behaviors, the respondent's
36 social, educational, and employment situation, and other evaluation
37 measures used. The report shall set forth the sources of the
38 evaluator's information.

1 The examiner shall assess and report regarding the respondent's
2 amenability to treatment and relative risk to the community.

3 (a) A proposed treatment plan shall be provided and shall include,
4 at a minimum:

5 ((~~a~~))(i) Frequency and type of contact between the offender and
6 therapist;

7 (ii) Specific issues to be addressed in the treatment and
8 description of planned treatment modalities;

9 (iii) Monitoring plans, including any requirements regarding living
10 conditions, lifestyle requirements, and monitoring by family members,
11 legal guardians, or others;

12 (iv) Anticipated length of treatment; and

13 (v) Recommended crime-related prohibitions.

14 The court on its own motion may order, or on a motion by the state
15 shall order, a second examination regarding the offender's amenability
16 to treatment. The evaluator shall be selected by the party making the
17 motion. The defendant shall pay the cost of any second examination
18 ordered unless the court finds the defendant to be indigent in which
19 case the state shall pay the cost.

20 After receipt of reports of the examination, the court shall then
21 consider whether the offender and the community will benefit from use
22 of this special sex offender disposition alternative and consider the
23 victim's opinion whether the offender should receive a treatment
24 disposition under this section. If the court determines that this
25 special sex offender disposition alternative is appropriate, then the
26 court shall impose a determinate disposition within the standard range
27 for the offense, ((and)) or if the court concludes, and enters reasons
28 for its conclusion, that such disposition would effectuate a manifest
29 injustice, the court shall impose a disposition pursuant to option C of
30 schedule D-1, option C of schedule D-2, or option B of schedule D-3 as
31 appropriate.

32 For either a standard range disposition or a manifest injustice
33 disposition the court may suspend the execution of the disposition and
34 place the offender on community supervision for up to ((two)) three
35 years.

36 (b) As a condition of the suspended disposition, the court may
37 impose the conditions of community supervision and other conditions,
38 including up to thirty days of confinement and requirements that the
39 offender do any one or more of the following:

1 (~~(b)~~)(i) Devote time to a specific education, employment, or
2 occupation;

3 (ii) Undergo available outpatient sex offender treatment for up to
4 two years, or inpatient sex offender treatment not to exceed the
5 standard range of confinement for that offense. A community mental
6 health center may not be used for such treatment unless it has an
7 appropriate program designed for sex offender treatment. The
8 respondent shall not change sex offender treatment providers or
9 treatment conditions without first notifying the prosecutor, the
10 probation counselor, and the court, and shall not change providers
11 without court approval after a hearing if the prosecutor or probation
12 counselor object to the change;

13 (iii) Remain within prescribed geographical boundaries and notify
14 the court or the probation counselor prior to any change in the
15 offender's address, educational program, or employment;

16 (iv) Report to the prosecutor and the probation counselor prior to
17 any change in a sex offender treatment provider. This change shall
18 have prior approval by the court;

19 (v) Report as directed to the court and a probation counselor;

20 (vi) Pay all court-ordered legal financial obligations, perform
21 community service, or any combination thereof;

22 (vii) Make restitution to the victim for the cost of any counseling
23 reasonably related to the offense; or

24 (viii) Comply with the conditions of any court-ordered probation
25 bond.

26 The sex offender treatment provider shall submit quarterly reports
27 on the respondent's progress in treatment to the court and the parties.
28 The reports shall reference the treatment plan and include at a minimum
29 the following: Dates of attendance, respondent's compliance with
30 requirements, treatment activities, the respondent's relative progress
31 in treatment, and any other material specified by the court at the time
32 of the disposition.

33 At the time of the disposition, the court may set treatment review
34 hearings as the court considers appropriate.

35 Except as provided in this subsection (5), after July 1, 1991,
36 examinations and treatment ordered pursuant to this subsection shall
37 only be conducted by sex offender treatment providers certified by the
38 department of health pursuant to chapter 18.155 RCW. A sex offender
39 therapist who examines or treats a juvenile sex offender pursuant to

1 this subsection does not have to be certified by the department of
2 health pursuant to chapter 18.155 RCW if the court finds that: (A) The
3 offender has already moved to another state or plans to move to another
4 state for reasons other than circumventing the certification
5 requirements; (B) no certified providers are available for treatment
6 within a reasonable geographical distance of the offender's home; and
7 (C) the evaluation and treatment plan comply with this subsection (5)
8 and the rules adopted by the department of health.

9 If the offender violates any condition of the disposition or the
10 court finds that the respondent is failing to make satisfactory
11 progress in treatment, the court may revoke the suspension and order
12 execution of the disposition or the court may impose a penalty of up to
13 thirty days' confinement for violating conditions of the disposition.
14 The court may order both execution of the disposition and up to thirty
15 days' confinement for the violation of the conditions of the
16 disposition. The court shall give credit for any confinement time
17 previously served if that confinement was for the offense for which the
18 suspension is being revoked.

19 For purposes of this section, "victim" means any person who has
20 sustained emotional, psychological, physical, or financial injury to
21 person or property as a direct result of the crime charged. "Victim"
22 may also include a known parent or guardian of a victim who is a minor
23 child unless the parent or guardian is the perpetrator of the offense.

24 (6) RCW 13.40.193 shall govern the disposition of any juvenile
25 adjudicated of possessing a firearm in violation of RCW
26 9.41.040(1)((+e))(b)(iv) or any crime in which a special finding is
27 entered that the juvenile was armed with a firearm.

28 (7) Whenever a juvenile offender is entitled to credit for time
29 spent in detention prior to a dispositional order, the dispositional
30 order shall specifically state the number of days of credit for time
31 served.

32 (8) Except as provided for in subsection (4)(b) or (5) of this
33 section or RCW 13.40.125, the court shall not suspend or defer the
34 imposition or the execution of the disposition.

35 (9) In no case shall the term of confinement imposed by the court
36 at disposition exceed that to which an adult could be subjected for the
37 same offense.

38 (10) In all disposition orders that include commitment to the
39 department, the court shall make a finding of reasonable rehabilitative

1 goals to be achieved by the juvenile during the commitment term. These
2 goals may include, by way of example and not limitation, completion of
3 substance abuse treatment, completion of anger management courses, and
4 achievement of academic, educational, or vocational goals, such as
5 grade-level reading or general educational development test completion.

6 **Sec. 22.** RCW 13.40.185 and 1994 sp.s. c 7 s 524 are each amended
7 to read as follows:

8 (1) Any term of confinement imposed for an offense which exceeds
9 thirty days except under option B of schedule D-1 or option D of
10 schedule D-2 shall be served under the supervision of the department.
11 If the period of confinement imposed for more than one offense exceeds
12 thirty days but the term imposed for each offense is less than thirty
13 days, the confinement may, in the discretion of the court, be served in
14 a juvenile facility operated by or pursuant to a contract with the
15 state or a county.

16 (2) Whenever a juvenile is confined in a detention facility or is
17 committed to the department, the court may not directly order a
18 juvenile into a particular county or state facility. The juvenile
19 court administrator and the secretary, assistant secretary, or the
20 secretary's designee, as appropriate, has the sole discretion to
21 determine in which facility a juvenile should be confined or committed.
22 The counties may operate a variety of detention facilities as
23 determined by the county legislative authority subject to available
24 funds.

25 (3) Any commitment for inpatient substance abuse treatment under
26 option B of schedule D-1 or option D of schedule D-2 shall be under the
27 supervision of the county and subject to available beds and funding.

28 NEW SECTION. **Sec. 23.** A new section is added to chapter 13.40 RCW
29 to read as follows:

30 If a respondent is found to have delivered a firearm in violation
31 of RCW 9.41.080, the court shall commit the offender to the department
32 for one hundred twenty days of confinement. If the offender's standard
33 range of disposition for the offense, as indicated in RCW 13.40.0357,
34 is more than one hundred twenty days of confinement, the court shall
35 commit the offender to the standard range disposition. The offender
36 shall not be released until the offender has served a minimum of one

1 hundred twenty days of confinement. The term of confinement shall run
2 consecutively with the term of confinement of any other offenses.

3 NEW SECTION. **Sec. 24.** A new section is added to chapter 13.40 RCW
4 to read as follows:

5 If a respondent is found to have committed an offense of theft of
6 a firearm, as defined in RCW 9A.56.300, the court shall commit the
7 offender to the department for one hundred twenty days of confinement.
8 If the offender's standard range of disposition for the offense, as
9 indicated in RCW 13.40.0357, is more than one hundred twenty days of
10 confinement, the court shall commit the offender to the standard range
11 disposition. The offender shall not be released until the offender has
12 served a minimum of one hundred twenty days of confinement. The term
13 of confinement shall run consecutively with the term of confinement of
14 any other offenses.

15 **Sec. 25.** RCW 13.40.193 and 1994 sp.s. c 7 s 525 are each amended
16 to read as follows:

17 (1) If a respondent is found to have been in possession of a
18 firearm in violation of RCW 9.41.040(1)((~~e~~))(b)(iv), the court shall
19 impose a determinate disposition of ((~~ten~~)) thirty days of confinement
20 and up to twelve months of community supervision. If the offender's
21 standard range of disposition for the offense as indicated in RCW
22 13.40.0357 is more than thirty days of confinement, the court shall
23 commit the offender to the department for the standard range
24 disposition. The offender shall not be released until the offender has
25 served a minimum of ((~~ten~~)) thirty days in confinement.

26 (2) If the court finds that the respondent or an accomplice was
27 armed with a firearm, the court shall determine the standard range
28 disposition for the offense pursuant to RCW 13.40.160. ((~~Ninety~~)) One
29 hundred eighty days of confinement shall be added to the entire
30 standard range disposition of confinement if the offender or an
31 accomplice was armed with a firearm when the offender committed: (a)
32 Any violent offense; or (b) escape in the first degree; burglary in the
33 second degree; theft of livestock in the first or second degree; or any
34 felony drug offense. If the offender or an accomplice was armed with
35 a firearm and the offender is being adjudicated for an anticipatory
36 felony offense under chapter 9A.28 RCW to commit one of the offenses
37 listed in this subsection, ((~~ninety~~)) one hundred eighty days shall be

1 added to the entire standard range disposition of confinement. The
2 ((ninety)) one hundred eighty days shall be imposed regardless of the
3 offense's juvenile disposition offense category as designated in RCW
4 13.40.0357. The department shall not release the offender until the
5 offender has served a minimum of ((ninety)) one hundred eighty days in
6 confinement, unless the juvenile is committed to and successfully
7 completes the juvenile offender basic training camp disposition option.

8 (3) Option B of schedule D-2, RCW 13.40.0357, shall not be
9 available for middle offenders who receive a disposition under this
10 section. When a disposition under this section would effectuate a
11 manifest injustice, the court may impose another disposition. When a
12 judge finds a manifest injustice and imposes a disposition of
13 confinement exceeding thirty days, the court shall commit the juvenile
14 to a maximum term, and the provisions of RCW 13.40.030(2) shall be used
15 to determine the range. When a judge finds a manifest injustice and
16 imposes a disposition of confinement less than thirty days, the
17 disposition shall be comprised of confinement or community supervision
18 or both.

19 (4) Any term of confinement ordered pursuant to this section
20 ((may)) shall run ((concurrently)) consecutively to any term of
21 confinement imposed in the same disposition for other offenses. A term
22 of confinement ordered pursuant to this section must be served in its
23 entirety.

24 **Sec. 26.** RCW 13.40.210 and 1994 sp.s. c 7 s 527 are each amended
25 to read as follows:

26 (1) ~~((The secretary shall, except in the case of a juvenile~~
27 ~~committed by a court to a term of confinement in a state institution~~
28 ~~outside the appropriate standard range for the offense(s) for which the~~
29 ~~juvenile was found to be guilty established pursuant to RCW 13.40.030,~~
30 ~~set a release or discharge date for each juvenile committed to its~~
31 ~~custody. The release or discharge date shall be within the prescribed~~
32 ~~range to which a juvenile has been committed except as provided in RCW~~
33 ~~13.40.320 concerning offenders the department determines are eligible~~
34 ~~for the juvenile offender basic training camp program. Such dates~~
35 ~~shall be determined prior to the expiration of sixty percent of a~~
36 ~~juvenile's minimum term of confinement included within the prescribed~~
37 ~~range to which the juvenile has been committed.)) (a) When a juvenile
38 is committed to a term of confinement in a state institution, the~~

1 secretary shall review the sentencing court's finding of the
2 rehabilitative goals to be achieved by the juvenile during the term of
3 confinement. The department shall provide rehabilitative resources,
4 including but not limited to education, vocational training, substance
5 abuse treatment, and counseling, to permit the juvenile to achieve
6 these rehabilitative goals.

7 (b) After expiration of no more than sixty percent of the
8 juvenile's minimum term, the department shall provide a report
9 containing an evaluation of the juvenile's behavior and performance
10 during commitment. This report shall specifically describe the
11 juvenile's progress toward achieving the designated rehabilitative
12 goals.

13 (c) The department shall provide this report to the committing
14 court. The court, after considering the department's report, shall
15 determine a release or discharge date for the juvenile, which date
16 shall fall on or before expiration of the maximum term of commitment.
17 If a substantial change in the juvenile's behavior occurs after the
18 setting of the release or discharge date, the department may submit an
19 updated report to the committing court. The committing court may
20 change the release or discharge date based upon the updated report.
21 Nothing in this subsection requires the court to hold a hearing in
22 setting the release or discharge date.

23 (d) Nothing in this section entitles a juvenile to release prior to
24 the expiration of the maximum term of confinement imposed by the court.

25 (e) After the court determines a release date, the court shall
26 notify the secretary by mail, and the secretary shall release any
27 juvenile committed to the custody of the department within four
28 calendar days prior to the juvenile's release date or on the release
29 date set under this chapter. Days spent in the custody of the
30 department shall be tolled by any period of time during which a
31 juvenile has absented himself or herself from the department's
32 supervision without the prior approval of the secretary or the
33 secretary's designee.

34 (2) The secretary shall monitor the average daily population of the
35 state's juvenile residential facilities. When the secretary concludes
36 that in-residence population of residential facilities exceeds one
37 hundred five percent of the rated bed capacity specified in statute, or
38 in absence of such specification, as specified by the department in
39 rule, the secretary may recommend reductions to the governor. On

1 certification by the governor that the recommended reductions are
2 necessary, the secretary has authority to administratively release a
3 sufficient number of offenders to reduce in-residence population to one
4 hundred percent of rated bed capacity. The secretary shall release
5 those offenders who have served the greatest proportion of their
6 sentence. However, the secretary may deny release in a particular case
7 at the request of an offender, or if the secretary finds that there is
8 no responsible custodian, as determined by the department, to whom to
9 release the offender, or if the release of the offender would pose a
10 clear danger to society. The department shall notify the committing
11 court of the release at the time of release if any such early releases
12 have occurred as a result of excessive in-residence population. In no
13 event shall an offender adjudicated of a violent offense be granted
14 release under the provisions of this subsection.

15 (3) Following the juvenile's release under subsection (1) of this
16 section, the secretary may require the juvenile to comply with a
17 program of parole to be administered by the department in his or her
18 community which shall last no longer than eighteen months, except that
19 in the case of a juvenile sentenced for rape in the first or second
20 degree, rape of a child in the first or second degree, child
21 molestation in the first degree, or indecent liberties with forcible
22 compulsion, the period of parole shall be ~~((twenty-four))~~ sixty months.
23 A parole program is mandatory for offenders released under subsection
24 (2) of this section. The secretary shall, for the period of parole,
25 facilitate the juvenile's reintegration into his or her community and
26 to further this goal shall require the juvenile to refrain from
27 possessing a firearm or using a deadly weapon and refrain from
28 committing new offenses and may require the juvenile to: (a) Undergo
29 available medical ~~((or))~~, psychiatric ~~((treatment))~~, drug and alcohol,
30 mental health, and other offense-related treatment services; (b) report
31 as directed to a parole officer and/or designee; (c) pursue a course of
32 study ~~((or))~~, vocational training, or employment; ~~((and))~~ (d) notify
33 the parole officer of the current address where he or she resides; (e)
34 be present at a particular address during specified hours; (f) remain
35 within prescribed geographical boundaries ~~((and notify the department~~
36 ~~of any change in his or her address))~~; (g) submit to electronic
37 monitoring; (h) refrain from using illegal drugs and alcohol, and
38 submit to random urinalysis when requested by the assigned parole
39 officer; and (i) refrain from contact with specific individuals or a

1 specified class of individuals. As a mandatory condition of any term
2 of parole, the secretary shall order the juvenile to comply with the
3 mandatory school attendance provisions of chapter 28A.225 RCW and to
4 inform the school of the existence of this requirement. After
5 termination of the parole period, the juvenile shall be discharged from
6 the department's supervision.

7 (4)(a) The department may also modify parole for violation thereof.
8 If, after affording a juvenile all of the due process rights to which
9 he or she would be entitled if the juvenile were an adult, the
10 secretary finds that a juvenile has violated a condition of his or her
11 parole, the secretary shall order one of the following which is
12 reasonably likely to effectuate the purpose of the parole and to
13 protect the public: (i) Continued supervision under the same
14 conditions previously imposed; (ii) intensified supervision with
15 increased reporting requirements; (iii) additional conditions of
16 supervision authorized by this chapter; (iv) except as provided in
17 (a)(v) of this subsection, imposition of a period of confinement not to
18 exceed thirty days in a facility operated by or pursuant to a contract
19 with the state of Washington or any city or county for a portion of
20 each day or for a certain number of days each week with the balance of
21 the days or weeks spent under supervision; and (v) the secretary may
22 order any of the conditions or may return the offender to confinement
23 in an institution for the remainder of the sentence range if the
24 offense for which the offender was sentenced is rape in the first or
25 second degree, rape of a child in the first or second degree, child
26 molestation in the first degree, indecent liberties with forcible
27 compulsion, or a sex offense that is also a serious violent offense as
28 defined by RCW 9.94A.030.

29 (b) If the department finds that any juvenile in a program of
30 parole has possessed a firearm or used a deadly weapon during the
31 program of parole, the department shall modify the parole under (a) of
32 this subsection and confine the juvenile for at least thirty days.
33 Confinement shall be in a facility operated by or pursuant to a
34 contract with the state or any county.

35 (c) If the department finds that the juvenile has violated parole
36 by committing any new offense, the secretary shall order the imposition
37 of thirty days' confinement as a penalty for the violation. This
38 period of confinement shall be in addition to any confinement imposed
39 as a disposition for the new offense.

1 (5) A parole officer of the department of social and health
2 services shall have the power to arrest a juvenile under his or her
3 supervision on the same grounds as a law enforcement officer would be
4 authorized to arrest the person.

5 (6) If so requested and approved under chapter 13.06 RCW, the
6 secretary shall permit a county or group of counties to perform
7 functions under subsections (3) through (5) of this section.

8 NEW SECTION. Sec. 27. A new section is added to chapter 13.40 RCW
9 to read as follows:

10 When the court finds a manifest injustice, imposes a sentence of
11 confinement exceeding thirty days, and sets the maximum term, the
12 department shall determine the range subject to the following
13 limitations:

14 (1) When the maximum term in the range is ninety days or less, the
15 minimum term in the range may be no less than fifty percent of the
16 maximum term in the range;

17 (2) When the maximum term in the range is greater than ninety days
18 but not greater than one year, the minimum term in the range may be no
19 less than seventy-five percent of the maximum term in the range; and

20 (3) When the maximum term in the range is more than one year, the
21 minimum term in the range may be no less than eighty percent of the
22 maximum term in the range.

23 NEW SECTION. Sec. 28. A new section is added to chapter 13.40 RCW
24 to read as follows:

25 (1) When a middle offender with one hundred ten points or more is
26 found to have committed an offense that is not a violent or sex
27 offense, the court, on its own motion or the motion of the state or the
28 respondent if the evidence shows that the offender may be chemically
29 dependent, may order an examination by a chemical dependency counselor
30 from a chemical dependency treatment facility approved under chapter
31 70.96A RCW to determine if the youth is chemically dependent and
32 amenable to treatment.

33 (2) The report of the examination shall include at a minimum the
34 following: The respondent's version of the facts and the official
35 version of the facts, the respondent's offense history, an assessment
36 of drug-alcohol problems and previous treatment attempts, the
37 respondent's social, educational, and employment situation, and other

1 evaluation measures used. The report shall set forth the sources of
2 the examiner's information.

3 (3) The examiner shall assess and report regarding the respondent's
4 amenability to treatment and relative risk to the community. A
5 proposed treatment plan shall be provided and shall include, at a
6 minimum:

7 (a) Whether inpatient and/or outpatient treatment is recommended;

8 (b) Availability of appropriate treatment;

9 (c) Monitoring plans, including any requirements regarding living
10 conditions, lifestyle requirements, and monitoring by family members,
11 legal guardians, or others;

12 (d) Anticipated length of treatment;

13 (e) Recommended crime-related prohibitions; and

14 (f) Whether the respondent is amenable to treatment.

15 (4) The court on its own motion may order, or on a motion by the
16 state shall order, a second examination regarding the offender's
17 amenability to treatment. The evaluator shall be selected by the party
18 making the motion. The defendant shall pay the cost of any examination
19 ordered under this subsection (4) or subsection (1) of this section
20 unless the court finds that the offender is indigent and no third party
21 insurance coverage is available, in which case the state shall pay the
22 cost.

23 (5)(a) After receipt of reports of the examination, the court shall
24 then consider whether the offender and the community will benefit from
25 use of this chemical dependent disposition alternative and consider the
26 victim's opinion whether the offender should receive a treatment
27 disposition under this section.

28 (b) If the court determines that this chemical dependent
29 disposition alternative is appropriate, then the court shall impose the
30 standard range for the offense, suspend execution of the disposition,
31 and place the offender on community supervision for up to one year. As
32 a condition of the suspended disposition, the court shall require the
33 offender to undergo available outpatient drug/alcohol treatment and/or
34 inpatient drug/alcohol treatment. For purposes of this section, the
35 sum of confinement time and inpatient treatment may not exceed ninety
36 days. As a condition of the suspended disposition, the court may
37 impose conditions of community supervision and other sanctions,
38 including up to thirty days of confinement, one hundred fifty hours of

1 community service, and payment of legal financial obligations and
2 restitution.

3 (6) The drug/alcohol treatment provider shall submit monthly
4 reports on the respondent's progress in treatment to the court and the
5 parties. The reports shall reference the treatment plan and include at
6 a minimum the following: Dates of attendance, respondent's compliance
7 with requirements, treatment activities, the respondent's relative
8 progress in treatment, and any other material specified by the court at
9 the time of the disposition.

10 At the time of the disposition, the court may set treatment review
11 hearings as the court considers appropriate.

12 If the offender violates any condition of the disposition or the
13 court finds that the respondent is failing to make satisfactory
14 progress in treatment, the court may revoke the suspension and order
15 execution of the sentence. The court shall give credit for any
16 confinement time previously served if that confinement was for the
17 offense for which the suspension is being revoked.

18 (7) For purposes of this section, "victim" means any person who has
19 sustained emotional, psychological, physical, or financial injury to
20 person or property as a direct result of the crime charged.

21 (8) Whenever a juvenile offender is entitled to credit for time
22 spent in detention prior to a dispositional order, the dispositional
23 order shall specifically state the number of days of credit for time
24 served.

25 (9) In no case shall the term of confinement imposed by the court
26 at disposition exceed that to which an adult would be subjected for the
27 same offense.

28 NEW SECTION. Sec. 29. A new section is added to chapter 13.40 RCW
29 to read as follows:

30 RECOMMENDED PROSECUTING STANDARDS
31 FOR CHARGING AND PLEA DISPOSITIONS

32 INTRODUCTION: These standards are intended solely for the guidance
33 of prosecutors in the state of Washington. They are not intended to,
34 do not, and may not be relied upon to create a right or benefit,
35 substantive or procedural, enforceable at law by a party in litigation
36 with the state.

37 Evidentiary sufficiency. (1) Decision not to prosecute.

1 STANDARD: A prosecuting attorney may decline to prosecute, even
2 though technically sufficient evidence to prosecute exists, in
3 situations where prosecution would serve no public purpose, would
4 defeat the underlying purpose of the law in question, or would result
5 in decreased respect for the law. The decision not to prosecute or
6 divert shall not be influenced by the race, gender, religion, or creed
7 of the suspect.

8 GUIDELINES/COMMENTARY:

9 Examples

10 The following are examples of reasons not to prosecute which could
11 satisfy the standard.

12 (a) Contrary to Legislative Intent - It may be proper to decline to
13 charge where the application of criminal sanctions would be clearly
14 contrary to the intent of the legislature in enacting the particular
15 statute.

16 (b) Antiquated Statute - It may be proper to decline to charge
17 where the statute in question is antiquated in that:

18 (i) It has not been enforced for many years; and

19 (ii) Most members of society act as if it were no longer in
20 existence; and

21 (iii) It serves no deterrent or protective purpose in today's
22 society; and

23 (iv) The statute has not been recently reconsidered by the
24 legislature.

25 This reason is not to be construed as the basis for declining cases
26 because the law in question is unpopular or because it is difficult to
27 enforce.

28 (c) De Minimis Violation - It may be proper to decline to charge
29 where the violation of law is only technical or insubstantial and where
30 no public interest or deterrent purpose would be served by prosecution.

31 (d) Confinement on Other Charges - It may be proper to decline to
32 charge because the accused has been sentenced on another charge to a
33 lengthy period of confinement; and

34 (i) Conviction of the new offense would not merit any additional
35 direct or collateral punishment;

36 (ii) The new offense is either a misdemeanor or a felony which is
37 not particularly aggravated; and

38 (iii) Conviction of the new offense would not serve any significant
39 deterrent purpose.

1 (e) Pending Conviction on Another Charge - It may be proper to
2 decline to charge because the accused is facing a pending prosecution
3 in the same or another county; and

4 (i) Conviction of the new offense would not merit any additional
5 direct or collateral punishment;

6 (ii) Conviction in the pending prosecution is imminent;

7 (iii) The new offense is either a misdemeanor or a felony which is
8 not particularly aggravated; and

9 (iv) Conviction of the new offense would not serve any significant
10 deterrent purpose.

11 (f) High Disproportionate Cost of Prosecution - It may be proper to
12 decline to charge where the cost of locating or transporting, or the
13 burden on, prosecution witnesses is highly disproportionate to the
14 importance of prosecuting the offense in question. The reason should
15 be limited to minor cases and should not be relied upon in serious
16 cases.

17 (g) Improper Motives of Complainant - It may be proper to decline
18 charges because the motives of the complainant are improper and
19 prosecution would serve no public purpose, would defeat the underlying
20 purpose of the law in question, or would result in decreased respect
21 for the law.

22 (h) Immunity - It may be proper to decline to charge where immunity
23 is to be given to an accused in order to prosecute another where the
24 accused information or testimony will reasonably lead to the conviction
25 of others who are responsible for more serious criminal conduct or who
26 represent a greater danger to the public interest.

27 (i) Victim Request - It may be proper to decline to charge because
28 the victim requests that no criminal charges be filed and the case
29 involves the following crimes or situations:

30 (i) Assault cases where the victim has suffered little or no
31 injury;

32 (ii) Crimes against property, not involving violence, where no
33 major loss was suffered;

34 (iii) Where doing so would not jeopardize the safety of society.

35 Care should be taken to insure that the victim's request is freely
36 made and is not the product of threats or pressure by the accused.

37 The presence of these factors may also justify the decision to
38 dismiss a prosecution which has been commenced.

39 Notification

1 The prosecutor is encouraged to notify the victim, when practical,
2 and the law enforcement personnel, of the decision not to prosecute.

3 (2) Decision to prosecute.

4 STANDARD:

5 Crimes against persons will be filed if sufficient admissible
6 evidence exists, which, when considered with the most plausible,
7 reasonably foreseeable defense that could be raised under the evidence,
8 would justify conviction by a reasonable and objective fact-finder.
9 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,
10 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
11 9A.64.020 the prosecutor should avoid prefiling agreements or
12 diversions intended to place the accused in a program of treatment or
13 counseling, so that treatment, if determined to be beneficial, can be
14 proved pursuant to RCW 13.40.160(5).

15 Crimes against property/other crimes will be filed if the
16 admissible evidence is of such convincing force as to make it probable
17 that a reasonable and objective fact-finder would convict after hearing
18 all the admissible evidence and the most plausible defense that could
19 be raised.

20 The categorization of crimes for these charging standards shall be
21 the same as found in RCW 9.94A.440(2).

22 The decision to prosecute or use diversion shall not be influenced
23 by the race, gender, religion, or creed of the respondent.

24 Selection of Charges/Degree of Charge

25 (1) The prosecutor should file charges which adequately describe
26 the nature of the respondent's conduct. Other offenses may be charged
27 only if they are necessary to ensure that the charges:

28 (a) Will significantly enhance the strength of the state's case at
29 trial; or

30 (b) Will result in restitution to all victims.

31 (2) The prosecutor should not overcharge to obtain a guilty plea.

32 Overcharging includes:

33 (a) Charging a higher degree;

34 (b) Charging additional counts.

35 This standard is intended to direct prosecutors to charge those
36 crimes which demonstrate the nature and seriousness of a respondent's
37 criminal conduct, but to decline to charge crimes which are not
38 necessary to such an indication. Crimes which do not merge as a matter

1 of law, but which arise from the same course of conduct, do not all
2 have to be charged.

3 The selection of charges and/or the degree of the charge shall not
4 be influenced by the race, gender, religion, or creed of the
5 respondent.

6 GUIDELINES/COMMENTARY:

7 Police Investigation

8 A prosecuting attorney is dependent upon law enforcement agencies
9 to conduct the necessary factual investigation which must precede the
10 decision to prosecute. The prosecuting attorney shall ensure that a
11 thorough factual investigation has been conducted before a decision to
12 prosecute is made. In ordinary circumstances the investigation should
13 include the following:

14 (1) The interviewing of all material witnesses, together with the
15 obtaining of written statements whenever possible;

16 (2) The completion of necessary laboratory tests; and

17 (3) The obtaining, in accordance with constitutional requirements,
18 of the suspect's version of the events.

19 If the initial investigation is incomplete, a prosecuting attorney
20 should insist upon further investigation before a decision to prosecute
21 is made, and specify what the investigation needs to include.

22 Exceptions

23 In certain situations, a prosecuting attorney may authorize filing
24 of a criminal complaint before the investigation is complete if:

25 (1) Probable cause exists to believe the suspect is guilty; and

26 (2) The suspect presents a danger to the community or is likely to
27 flee if not apprehended; or

28 (3) The arrest of the suspect is necessary to complete the
29 investigation of the crime.

30 In the event that the exception that the standard is applied, the
31 prosecuting attorney shall obtain a commitment from the law enforcement
32 agency involved to complete the investigation in a timely manner. If
33 the subsequent investigation does not produce sufficient evidence to
34 meet the normal charging standard, the complaint should be dismissed.

35 Investigation Techniques

36 The prosecutor should be fully advised of the investigatory
37 techniques that were used in the case investigation including:

38 (1) Polygraph testing;

39 (2) Hypnosis;

1 (3) Electronic surveillance;

2 (4) Use of informants.

3 Prefiling Discussions with Defendant

4 Discussions with the defendant or his or her representative
5 regarding the selection or disposition of charges may occur prior to
6 the filing of charges, and potential agreements can be reached.

7 PLEA DISPOSITIONS:

8 Standard

9 (1) Except as provided in subsection (2) of this section, a
10 respondent will normally be expected to plead guilty to the charge or
11 charges which adequately describe the nature of his or her criminal
12 conduct or go to trial.

13 (2) In certain circumstances, a plea agreement with a respondent in
14 exchange for a plea of guilty to a charge or charges that may not fully
15 describe the nature of his or her criminal conduct may be necessary and
16 in the public interest. Such situations may include the following:

17 (a) Evidentiary problems which make conviction of the original
18 charges doubtful;

19 (b) The respondent's willingness to cooperate in the investigation
20 or prosecution of others whose criminal conduct is more serious or
21 represents a greater public threat;

22 (c) A request by the victim when it is not the result of pressure
23 from the respondent;

24 (d) The discovery of facts which mitigate the seriousness of the
25 respondent's conduct;

26 (e) The correction of errors in the initial charging decision;

27 (f) The respondent's history with respect to criminal activity;

28 (g) The nature and seriousness of the offense or offenses charged;

29 (h) The probable effect of witnesses.

30 (3) No plea agreement shall be influenced by the race, gender,
31 religion, or creed of the respondent. This includes but is not limited
32 to the prosecutor's decision to utilize such disposition alternatives
33 as "Option B," the Special Sex Offender Disposition Alternative, and
34 manifest injustice.

35 DISPOSITION RECOMMENDATIONS:

36 Standard

37 The prosecutor may reach an agreement regarding disposition
38 recommendations.

1 The prosecutor shall not agree to withhold relevant information
2 from the court concerning the plea agreement.

3 NEW SECTION. **Sec. 30.** A new section is added to chapter 28A.175
4 RCW to read as follows:

5 A school may contract with public or private entities to provide
6 educational services for students who have been adjudicated of juvenile
7 offenses particularly when those students have truancy problems or have
8 been suspended or expelled, are academically at-risk, or have been
9 subject to disciplinary actions due to behavior problems.

10 NEW SECTION. **Sec. 31.** A new section is added to chapter 28A.225
11 RCW to read as follows:

12 References to juvenile court in this chapter mean, in addition to
13 the juvenile court of the superior court, courts of limited
14 jurisdiction that have acquired jurisdiction pursuant to RCW
15 13.04.030(1)(e)(iv) and section 4 of this act over juveniles who
16 violate the provisions of this chapter. If a court of limited
17 jurisdiction has jurisdiction over juveniles who violate this chapter,
18 that court also has jurisdiction over parents charged with violations
19 of this chapter.

20 **Sec. 32.** RCW 35.20.030 and 1993 c 83 s 3 are each amended to read
21 as follows:

22 The municipal court shall have jurisdiction to try violations of
23 all city ordinances and all other actions brought to enforce or recover
24 license penalties or forfeitures declared or given by any such
25 ordinances. It is empowered to forfeit cash bail or bail bonds and
26 issue execution thereon, to hear and determine all causes, civil or
27 criminal, arising under such ordinances, and to pronounce judgment in
28 accordance therewith: PROVIDED, That for a violation of the criminal
29 provisions of an ordinance no greater punishment shall be imposed than
30 a fine of five thousand dollars or imprisonment in the city jail not to
31 exceed one year, or both such fine and imprisonment, but the punishment
32 for any criminal ordinance shall be the same as the punishment provided
33 in state law for the same crime. The municipal court shall also have
34 jurisdiction over juvenile offenses prosecuted pursuant to chapter
35 13.40 RCW if the court has acquired jurisdiction pursuant to RCW
36 13.04.030(1)(e)(iv) and section 4 of this act. All civil and criminal

1 proceedings in municipal court, and judgments rendered therein, shall
2 be subject to review in the superior court by writ of review or on
3 appeal: PROVIDED, That an appeal from the court's determination or
4 order in a traffic infraction proceeding may be taken only in
5 accordance with RCW 46.63.090(5). Costs in civil and criminal cases
6 may be taxed as provided in district courts.

7 NEW SECTION. **Sec. 33.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 34.** Sections 8 and 9 of this act shall take
12 effect June 30, 1996.

13 NEW SECTION. **Sec. 35.** The amendments to RCW 13.40.0357 contained
14 in section 12 of this act shall expire July 1, 1997, and shall not
15 apply to offenses committed on or after July 1, 1997.

16 NEW SECTION. **Sec. 36.** Section 13 of this act shall take effect
17 July 1, 1997, and shall apply to offenses committed on or after July 1,
18 1997.

19 NEW SECTION. **Sec. 37.** The amendments to RCW 13.40.0357 contained
20 in section 13 of this act shall expire July 1, 1999, and shall not
21 apply to offenses committed on or after July 1, 1999.

22 NEW SECTION. **Sec. 38.** Section 14 of this act shall take effect
23 July 1, 1999, and shall apply to offenses committed on or after July 1,
24 1999.

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