

**Chapter 13.40 RCW**  
**JUVENILE JUSTICE ACT OF 1977**

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*Health and dental examination and care for juveniles in detention facility—Consent: RCW 13.04.047.*

*Juvenile may be both dependent and an offender: RCW 13.04.300.*

*Treatment of juvenile offenders: RCW 74.14A.030, 74.14A.040.*

**RCW 13.40.010 Short title—Intent—Purpose.** (1) This chapter shall be known and cited as the Juvenile Justice Act of 1977.

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

- (a) Protect the citizenry from criminal behavior;
- (b) Provide for determining whether accused juveniles have committed offenses as defined by this chapter;
- (c) Make the juvenile offender accountable for his or her criminal behavior;
- (d) Provide for punishment commensurate with the age, crime, and criminal history of the juvenile offender;
- (e) Provide due process for juveniles alleged to have committed an offense;
- (f) Provide for the rehabilitation and reintegration of juvenile offenders;

- (g) Provide necessary treatment, supervision, and custody for juvenile offenders;
- (h) Provide for the handling of juvenile offenders by communities whenever consistent with public safety;
- (i) Provide for restitution to victims of crime;
- (j) Develop effective standards and goals for the operation, funding, and evaluation of all components of the juvenile justice system and related services at the state and local levels;
- (k) Provide for a clear policy to determine what types of offenders shall receive punishment, treatment, or both, and to determine the jurisdictional limitations of the courts, institutions, and community services;
- (l) Provide opportunities for victim participation in juvenile justice process, including court hearings on juvenile offender matters, and ensure that Article I, section 35 of the Washington state Constitution, the victim bill of rights, is fully observed; and
- (m) Encourage the parents, guardian, or custodian of the juvenile to actively participate in the juvenile justice process. [2016 c 136 § 1; 2004 c 120 § 1; 1997 c 338 § 8; 1992 c 205 § 101; 1977 ex.s. c 291 § 55.]

**Effective date—2004 c 120:** "This act takes effect July 1, 2004." [2004 c 120 § 11.]

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Part headings not law—1992 c 205:** "Part headings as used in this act do not constitute any part of the law." [1992 c 205 § 405.]

**Severability—1992 c 205:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 205 § 406.]

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.020 Definitions (as amended by 2021 c 206).**

**(Contingent effective date.)** For the purposes of this chapter:

(1) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse, or co-occurring mental health and substance abuse disorders, and recommendations for treatment. "Assessment" includes, but is not limited to, drug and alcohol evaluations, psychological and psychiatric evaluations, records review, clinical interview, and administration of a formal test or instrument;

(2) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education

or outpatient treatment programs to prevent animal cruelty, or other services including, when appropriate, restorative justice programs; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(3) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed five hundred dollars;

(b) Community restitution not to exceed one hundred fifty hours of community restitution;

(4) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

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

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(e) Residential treatment, where substance abuse, mental health, and/or co-occurring disorders have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, co-occurring disorder specialist, or substance use disorder professional and a funded bed is available. If a child agrees to voluntary placement in a state-funded long-term evaluation and treatment facility, the case must follow the existing placement procedure including consideration of less restrictive treatment options and medical necessity.

(i) A court may order residential treatment after consideration and findings regarding whether:

(A) The referral is necessary to rehabilitate the child;

(B) The referral is necessary to protect the public or the child;

(C) The referral is in the child's best interest;

(D) The child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and

(E) Inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than sixty days after the youth begins inpatient treatment, and every thirty days thereafter, as long as the youth is in inpatient treatment;

(6) "Community transition services" means a therapeutic and supportive community-based custody option in which:

(a) A person serves a portion of their term of confinement residing in the community, outside of department institutions and community facilities;

(b) The department supervises the person in part through the use of technology that is capable of determining or identifying the monitored person's presence or absence at a particular location;

(c) The department provides access to developmentally appropriate, trauma-informed, racial equity-based, and culturally relevant programs to promote successful reentry; and

(d) The department prioritizes the delivery of available programming from individuals who share characteristics with the individual being served related to: Race, ethnicity, sexual identity, and gender identity;

(7) "Confinement" means physical custody by the department of children, youth, and families in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

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

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

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

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(10) "Department" means the department of children, youth, and families;

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

(12) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised

of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

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

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

(15) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(16) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

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

(18) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(19) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

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

(21) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(22) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(23) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;



(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(24) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(25) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

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

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

(28) "Restorative justice" means practices, policies, and programs informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members;

(29) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

(30) "Risk assessment tool" means the statistically valid tool used by the department to inform release or placement decisions related to security level, release within the sentencing range, community facility eligibility, community transition services eligibility, and parole. The "risk assessment tool" is used by the department to predict the likelihood of successful reentry and future criminal behavior;

(31) "Screening" means a process that is designed to identify a child who is at risk of having mental health, substance abuse, or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment. A screening may be undertaken with or without the administration of a formal instrument;

(32) "Secretary" means the secretary of the department;

(33) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

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

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

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

(37) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

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

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

(40) "Youth court" means a diversion unit under the supervision of the juvenile court. [2021 c 206 § 3; 2019 c 444 § 9; 2018 c 82 § 3; (2018 c 82 § 2 expired July 1, 2019); 2017 3rd sp.s. c 6 § 605. Prior: 2016 c 136 § 2; 2016 c 106 § 1; 2014 c 110 § 1; 2012 c 201 § 1; 2010 c 181 § 10; 2009 c 454 § 2; 2004 c 120 § 2; prior: 2002 c 237 § 7; 2002 c 175 § 19; 1997 c 338 § 10; (1997 c 338 § 9 expired July 1, 1998); prior: 1995 c 395 § 2; 1995 c 134 § 1; prior: 1994 sp.s. c 7 § 520; 1994 c 271 § 803; 1994 c 261 § 18; 1993 c 373 § 1; 1990 1st ex.s. c 12 § 1; 1990 c 3 § 301; 1989 c 407 § 1; 1988 c 145 § 17; 1983 c 191 § 7; 1981 c 299 § 2; 1979 c 155 § 54; 1977 ex.s. c 291 § 56.]

**Contingent effective date—Findings—Appropriation—Rental vouchers—2021 c 206:** See notes following RCW 72.01.412.

**RCW 13.40.020 Definitions (as amended by 2021 c 328).** For the purposes of this chapter:

(1) "Assessment" means an individualized examination of a child to determine the child's psychosocial needs and problems, including the type and extent of any mental health, substance abuse, or co-occurring mental health and substance abuse disorders, and recommendations for treatment. "Assessment" includes, but is not limited to, drug and alcohol evaluations, psychological and psychiatric evaluations, records review, clinical interview, and administration of a formal test or instrument;

(2) "Community-based rehabilitation" means one or more of the following: Employment; attendance of information classes; literacy classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services including, when appropriate, restorative justice programs; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(3) "Community-based sanctions" may include one or more of the following:

(a) A fine, not to exceed \$500;

(b) Community restitution not to exceed 150 hours of community restitution;

(4) "Community restitution" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community restitution may be performed through public or private organizations or through work crews;

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

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(d) Posting of a probation bond;

(e) Residential treatment, where substance abuse, mental health, and/or co-occurring disorders have been identified in an assessment by a qualified mental health professional, psychologist, psychiatrist, co-occurring disorder specialist, or substance use disorder professional and a funded bed is available. If a child agrees to voluntary placement in a state-funded long-term evaluation and treatment facility, the case must follow the existing placement procedure including consideration of less restrictive treatment options and medical necessity.

(i) A court may order residential treatment after consideration and findings regarding whether:

(A) The referral is necessary to rehabilitate the child;

(B) The referral is necessary to protect the public or the child;

(C) The referral is in the child's best interest;

(D) The child has been given the opportunity to engage in less restrictive treatment and has been unable or unwilling to comply; and

(E) Inpatient treatment is the least restrictive action consistent with the child's needs and circumstances.

(ii) In any case where a court orders a child to inpatient treatment under this section, the court must hold a review hearing no later than 60 days after the youth begins inpatient treatment, and every 30 days thereafter, as long as the youth is in inpatient treatment;

(6) "Confinement" means physical custody by the department of children, youth, and families in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department.

Pretrial confinement or confinement of less than 31 days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

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

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

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

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication that was entered before July 1, 1998, or a deferred disposition shall not be considered part of the respondent's criminal history;

(9) "Custodial interrogation" means express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody;

(10) "Department" means the department of children, youth, and families;

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

(12) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, youth court under the supervision of the juvenile court, or other entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

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

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

(15) "Intensive supervision program" means a parole program that requires intensive supervision and monitoring, offers an array of individualized treatment and transitional services, and emphasizes

community involvement and support in order to reduce the likelihood a juvenile offender will commit further offenses;

(16) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of 18 years and who has not been previously transferred to adult court pursuant to RCW 13.40.110, unless the individual was convicted of a lesser charge or acquitted of the charge for which he or she was previously transferred pursuant to RCW 13.40.110 or who is not otherwise under adult court jurisdiction;

(17) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person 18 years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(18) "Labor" means the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix;

(19) "Local sanctions" means one or more of the following: (a) 0-30 days of confinement; (b) 0-12 months of community supervision; (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

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

(21) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(22) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(23) "Physical restraint" means the use of any bodily force or physical intervention to control a juvenile offender or limit a juvenile offender's freedom of movement in a way that does not involve a mechanical restraint. Physical restraint does not include momentary periods of minimal physical restriction by direct person-to-person contact, without the aid of mechanical restraint, accomplished with limited force and designed to:

(a) Prevent a juvenile offender from completing an act that would result in potential bodily harm to self or others or damage property;

(b) Remove a disruptive juvenile offender who is unwilling to leave the area voluntarily; or

(c) Guide a juvenile offender from one location to another;

(24) "Postpartum recovery" means (a) the entire period a woman or youth is in the hospital, birthing center, or clinic after giving birth and (b) an additional time period, if any, a treating physician determines is necessary for healing after the youth leaves the hospital, birthing center, or clinic;

(25) "Probation bond" means a bond, posted with sufficient security by a surety justified and approved by the court, to secure the offender's appearance at required court proceedings and compliance with court-ordered community supervision or conditions of release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of cash or posting of other collateral in lieu of a bond if approved by the court;

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

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

(28) "Restorative justice" means practices, policies, and programs informed by and sensitive to the needs of crime victims that are designed to encourage offenders to accept responsibility for repairing the harm caused by their offense by providing safe and supportive opportunities for voluntary participation and communication between the victim, the offender, their families, and relevant community members;

(29) "Restraints" means anything used to control the movement of a person's body or limbs and includes:

(a) Physical restraint; or

(b) Mechanical device including but not limited to: Metal handcuffs, plastic ties, ankle restraints, leather cuffs, other hospital-type restraints, tasers, or batons;

(30) "Screening" means a process that is designed to identify a child who is at risk of having mental health, substance abuse, or co-occurring mental health and substance abuse disorders that warrant immediate attention, intervention, or more comprehensive assessment. A screening may be undertaken with or without the administration of a formal instrument;

(31) "Secretary" means the secretary of the department;

(32) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

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

(34) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of the respondent's sexual gratification;

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

(36) "Transportation" means the conveying, by any means, of an incarcerated pregnant youth from the institution or detention facility to another location from the moment she leaves the institution or detention facility to the time of arrival at the other location, and includes the escorting of the pregnant incarcerated youth from the institution or detention facility to a transport vehicle and from the vehicle to the other location;

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

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

(39) "Youth court" means a diversion unit under the supervision of the juvenile court. [2021 c 328 § 5; 2019 c 444 § 9; 2018 c 82 § 3; (2018 c 82 § 2 expired July 1, 2019); 2017 3rd sp.s. c 6 § 605. Prior: 2016 c 136 § 2; 2016 c 106 § 1; 2014 c 110 § 1; 2012 c 201 § 1; 2010 c 181 § 10; 2009 c 454 § 2; 2004 c 120 § 2; prior: 2002 c 237 § 7; 2002 c 175 § 19; 1997 c 338 § 10; (1997 c 338 § 9 expired July 1, 1998); prior: 1995 c 395 § 2; 1995 c 134 § 1; prior: 1994 sp.s. c 7 § 520; 1994 c 271 § 803; 1994 c 261 § 18; 1993 c 373 § 1; 1990 1st ex.s. c 12 § 1; 1990 c 3 § 301; 1989 c 407 § 1; 1988 c 145 § 17; 1983 c 191 § 7; 1981 c 299 § 2; 1979 c 155 § 54; 1977 ex.s. c 291 § 56.]

**Reviser's note:** RCW 13.40.020 was amended twice during the 2021 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

**Effective date—2021 c 328:** See note following RCW 13.40.740.

**Effective date—2018 c 82 § 3:** "Section 3 of this act takes effect July 1, 2019." [2018 c 82 § 7.]

**Expiration date—2018 c 82 § 2:** "Section 2 of this act expires July 1, 2019." [2018 c 82 § 6.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Effective date—2004 c 120:** See note following RCW 13.40.010.

**Effective date—2002 c 175:** See note following RCW 7.80.130.

**Alphabetization of definitions—1997 c 338:** "The code reviser shall alphabetize the definitions in RCW 13.40.020 and correct any references." [1997 c 338 § 71.]

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Purpose—Severability—1994 c 271:** See notes following RCW 9A.28.020.

**Finding—Intent—1994 c 261:** See note following RCW 16.52.011.

**Severability—1993 c 373:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 373 § 3.]

**Effective date—1990 1st ex.s. c 12:** "This act shall take effect July 1, 1990." [1990 1st ex.s. c 12 § 5.]

**Effective date—Savings—Application—1988 c 145:** See notes following RCW 9A.44.010.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.030 Security guidelines—Legislative review—Limitations on permissible ranges of confinement.** (1) The secretary shall submit guidelines pertaining to the nature of the security to be imposed on youth placed in his or her custody based on the age, offense(s), and criminal history of the juvenile offender. Such guidelines shall be submitted to the legislature for its review no later than November 1st of each year. The department shall include security status definitions in the security guidelines it submits to the legislature pursuant to this section.

(2) The permissible ranges of confinement resulting from a finding of manifest injustice under RCW 13.40.0357 are subject to the following limitations:

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

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

(c) Where the maximum term in the range is more than one year, the minimum term in the range may be no less than eighty percent of the maximum term in the range. [2003 c 207 § 5; 1996 c 232 § 5; 1989 c 407 § 3; 1985 c 73 § 1; 1983 c 191 § 6; 1981 c 299 § 5; 1979 c 155 § 55; 1977 ex.s. c 291 § 57.]

**Effective dates—1996 c 232:** "(1) Sections 1 through 8 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [March 28, 1996].

(2) Section 9 of this act takes effect July 1, 1996." [1996 c 232 § 12.]

**Legislative ratification—1989 c 271:** "The legislature ratifies the juvenile disposition standards commission guidelines submitted to the 1989 legislature and endorses the action to increase penalties for juvenile drug offenders." [1989 c 271 § 602.]

**Effective date—1985 c 73:** "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985." [1985 c 73 § 3.]



**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.0351 Equal application of guidelines and standards.**  
 The sentencing guidelines and prosecuting standards apply equally to juvenile offenders in all parts of the state, without discrimination as to any element that does not relate to the crime or the previous record of the offender. [1989 c 407 § 5.]

**RCW 13.40.0357 Juvenile offender sentencing standards.**  
*(Effective until July 1, 2023.)*

**DESCRIPTION AND OFFENSE CATEGORY**

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
<b>Arson and Malicious Mischief</b>		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+
<b>Assault and Other Crimes Involving Physical Harm</b>		
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045) committed at age 15 or under	C+
A++	Drive-By Shooting (9A.36.045) committed at age 16 or 17	A
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+
<b>Burglary and Trespass</b>		
B+	Burglary 1 (9A.52.020) committed at age 15 or under	C+
A-	Burglary 1 (9A.52.020) committed at age 16 or 17	B+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D

D	Vehicle Prowling 2 (9A.52.100)	E
	<b>Drugs</b>	
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
E	Possession of Legend Drug (69.41.030(2)(b))	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Cannabis <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
E	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	E
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
	<b>Firearms and Weapons</b>	
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(vii))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
	<b>Homicide</b>	
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Veicular Homicide (46.61.520)	C+
	<b>Kidnapping</b>	
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
	<b>Obstructing Governmental Operation</b>	
D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C

C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
<b>Public Disturbance</b>		
C+	Criminal Mischief with Weapon (9A.84.010(2)(b))	D+
D+	Criminal Mischief Without Weapon (9A.84.010(2)(a))	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
<b>Sex Crimes</b>		
A	Rape 1 (9A.44.040)	B+
B++	Rape 2 (9A.44.050) committed at age 14 or under	B+
A-	Rape 2 (9A.44.050) committed at age 15 through age 17	B+
C+	Rape 3 (9A.44.060)	D+
B++	Rape of a Child 1 (9A.44.073) committed at age 14 or under	B+
A-	Rape of a Child 1 (9A.44.073) committed at age 15	B+
B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
B++	Child Molestation 1 (9A.44.083) committed at age 14 or under	B+
A-	Child Molestation 1 (9A.44.083) committed at age 15 through age 17	B+
B	Child Molestation 2 (9A.44.086)	C+
C	Failure to Register as a Sex Offender (9A.44.132)	D
<b>Theft, Robbery, Extortion, and Forgery</b>		
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200) committed at age 15 or under	B+
A++	Robbery 1 (9A.56.200) committed at age 16 or 17	A
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2))	D
D	Identity Theft 2 (9.35.020(3))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of a Stolen Vehicle (9A.56.068)	C
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D

D	Possession of Stolen Property 3 (9A.56.170)	E
B	Taking Motor Vehicle Without Permission 1 (9A.56.070)	C
C	Taking Motor Vehicle Without Permission 2 (9A.56.075)	D
B	Theft of a Motor Vehicle (9A.56.065)	C
<b>Motor Vehicle Related Crimes</b>		
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicle Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B+	Felony Driving While Under the Influence (46.61.502(6))	B
B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
<b>Other</b>		
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1 <sup>1</sup> (9A.76.110)	C
C	Escape 2 <sup>1</sup> (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) <sup>2</sup>	V

<sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 28 days confinement

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

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

<sup>2</sup>If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

#### **JUVENILE SENTENCING STANDARDS**

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D.

OPTION A  
 JUVENILE OFFENDER SENTENCING GRID  
 STANDARD RANGE

CURRENT OFFENSE CATEGORY	A++	129 to 260 weeks for all category A++ offenses				
	A+	180 weeks to age 21 for all category A+ offenses				
	A	103-129 weeks for all category A offenses				
	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
	C+	LS	LS	LS	15-36 weeks	15-36 weeks
	C	LS	LS	LS	LS	15-36 weeks
	D+	LS	LS	LS	LS	LS
D	LS	LS	LS	LS	LS	
E	LS	LS	LS	LS	LS	
PRIOR ADJUDICATIONS		0	1	2	3	4 or more

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

**OPTION B  
 SUSPENDED DISPOSITION ALTERNATIVE**

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender:

(a) Is adjudicated of an A+ or A++ offense;

(b) Is fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060);

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2) (a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of a sex offense as defined in RCW 9.94A.030; or

(e) Has a prior option B disposition.

**OR**

#### **OPTION C**

#### **CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed a B++ or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

**OR**

#### **OPTION D**

#### **MANIFEST INJUSTICE**

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2). [2022 c 268 § 36; 2022 c 16 § 8; 2021 c 311 § 16; 2020 c 18 § 8; 2019 c 322 § 8; 2018 c 162 § 3; 2016 c 106 § 2; 2013 c 20 § 2; 2012 c 177 § 4. Prior: 2008 c 230 § 3; 2008 c 158 § 1; 2007 c 199 § 11; 2006 c 73 § 14; 2004 c 117 § 1; prior: 2003 c 378 § 2; 2003 c 335 § 6; 2003 c 53 § 97; prior: 2002 c 324 § 3; 2002 c 175 § 20; 2001 c 217 § 13; 2000 c 66 § 3; 1998 c 290 § 5; prior: 1997 c 338 § 12; (1997 c 338 § 11 expired

July 1, 1998); 1997 c 66 § 6; 1996 c 205 § 6; 1995 c 395 § 3; 1994 sp.s. c 7 § 522; 1989 c 407 § 7.]

**Reviser's note:** This section was amended by 2022 c 16 § 8 and by 2022 c 268 § 36, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Expiration date—2022 c 268 § 36:** "Section 36 of this act expires July 1, 2023." [2022 c 268 § 48.]

**Effective dates—2022 c 268:** See note following RCW 7.105.010.

**Expiration date—2022 c 16 §§ 4, 8, 85, and 87:** See note following RCW 69.50.4013.

**Intent—Finding—2022 c 16:** See note following RCW 69.50.101.

**Effective date—2021 c 311 §§ 1-11 and 13-21:** See note following RCW 71.24.115.

**Expiration date—2021 c 311 §§ 8-10, 12, 15, and 16:** See note following RCW 69.50.4011.

**Explanatory statement—2020 c 18:** See note following RCW 43.79A.040.

**Findings—Intent—2019 c 322:** See note following RCW 72.01.410.

**Report to legislature—2019 c 322 §§ 2-6; 2018 c 162:** See RCW 13.04.800.

**Effective date—2013 c 20:** See note following RCW 9A.84.010.

**Delayed effective date—2008 c 230 §§ 1-3:** See note following RCW 9A.44.130.

**Findings—Intent—Short title—2007 c 199:** See notes following RCW 9A.56.065.

**Effective date—2006 c 73:** See note following RCW 46.61.502.

**Effective date—2004 c 117:** "This act takes effect July 1, 2004." [2004 c 117 § 3.]

**Intent—Effective date—2003 c 53:** See notes following RCW 2.48.180.

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**Captions not law—2001 c 217:** See note following RCW 9.35.005.

**Application—Effective date—Severability—1998 c 290:** See notes following RCW 69.50.401.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Finding—Evaluation—Report—1997 c 338:** "The legislature finds it critical to evaluate the effectiveness of the revisions made in this act to juvenile sentencing for purposes of measuring improvements in public safety and reduction of recidivism.

To accomplish this evaluation, the Washington state institute for public policy shall conduct a study of the sentencing revisions. The study shall: (1) Be conducted starting January 1, 2001; (2) examine whether the revisions have affected the rate of initial offense commission and recidivism; (3) determine the impacts of the revisions by age, race, and gender impacts of the revisions; (4) compare the utilization and effectiveness of sentencing alternatives and manifest injustice determinations before and after the revisions; and (5) examine the impact and effectiveness of changes made in the exclusive original jurisdiction of juvenile court over juvenile offenders.

The institute shall report the results of the study to the governor and legislature not later than July 1, 2002." [1997 c 338 § 59.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**RCW 13.40.0357 Juvenile offender sentencing standards.  
(Effective July 1, 2023.)**

**DESCRIPTION AND OFFENSE CATEGORY**

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
<b>Arson and Malicious Mischief</b>		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+
<b>Assault and Other Crimes Involving Physical Harm</b>		
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045) committed at age 15 or under	C+
A++	Drive-By Shooting (9A.36.045) committed at age 16 or 17	A
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+



	<b>Burglary and Trespass</b>	
B+	Burglary 1 (9A.52.020) committed at age 15 or under	C+
A-	Burglary 1 (9A.52.020) committed at age 16 or 17	B+
B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Mineral Trespass (78.44.330)	C
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E
	<b>Drugs</b>	
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
E	Possession of Legend Drug (69.41.030(2)(b))	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Cannabis <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
	<b>Firearms and Weapons</b>	
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a)(vii))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
	<b>Homicide</b>	
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+

B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
	<b>Kidnapping</b>	
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
	<b>Obstructing Governmental Operation</b>	
D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
	<b>Public Disturbance</b>	
C+	Criminal Mischief with Weapon (9A.84.010(2)(b))	D+
D+	Criminal Mischief Without Weapon (9A.84.010(2)(a))	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
	<b>Sex Crimes</b>	
A	Rape 1 (9A.44.040)	B+
B++	Rape 2 (9A.44.050) committed at age 14 or under	B+
A-	Rape 2 (9A.44.050) committed at age 15 through age 17	B+
C+	Rape 3 (9A.44.060)	D+
B++	Rape of a Child 1 (9A.44.073) committed at age 14 or under	B+
A-	Rape of a Child 1 (9A.44.073) committed at age 15	B+
B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
B++	Child Molestation 1 (9A.44.083) committed at age 14 or under	B+
A-	Child Molestation 1 (9A.44.083) committed at age 15 through age 17	B+
B	Child Molestation 2 (9A.44.086)	C+
C	Failure to Register as a Sex Offender (9A.44.132)	D
	<b>Theft, Robbery, Extortion, and Forgery</b>	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200) committed at age 15 or under	B+
A++	Robbery 1 (9A.56.200) committed at age 16 or 17	A

B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2))	D
D	Identity Theft 2 (9.35.020(3))	E
D	Improperly Obtaining Financial Information (9.35.010)	E
B	Possession of a Stolen Vehicle (9A.56.068)	C
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
B	Taking Motor Vehicle Without Permission 1 (9A.56.070)	C
C	Taking Motor Vehicle Without Permission 2 (9A.56.075)	D
B	Theft of a Motor Vehicle (9A.56.065)	C
<b>Motor Vehicle Related Crimes</b>		
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Veicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
B+	Felony Driving While Under the Influence (46.61.502(6))	B
B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
<b>Other</b>		
B	Animal Cruelty 1 (16.52.205)	C
B	Bomb Threat (9.61.160)	C
C	Escape 1 <sup>1</sup> (9A.76.110)	C
C	Escape 2 <sup>1</sup> (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) <sup>2</sup>	V

<sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 28 days confinement

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

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

<sup>2</sup>If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**JUVENILE SENTENCING STANDARDS**

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D.

**OPTION A**

**JUVENILE OFFENDER SENTENCING GRID**

**STANDARD RANGE**

	A++	129 to 260 weeks for all category A++ offenses				
	A+	180 weeks to age 21 for all category A+ offenses				
	A	103-129 weeks for all category A offenses				
	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
	C	LS	LS	LS	LS	15-36 weeks
	D+	LS	LS	LS	LS	LS
	D	LS	LS	LS	LS	LS
	E	LS	LS	LS	LS	LS
PRIOR		0	1	2	3	4 or more
ADJUDICATIONS						

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

**OR**

**OPTION B**

**SUSPENDED DISPOSITION ALTERNATIVE**

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the

offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender:

(a) Is adjudicated of an A+ or A++ offense;

(b) Is fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060);

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2) (a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of a sex offense as defined in RCW 9.94A.030;

or  
(e) Has a prior option B disposition.

**OR**

**OPTION C**

**CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed a B++ or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

**OR**

**OPTION D**

**MANIFEST INJUSTICE**

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a

disposition outside the standard range under RCW 13.40.160(2). [2022 c 268 § 37; 2022 c 16 § 9; 2020 c 18 § 8; 2019 c 322 § 8; 2018 c 162 § 3; 2016 c 106 § 2; 2013 c 20 § 2; 2012 c 177 § 4. Prior: 2008 c 230 § 3; 2008 c 158 § 1; 2007 c 199 § 11; 2006 c 73 § 14; 2004 c 117 § 1; prior: 2003 c 378 § 2; 2003 c 335 § 6; 2003 c 53 § 97; prior: 2002 c 324 § 3; 2002 c 175 § 20; 2001 c 217 § 13; 2000 c 66 § 3; 1998 c 290 § 5; prior: 1997 c 338 § 12; (1997 c 338 § 11 expired July 1, 1998); 1997 c 66 § 6; 1996 c 205 § 6; 1995 c 395 § 3; 1994 sp.s. c 7 § 522; 1989 c 407 § 7.]

**Reviser's note:** This section was amended by 2022 c 16 § 9 and by 2022 c 268 § 37, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective dates—2022 c 268:** See note following RCW 7.105.010.

**Effective date—2022 c 16 §§ 5, 9, 86, and 88:** See note following RCW 69.50.4013.

**Intent—Finding—2022 c 16:** See note following RCW 69.50.101.

**Explanatory statement—2020 c 18:** See note following RCW 43.79A.040.

**Findings—Intent—2019 c 322:** See note following RCW 72.01.410.

**Report to legislature—2019 c 322 §§ 2-6; 2018 c 162:** See RCW 13.04.800.

**Effective date—2013 c 20:** See note following RCW 9A.84.010.

**Delayed effective date—2008 c 230 §§ 1-3:** See note following RCW 9A.44.130.

**Findings—Intent—Short title—2007 c 199:** See notes following RCW 9A.56.065.

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**Finding—Evaluation—Report—1997 c 338:** "The legislature finds it critical to evaluate the effectiveness of the revisions made in this act to juvenile sentencing for purposes of measuring improvements in public safety and reduction of recidivism.

To accomplish this evaluation, the Washington state institute for public policy shall conduct a study of the sentencing revisions. The study shall: (1) Be conducted starting January 1, 2001; (2) examine whether the revisions have affected the rate of initial offense commission and recidivism; (3) determine the impacts of the revisions by age, race, and gender impacts of the revisions; (4) compare the utilization and effectiveness of sentencing alternatives and manifest injustice determinations before and after the revisions; and (5) examine the impact and effectiveness of changes made in the exclusive original jurisdiction of juvenile court over juvenile offenders.

The institute shall report the results of the study to the governor and legislature not later than July 1, 2002." [1997 c 338 § 59.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**RCW 13.40.038 County juvenile detention facilities—Policy—Detention and risk assessment standards.** (1) It is the policy of this state that all county juvenile detention facilities provide a humane, safe, and rehabilitative environment and that unadjudicated youth remain in the community whenever possible, consistent with public safety and the provisions of chapter 13.40 RCW.

(2) The counties shall develop and implement detention intake standards and risk assessment standards to determine whether detention is warranted, whether the juvenile is developmentally disabled, and if detention is warranted, whether the juvenile should be placed in secure, nonsecure, or home detention to implement the goals of this section.

(3) Inability to pay for a less restrictive detention placement shall not be a basis for denying a respondent a less restrictive placement in the community.

(4) The assessment standards to determine whether a juvenile entering detention is developmentally disabled must be developed and implemented no later than December 31, 2012. [2012 c 120 § 1; 1992 c 205 § 105; 1986 c 288 § 7.]

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**Severability—1986 c 288:** See note following RCW 43.185C.260.

**RCW 13.40.040 Taking juvenile into custody, grounds—Detention of, grounds—Detention pending disposition—Release on bond, conditions—Bail jumping.** (1) A juvenile may be taken into custody:

(a) Pursuant to a court order if a complaint is filed with the court alleging, and the court finds probable cause to believe, that

the juvenile has committed an offense or has violated terms of a disposition order or release order; or

(b) Without a court order, by a law enforcement officer if grounds exist for the arrest of an adult in identical circumstances. Admission to, and continued custody in, a court detention facility shall be governed by subsection (2) of this section; or

(c) Pursuant to a court order that the juvenile be held as a material witness; or

(d) Where the secretary or the secretary's designee has suspended the parole of a juvenile offender.

(2) A juvenile may not be held in detention unless there is probable cause to believe that:

(a) The juvenile has committed an offense or has violated the terms of a disposition order; and

(i) The juvenile will likely fail to appear for further proceedings; or

(ii) Detention is required to protect the juvenile from himself or herself; or

(iii) The juvenile is a threat to community safety; or

(iv) The juvenile will intimidate witnesses or otherwise unlawfully interfere with the administration of justice; or

(v) The juvenile has committed a crime while another case was pending; or

(b) The juvenile is a fugitive from justice; or

(c) The juvenile's parole has been suspended or modified; or

(d) The juvenile is a material witness.

(3) Notwithstanding subsection (2) of this section, and within available funds, a juvenile who has been found guilty of one of the following offenses shall be detained pending disposition: Rape in the first or second degree (RCW 9A.44.040 and 9A.44.050); or rape of a child in the first degree (RCW 9A.44.073).

(4) Upon a finding that members of the community have threatened the health of a juvenile taken into custody, at the juvenile's request the court may order continued detention pending further order of the court.

(5) Except as provided in RCW 9.41.280, a juvenile detained under this section may be released upon posting a probation bond set by the court. The juvenile's parent or guardian may sign for the probation bond. A court authorizing such a release shall issue an order containing a statement of conditions imposed upon the juvenile and shall set the date of his or her next court appearance. The court shall advise the juvenile of any conditions specified in the order and may at any time amend such an order in order to impose additional or different conditions of release upon the juvenile or to return the juvenile to custody for failing to conform to the conditions imposed. In addition to requiring the juvenile to appear at the next court date, the court may condition the probation bond on the juvenile's compliance with conditions of release. The juvenile's parent or guardian may notify the court that the juvenile has failed to conform to the conditions of release or the provisions in the probation bond. If the parent notifies the court of the juvenile's failure to comply with the probation bond, the court shall notify the surety. As provided in the terms of the bond, the surety shall provide notice to the court of the offender's noncompliance. A juvenile may be released only to a responsible adult or the department of children, youth, and families. Failure to appear on the date scheduled by the court pursuant to this section shall constitute the crime of bail jumping.



[2017 3rd sp.s. c 6 § 606; 2002 c 171 § 2; 1999 c 167 § 2; 1997 c 338 § 13; 1995 c 395 § 4; 1979 c 155 § 57; 1977 ex.s. c 291 § 58.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Effective date—2002 c 171:** See note following RCW 72.01.410.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.042 Detention of juvenile suffering from mental disorder or substance use disorder.** (1) When a police officer has reasonable cause to believe that a juvenile has committed acts constituting a nonfelony crime that is not a serious offense as identified in RCW 10.77.092, and the officer believes that the juvenile suffers from a mental disorder, and the local prosecutor has entered into an agreement with law enforcement regarding the detention of juveniles who may have a mental disorder or may be suffering from chemical dependency, the arresting officer, instead of taking the juvenile to the local juvenile detention facility, may take the juvenile to:

(a) An evaluation and treatment facility as defined in RCW 71.34.020 if the juvenile suffers from a mental disorder and the facility has been identified as an alternative location by agreement of the prosecutor, law enforcement, and the mental health provider;

(b) A facility or program identified by agreement of the prosecutor and law enforcement; or

(c) A location already identified and in use by law enforcement for the purpose of a behavioral health diversion.

(2) For the purposes of this section, an "alternative location" means a facility or program that has the capacity to evaluate a youth and, if determined to be appropriate, develop a behavioral health intervention plan and initiate treatment.

(3) If a juvenile is taken to any location described in subsection (1)(a) or (b) of this section, the juvenile may be held for up to twelve hours and must be examined by a mental health or substance use disorder professional within three hours of arrival.

(4) The authority provided pursuant to this section is in addition to existing authority under RCW 10.31.110 and \*10.31.120. [2019 c 444 § 10; 2014 c 128 § 4; 2013 c 179 § 2.]

**\*Reviser's note:** RCW 10.31.120 expired July 31, 2019, pursuant to 2014 c 128 § 6.

**Finding—2014 c 128:** "The legislature finds that the large number of individuals involved in the juvenile justice and criminal justice systems with substance abuse challenges is of significant concern. Access to effective treatment is critical to the successful treatment of individuals in the early stages of their contact with the juvenile justice and criminal justice systems. Such access may prevent further involvement in the systems. The effective use of substance abuse treatment options can result not only in significant cost savings for the juvenile justice and criminal justice systems, but can benefit the lives of individuals who face substance abuse challenges." [ 2014 c 128 § 1.]

**Finding—2013 c 179:** "The legislature finds that the large number of youth involved in the juvenile justice system with mental health challenges is of significant concern. Access to effective treatment is critical to the successful treatment of youth in the early stages of their contact with the juvenile justice system. Such access may prevent further involvement in the system after an initial contact or assist a youth in avoiding any further contact with the juvenile justice system altogether. There is growing evidence that mental health diversion strategies, in particular, are effective in connecting youth with needed treatment and preventing additional offending behaviors. These strategies allow a continuum of opportunities for connecting youth who may be facing a mental illness or disorder to community mental health services at multiple decision points, such as law enforcement diversion, prosecutor diversion, court-based diversion, and court disposition. The effective use of these strategies can result not only in significant cost savings for the juvenile justice system, but can create the benefit of improved lives of the youth who face mental health challenges and barriers." [2013 c 179 § 1.]

**RCW 13.40.045 Escapees—Arrest warrants.** The secretary or the secretary's designee shall issue arrest warrants for juveniles who escape from department residential custody. The secretary or the secretary's designee may issue arrest warrants for juveniles who abscond from parole supervision or fail to meet conditions of parole. These arrest warrants shall authorize any law enforcement, probation and parole, or peace officer of this state, or any other state where the juvenile is located, to arrest the juvenile and to place the juvenile in physical custody pending the juvenile's return to confinement in a state juvenile rehabilitation facility. [2017 3rd sp.s. c 6 § 607; 1997 c 338 § 14; 1994 sp.s. c 7 § 518.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**RCW 13.40.050 Detention procedures—Notice of hearing—Conditions of release—Consultation with parent, guardian, or custodian. (1)**

When a juvenile taken into custody is held in detention:

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

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

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

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

(4) The court shall, based upon the allegations in the information, determine whether the case is properly before it or whether the case should be treated as a diversion case under RCW 13.40.080. If the case is not properly before the court the juvenile shall be ordered released.

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

(6) If detention is not necessary under RCW 13.40.040, the court shall impose the most appropriate of the following conditions or, if necessary, any combination of the following conditions:

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

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

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

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

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

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

(7) A juvenile may be released only to a responsible adult or the department.

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

(9) A person notified under this section who fails without reasonable cause to appear and abide by the order of the court may be proceeded against as for contempt of court. In determining whether a parent, guardian, or custodian had reasonable cause not to appear, the court may consider all factors relevant to the person's ability to appear as summoned. [1997 c 338 § 15; 1995 c 395 § 5; 1992 c 205 § 106; 1979 c 155 § 58; 1977 ex.s. c 291 § 59.]

**\*Reviser's note:** RCW 13.40.040 was amended by 2002 c 171 § 2, changing subsection (4) to subsection (5).

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.054 Probation bond or collateral—Modification or revocation of probation bond.** (1) As provided in this chapter, the court may order a juvenile to post a probation bond as defined in RCW 13.40.020 or to deposit cash or post other collateral in lieu of a probation bond, to enhance public safety, increase the likelihood that a respondent will appear as required to respond to charges, and increase compliance with community supervision imposed under various alternative disposition options. The parents or guardians of the juvenile may sign for a probation bond on behalf of the juvenile or deposit cash or other collateral in lieu of a bond if approved by the court.

(2) A parent or guardian who has signed for a probation bond, deposited cash, or posted other collateral on behalf of a juvenile has the right to notify the court if the juvenile violates any of the terms and conditions of the bond. The parent or guardian who signed for a probation bond may move the court to modify the terms of the bond or revoke the bond without penalty to the surety or parent. The court shall notify the surety if a parent or guardian notifies the court that the juvenile has violated conditions of the probation bond and has requested modification or revocation of the bond. At a hearing on the motion, the court may consider the nature and seriousness of the violation or violations and may either keep the bond in effect, modify the terms of the bond with the consent of the parent or guardian and surety, or revoke the bond. If the court revokes the bond the court may require full payment of the face amount of the bond. In the alternative, the court may revoke the bond and impose a partial

payment for less than the full amount of the bond or may revoke the bond without imposing any penalty. In reaching its decision, the court may consider the timeliness of the parent's or guardian's notification to the court and the efforts of the parent and surety to monitor the offender's compliance with conditions of the bond and release. A surety shall have the same obligations and rights as provided sureties in adult criminal cases. Rules of forfeiture and revocation of bonds issued in adult criminal cases shall apply to forfeiture and revocation of probation bonds issued under this chapter except as specifically provided in this subsection. [1995 c 395 § 1.]

**RCW 13.40.056 Nonrefundable bail fee.** When a juvenile charged with an offense posts a probation bond or deposits cash or posts other collateral in lieu of a bond, ten dollars of the total amount required to be posted as bail shall be paid in cash as a nonrefundable bail fee. The bail fee shall be distributed to the county for costs associated with implementing chapter 395, Laws of 1995. [1995 c 395 § 9.]

**RCW 13.40.060 Jurisdiction of actions—Transfer of case and records, when—Change in venue, grounds.** (1) All actions under this chapter shall be commenced and tried in the county where any element of the offense was committed except as otherwise specially provided by statute. In cases in which diversion is provided by statute, venue is in the county in which the juvenile resides or in the county in which any element of the offense was committed.

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

(b) A court may transfer a proceeding to another juvenile court following disposition for the purposes of supervision and enforcement of the disposition order.

(3) If the court orders a transfer of the proceeding pursuant to subsection (2)(b) of this section:

(a) The case and copies of only those legal and social documents pertaining thereto shall be transferred to the county in which the juvenile resides, without regard to whether or not his or her custodial parent resides there, for supervision and enforcement of the disposition order.

(b) If any restitution is yet to be determined, the originating court shall transfer the case to the new county with the exception of the restitution. Venue over restitution shall be retained by the originating court for purposes of establishing a restitution order. Once restitution is determined, the originating county shall then transfer venue over modification and enforcement of the restitution to the new county.

(c) The court of the receiving county may modify and enforce the disposition order, including restitution.

(d) The clerk of the originating county shall maintain the account receivable in the judicial information system and all payments shall be made to the clerk of the originating county.

(e) Any collection of the offender legal financial obligation shall be managed by the juvenile probation department of the new

county while the offender is under juvenile probation supervision, or by the clerk of the original county at the conclusion of supervision by juvenile probation. The probation department of the new county shall notify the clerk of the originating county when they end supervision of the offender.

(f) In cases where a civil judgment has already been established, venue may not be transferred to another county. [2005 c 165 § 1; 1997 c 338 § 16; 1989 c 71 § 1; 1981 c 299 § 6; 1979 c 155 § 59; 1977 ex.s. c 291 § 60.]

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Effective date—1989 c 71:** "This act shall take effect September 1, 1989." [1989 c 71 § 2.]

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.070 Complaints—Screening—Filing information—Diversion—Modification of community supervision—Notice to parent or guardian—Probation counselor acting for prosecutor—Referral to community-based, restorative justice, mediation, or reconciliation programs. (Effective until January 1, 2024.)** (1) Complaints referred to the juvenile court alleging the commission of an offense shall be referred directly to the prosecutor. The prosecutor, upon receipt of a complaint, shall screen the complaint to determine whether:

(a) The alleged facts bring the case within the jurisdiction of the court; and

(b) On a basis of available evidence there is probable cause to believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's screening and charging decision for both filed and diverted cases.

(3) If the requirements of subsection (1)(a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and (8) of this section. If the prosecutor finds that the requirements of subsection (1)(a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(5) The prosecutor shall file an information with the juvenile court if (a) an alleged offender is accused of an offense that is defined as a sex offense or violent offense under RCW 9.94A.030, other than assault in the second degree or robbery in the second degree; or (b) an alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion.

(6) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged offense is the offender's first offense or violation. If the alleged offender is charged with a related offense that may be filed under subsections (5) and (8) of this section, a case under this subsection may also be filed.

(7) Where a case is legally sufficient to charge an alleged offender with:

(a) Either prostitution or prostitution loitering and the alleged offense is the offender's first prostitution or prostitution loitering offense, the prosecutor shall divert the case;

(b) Voyeurism in the second degree, the offender is under seventeen years of age, and the alleged offense is the offender's first voyeurism in the second degree offense, the prosecutor shall divert the case, unless the offender has received two diversions for any offense in the previous two years;

(c) Minor selling depictions of himself or herself engaged in sexually explicit conduct under RCW 9.68A.053(5) and the alleged offense is the offender's first violation of RCW 9.68A.053(5), the prosecutor shall divert the case; or

(d) A distribution, transfer, dissemination, or exchange of sexually explicit images of other minors thirteen years of age or older offense as provided in RCW 9.68A.053(1) and the alleged offense is the offender's first violation of RCW 9.68A.053(1), the prosecutor shall divert the case.

(8) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor may be guided by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

(9) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversion interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile. Where a case involves victims of crimes against persons or victims whose property has not been recovered at the time a juvenile is referred to a diversion unit, the victim shall be notified of the referral and informed how to contact the unit.

(10) The responsibilities of the prosecutor under subsections (1) through (9) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

(11) The prosecutor, juvenile court probation counselor, or diversion unit may, in exercising their authority under this section or RCW 13.40.080, refer juveniles to community-based programs, restorative justice programs, mediation, or victim offender

reconciliation programs. Such mediation or victim offender reconciliation programs shall be voluntary for victims.

(12) Prosecutors and juvenile courts are encouraged to engage with and partner with community-based programs to expand, improve, and increase options to divert youth from formal processing in juvenile court. Nothing in this chapter should be read to limit partnership with community-based programs to create diversion opportunities for juveniles. [2019 c 128 § 8; 2018 c 82 § 1; 2017 c 292 § 2; 2013 c 179 § 3; 2010 c 289 § 7; 2009 c 252 § 3; 2003 c 53 § 98; 2001 c 175 § 2; 1997 c 338 § 17; 1994 sp.s. c 7 § 543; 1992 c 205 § 107; 1989 c 407 § 9; 1983 c 191 § 18; 1981 c 299 § 7; 1979 c 155 § 60; 1977 ex.s. c 291 § 61.]

**Short title—2019 c 128:** See note following RCW 13.40.660.

**Finding—2013 c 179:** See note following RCW 13.40.042.

**Findings—2009 c 252:** See note following RCW 13.40.213.

**Intent—Effective date—2003 c 53:** See notes following RCW 2.48.180.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Application—1994 sp.s. c 7 §§ 540-545:** See note following RCW 13.50.010.

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.070 Complaints—Screening—Filing information—Diversion—Modification of community supervision—Notice to parent or guardian—Probation counselor acting for prosecutor—Referral to community-based, restorative justice, mediation, or reconciliation programs. (Effective January 1, 2024.)** (1) Complaints referred to the juvenile court alleging the commission of an offense shall be referred directly to the prosecutor. The prosecutor, upon receipt of a complaint, shall screen the complaint to determine whether:

(a) The alleged facts bring the case within the jurisdiction of the court; and



(b) On a basis of available evidence there is probable cause to believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's screening and charging decision for both filed and diverted cases.

(3) If the requirements of subsection (1)(a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and (8) of this section. If the prosecutor finds that the requirements of subsection (1)(a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(5) The prosecutor shall file an information with the juvenile court if (a) an alleged offender is accused of an offense that is defined as a sex offense or violent offense under RCW 9.94A.030, other than assault in the second degree or robbery in the second degree; or (b) an alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion.

(6) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged offense is the offender's first offense or violation. If the alleged offender is charged with a related offense that may be filed under subsections (5) and (8) of this section, a case under this subsection may also be filed.

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(a) Prostitution loitering and the alleged offense is the offender's first prostitution loitering offense, the prosecutor shall divert the case;

(b) Voyeurism in the second degree, the offender is under seventeen years of age, and the alleged offense is the offender's first voyeurism in the second degree offense, the prosecutor shall divert the case, unless the offender has received two diversions for any offense in the previous two years;

(c) Minor selling depictions of himself or herself engaged in sexually explicit conduct under RCW 9.68A.053(5) and the alleged offense is the offender's first violation of RCW 9.68A.053(5), the prosecutor shall divert the case; or

(d) A distribution, transfer, dissemination, or exchange of sexually explicit images of other minors thirteen years of age or older offense as provided in RCW 9.68A.053(1) and the alleged offense is the offender's first violation of RCW 9.68A.053(1), the prosecutor shall divert the case.

(8) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor may be guided by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

(9) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversion interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile. Where a case involves victims of crimes against persons or victims whose property has not been recovered at the time a juvenile is referred to a diversion unit, the victim shall be notified of the referral and informed how to contact the unit.

(10) The responsibilities of the prosecutor under subsections (1) through (9) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

(11) The prosecutor, juvenile court probation counselor, or diversion unit may, in exercising their authority under this section or RCW 13.40.080, refer juveniles to community-based programs, restorative justice programs, mediation, or victim offender reconciliation programs. Such mediation or victim offender reconciliation programs shall be voluntary for victims.

(12) Prosecutors and juvenile courts are encouraged to engage with and partner with community-based programs to expand, improve, and increase options to divert youth from formal processing in juvenile court. Nothing in this chapter should be read to limit partnership with community-based programs to create diversion opportunities for juveniles. [2020 c 331 § 5; 2019 c 128 § 8; 2018 c 82 § 1; 2017 c 292 § 2; 2013 c 179 § 3; 2010 c 289 § 7; 2009 c 252 § 3; 2003 c 53 § 98; 2001 c 175 § 2; 1997 c 338 § 17; 1994 sp.s. c 7 § 543; 1992 c 205 § 107; 1989 c 407 § 9; 1983 c 191 § 18; 1981 c 299 § 7; 1979 c 155 § 60; 1977 ex.s. c 291 § 61.]

**Effective date—2020 c 331 §§ 4, 5, and 6:** See note following RCW 7.68.380.

**Finding—2020 c 331:** See note following RCW 7.68.380.

**Short title—2019 c 128:** See note following RCW 13.40.660.

**Finding—2013 c 179:** See note following RCW 13.40.042.

**Findings—2009 c 252:** See note following RCW 13.40.213.

**Intent—Effective date—2003 c 53:** See notes following RCW 2.48.180.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Application—1994 sp.s. c 7 §§ 540-545:** See note following RCW 13.50.010.

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.077 Recommended prosecuting standards for charging and plea dispositions.**

RECOMMENDED PROSECUTING STANDARDS  
FOR CHARGING AND PLEA DISPOSITIONS

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

Evidentiary sufficiency.

(1) Decision not to prosecute.

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

**GUIDELINES/COMMENTARY:**

Examples

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Conviction in the pending prosecution is imminent;

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

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

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

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

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

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

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

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

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

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

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

#### Notification

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

(2) Decision to prosecute.

#### STANDARD:

Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the

evidence, would justify conviction by a reasonable and objective fact finder. With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and 9A.64.020 the prosecutor should avoid prefiling agreements or diversions intended to place the accused in a program of treatment or counseling, so that treatment, if determined to be beneficial, can be proved under \*RCW 13.40.160(4).

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

The categorization of crimes for these charging standards shall be the same as found in RCW 9.94A.411(2).

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

(3) Selection of Charges/Degree of Charge

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

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

(ii) Will result in restitution to all victims.

(b) The prosecutor should not overcharge to obtain a guilty plea. Overcharging includes:

(i) Charging a higher degree;

(ii) Charging additional counts.

This standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of a respondent's criminal conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not merge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.

(4) Police Investigation

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

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

(b) The completion of necessary laboratory tests; and

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

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

(5) Exceptions

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

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

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

(c) The arrest of the suspect is necessary to complete the investigation of the crime.

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

(6) Investigation Techniques

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

- (a) Polygraph testing;
- (b) Hypnosis;
- (c) Electronic surveillance;
- (d) Use of informants.

(7) Prefiling Discussions with Defendant

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

(8) Plea dispositions:

STANDARD

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

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

- (i) Evidentiary problems which make conviction of the original charges doubtful;
- (ii) The respondent's willingness to cooperate in the investigation or prosecution of others whose criminal conduct is more serious or represents a greater public threat;
- (iii) A request by the victim when it is not the result of pressure from the respondent;
- (iv) The discovery of facts which mitigate the seriousness of the respondent's conduct;
- (v) The correction of errors in the initial charging decision;
- (vi) The respondent's history with respect to criminal activity;
- (vii) The nature and seriousness of the offense or offenses charged;
- (viii) The probable effect of witnesses.

(c) No plea agreement shall be influenced by the race, gender, religion, or creed of the respondent. This includes but is not limited to the prosecutor's decision to utilize such disposition alternatives as the Special Sex Offender Disposition Alternative, the Chemical Dependency Disposition Alternative, and manifest injustice.

(9) Disposition recommendations:

STANDARD

The prosecutor may reach an agreement regarding disposition recommendations.

The prosecutor shall not agree to withhold relevant information from the court concerning the plea agreement. [1997 c 338 § 18; 1996 c 9 § 1.]

**\*Reviser's note:** RCW 13.40.160 was amended by 1999 c 91 § 2, changing subsection (4) to subsection (3). RCW 13.40.160 was subsequently amended by 2011 c 338 § 2, deleting subsection (3).

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**RCW 13.40.080 Diversion agreement—Scope—Limitations—Restitution orders—Divertee's rights—Diversion unit's powers and duties—Interpreters—Modification.** (1) A diversion agreement shall be a contract between a juvenile accused of an offense and a diversion unit whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it. Such agreements shall be entered into as expeditiously as possible.

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

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

(b) Restitution limited to the amount of actual loss incurred by any victim, excluding restitution owed to any insurance provider under Title 48 RCW;

(c) Attendance at up to ten hours of counseling and/or up to twenty hours of positive youth development, educational or informational sessions at a community agency. The educational or informational sessions may include sessions relating to respect for self, others, and authority; victim awareness; accountability; self-worth; responsibility; work ethics; good citizenship; literacy; and life skills. If an assessment identifies mental health or chemical dependency needs, a youth may access up to thirty hours of counseling. The counseling sessions may include services demonstrated to improve behavioral health and reduce recidivism. For purposes of this section, "community agency" may also mean a community-based nonprofit organization, a physician, a counselor, a school, or a treatment provider, if approved by the diversion unit. The state shall not be liable for costs resulting from the diversion unit exercising the option to permit diversion agreements to mandate attendance at up to thirty hours of counseling and/or up to twenty hours of educational or informational sessions;

(d) Requirements to remain during specified hours at home, school, or work, and restrictions on leaving or entering specified geographical areas; and

(e) Upon request of any victim or witness, requirements to refrain from any contact with victims or witnesses of offenses committed by the juvenile.

(3) Notwithstanding the provisions of subsection (2) of this section, youth courts are not limited to the conditions imposed by subsection (2) of this section in imposing sanctions on juveniles pursuant to RCW 13.40.630.

(4) In assessing periods of community restitution to be performed and restitution to be paid by a juvenile who has entered into a diversion agreement, the court officer to whom this task is assigned shall consult with the juvenile's custodial parent or parents or guardian. To the extent possible, the court officer shall advise the victims of the juvenile offender of the diversion process, offer victim impact letter forms and restitution claim forms, and involve members of the community. Such members of the community may meet with the juvenile and may advise the court officer as to the terms of the diversion agreement and may supervise the juvenile in carrying out its terms.

(5) (a) A diversion agreement may not exceed a period of six months and may include a period extending beyond the eighteenth birthday of the diverttee.

(b) If additional time is necessary for the juvenile to complete the terms of the agreement or restitution to a victim, the time period limitations of this subsection may be extended by an additional six months at the request of the juvenile.

(c) If the juvenile has not paid the full amount of restitution by the end of the additional six-month period, then the juvenile shall be referred to the juvenile court for entry of a civil order establishing the amount of restitution still owed to the victim. In this order, the court shall also determine the terms and conditions of the restitution, including a payment plan extending up to ten years if the court determines that the juvenile does not have the means to make full restitution over a shorter period. For the purposes of this subsection (5) (c), the juvenile shall remain under the court's jurisdiction for a maximum term of ten years after the juvenile's eighteenth birthday. Prior to the expiration of the initial ten-year period, the juvenile court may extend the judgment for restitution an additional ten years. The court may relieve the juvenile of the requirement to pay full or partial restitution if the juvenile reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay the restitution over a ten-year period. If the court relieves the juvenile of the requirement to pay full or partial restitution, the court may order an amount of community restitution that the court deems appropriate. The county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. A juvenile under obligation to pay restitution may petition the court for modification of the restitution order.

(d) A diversion agreement may be completed by the juvenile any time prior to an order terminating the agreement.

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

(7) Diverttees and potential diverttees shall be afforded due process in all contacts with a diversion unit regardless of whether the juveniles are accepted for diversion or whether the diversion program is successfully completed. Such due process shall include, but not be limited to, the following:

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

(10) The diversion unit may refer a juvenile to a restorative justice program, community-based counseling, or treatment programs.

(11) The right to counsel shall inure prior to the initial interview for purposes of advising the juvenile as to whether he or she desires to participate in the diversion process or to appear in the juvenile court. The juvenile may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. The juvenile shall be fully advised at the intake of his or her right to an attorney and of the relevant services an attorney can provide. For the purpose of this section, intake interviews mean all interviews regarding the diversion agreement process.

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

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

(a) The fact that a charge or charges were made;

(b) The fact that a diversion agreement was entered into;

(c) The juvenile's obligations under such agreement;

(d) Whether the alleged offender performed his or her obligations under such agreement; and

(e) The facts of the alleged offense.

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

(14) A diversion unit may, in instances where it determines that the act or omission of an act for which a juvenile has been referred to it involved no victim, or where it determines that the juvenile referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a juvenile without entering into a diversion agreement. A diversion unit's authority to counsel and release a juvenile under this subsection includes the authority to refer the juvenile to community-based counseling or treatment programs or a restorative justice program. Any juvenile released under this subsection shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(8). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language. A juvenile determined to be eligible by a diversion unit for release as provided in this subsection shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

(15) A diversion unit may supervise the fulfillment of a diversion agreement entered into before the juvenile's eighteenth birthday and which includes a period extending beyond the divertee's eighteenth birthday.

(16) If restitution required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion unit to convert unpaid restitution into community restitution. The modification of the diversion agreement shall be in writing and signed by the divertee and the diversion unit. The number of hours of community restitution in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour. [2022 c 34 § 1; 2018 c 82 § 4; 2015 c 265 § 25; 2014 c 128 § 5; 2013 c 179 § 4; 2012 c 201 § 2; 2004 c 120 § 3. Prior: 2002 c 237 § 8; 2002 c 175 § 21; 1999 c 91 § 1; 1997 c 338 § 70; 1997 c 121 § 8; 1996 c 124 § 1; 1994 sp.s. c 7 § 544; 1992 c 205 § 108; 1985 c 73 § 2; 1983 c 191 § 16; 1981 c 299 § 8; 1979 c 155 § 61; 1977 ex.s. c 291 § 62.]

**Finding—Intent—2015 c 265:** See note following RCW 13.50.010.

**Finding—2014 c 128:** See note following RCW 13.40.042.

**Finding—2013 c 179:** See note following RCW 13.40.042.

**Effective date—2004 c 120:** See note following RCW 13.40.010.

**Effective date—2002 c 175:** See note following RCW 7.80.130.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Application—1994 sp.s. c 7 §§ 540-545:** See note following RCW 13.50.010.

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**Effective date—1985 c 73:** See note following RCW 13.40.030.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.085 Diversion services costs—Fees—Payment by parent or legal guardian.** The county legislative authority may authorize juvenile court administrators to establish fees to cover the costs of the administration and operation of diversion services provided under this chapter. The parent or legal guardian of a juvenile who receives diversion services must pay for the services based on the parent's or guardian's ability to pay. The juvenile court administrators shall develop a fair and equitable payment schedule. No juvenile who is eligible for diversion as provided in this chapter may be denied diversion services based on an inability to pay for the services. [1993 c 171 § 1.]

**RCW 13.40.087 Youth who have been diverted—Alleged prostitution or prostitution loitering offenses—Services and treatment.** Within available funding, when a youth who has been diverted under RCW 13.40.070 for an alleged offense of prostitution or prostitution loitering is referred to the department, the department shall connect that youth with the services and treatment specified in RCW \*74.14B.060 and 74.14B.070. [2010 c 289 § 5.]

**\*Reviser's note:** RCW 74.14B.060 was repealed by 2012 c 29 § 14.

**RCW 13.40.090 Prosecuting attorney as party to juvenile court proceedings—Exception, procedure.** The county prosecuting attorney

shall be a party to all juvenile court proceedings involving juvenile offenders or alleged juvenile offenders.

The prosecuting attorney may, after giving appropriate notice to the juvenile court, decline to represent the state of Washington in juvenile court matters except felonies unless requested by the court on an individual basis to represent the state at an adjudicatory hearing in which case he or she shall participate. When the prosecutor declines to represent the state, then such function may be performed by the juvenile court probation counselor authorized by the court or local court rule to serve as the prosecuting authority.

If the prosecuting attorney elects not to participate, the prosecuting attorney shall file with the county clerk each year by the first Monday in July notice of intent not to participate. In a county wherein the prosecuting attorney has elected not to participate in juvenile court, he or she shall not thereafter until the next filing date participate in juvenile court proceedings unless so requested by the court on an individual basis, in which case the prosecuting attorney shall participate. [1977 ex.s. c 291 § 63.]

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.100 Summons or other notification issued upon filing of information—Procedure—Order to take juvenile into custody—**

**Contempt of court, when.** (1) Upon the filing of an information the alleged offender shall be notified by summons, warrant, or other method approved by the court of the next required court appearance.

(2) If notice is by summons, the clerk of the court shall issue a summons directed to the juvenile, if the juvenile is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the petition. Where the custodian is summoned, the parent or guardian or both shall also be served with a summons.

(3) A copy of the information shall be attached to each summons.

(4) The summons shall advise the parties of the right to counsel.

(5) The judge may endorse upon the summons an order directing the parents, guardian, or custodian having the custody or control of the juvenile to bring the juvenile to the hearing.

(6) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the juvenile needs to be taken into custody pursuant to RCW 13.34.050, the judge may endorse upon the summons an order that an officer serving the summons shall at once take the juvenile into custody and take the juvenile to the place of detention or shelter designated by the court.

(7) Service of summons may be made under the direction of the court by any law enforcement officer or probation counselor.

(8) If the person summoned as herein provided fails without reasonable cause to appear and abide the order of the court, the person may be proceeded against as for contempt of court. In determining whether a parent, guardian, or custodian had reasonable cause not to appear, the court may consider all factors relevant to

the person's ability to appear as summoned. [1997 c 338 § 19; 1979 c 155 § 62; 1977 ex.s. c 291 § 64.]

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.110 Hearing on question of declining jurisdiction—Held, when—Findings.** (1) Discretionary decline hearing - The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be set for a hearing on the question of declining jurisdiction only if:

(a) The respondent is, at the time of proceedings, at least fifteen years of age or older and is charged with a serious violent offense as defined in RCW 9.94A.030;

(b) The respondent is, at the time of proceedings, fourteen years of age or younger and is charged with murder in the first degree (RCW 9A.32.030), and/or murder in the second degree (RCW 9A.32.050); or

(c) The respondent is any age and is charged with custodial assault, RCW 9A.36.100, and, at the time the respondent is charged, is already serving a minimum juvenile sentence to age twenty-one.

(2) Mandatory decline hearing - Unless waived by the court, the parties, and their counsel, a decline hearing shall be held when the information alleges an escape by the respondent and the respondent is serving a minimum juvenile sentence to age twenty-one.

(3) The court after a decline hearing may order the case transferred for adult criminal prosecution upon a finding that the declination would be in the best interest of the juvenile or the public. The court shall consider the relevant reports, facts, opinions, and arguments presented by the parties and their counsel.

(4) When the respondent is transferred for criminal prosecution or retained for prosecution in juvenile court, the court shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing. [2019 c 322 § 10; 2018 c 162 § 4; 2009 c 454 § 3; 1997 c 338 § 20; 1990 c 3 § 303; 1988 c 145 § 18; 1979 c 155 § 63; 1977 ex.s. c 291 § 65.]

**Findings—Intent—2019 c 322:** See note following RCW 72.01.410.

**Report to legislature—2019 c 322 §§ 2-6; 2018 c 162:** See RCW 13.04.800.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Effective date—Savings—Application—1988 c 145:** See notes following RCW 9A.44.010.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.120 Hearings—Time and place.** All hearings may be conducted at any time or place within the limits of the judicial district, and such cases may not be heard in conjunction with other business of any other division of the superior court. [1981 c 299 § 9; 1979 c 155 § 64; 1977 ex.s. c 291 § 66.]

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.127 Deferred disposition.** (1) A juvenile is eligible for deferred disposition unless he or she:

- (a) Is charged with a sex or violent offense;
- (b) Has a criminal history which includes any felony;
- (c) Has a prior deferred disposition or deferred adjudication; or
- (d) Has two or more adjudications.

(2) The juvenile court may, upon motion at least fourteen days before commencement of trial and, after consulting the juvenile's custodial parent or parents or guardian and with the consent of the juvenile, continue the case for disposition for a period not to exceed one year from the date the juvenile is found guilty. In all cases where the juvenile is eligible for a deferred disposition, there shall be a strong presumption that the deferred disposition will be granted. The court may waive the fourteen-day period anytime before the commencement of trial for good cause.

(3) Any juvenile who agrees to a deferral of disposition shall:

- (a) Stipulate to the admissibility of the facts contained in the written police report;
- (b) Acknowledge that the report will be entered and used to support a finding of guilt and to impose a disposition if the juvenile fails to comply with terms of supervision;
- (c) Waive the following rights to: (i) A speedy disposition; and (ii) call and confront witnesses; and
- (d) Acknowledge the direct consequences of being found guilty and the direct consequences that will happen if an order of disposition is entered.

The adjudicatory hearing shall be limited to a reading of the court's record.

(4) Following the stipulation, acknowledgment, waiver, and entry of a finding or plea of guilt, the court shall defer entry of an order of disposition of the juvenile.

(5) Any juvenile granted a deferral of disposition under this section shall be placed under community supervision. The court may impose any conditions of supervision that it deems appropriate including posting a probation bond. Payment of restitution under RCW 13.40.190 shall be a condition of community supervision under this section.

The court may require a juvenile offender convicted of animal cruelty in the first degree to submit to a mental health evaluation to determine if the offender would benefit from treatment and such intervention would promote the safety of the community. After consideration of the results of the evaluation, as a condition of community supervision, the court may order the offender to attend treatment to address issues pertinent to the offense.

The court may require the juvenile to undergo a mental health or substance abuse assessment, or both. If the assessment identifies a need for treatment, conditions of supervision may include treatment for the assessed need that has been demonstrated to improve behavioral health and reduce recidivism.

The court shall require a juvenile granted a deferral of disposition for unlawful possession of a firearm in violation of RCW 9.41.040 to participate in a qualifying program as described in RCW 13.40.193(2)(b), when available, unless the court makes a written finding based on the outcome of the juvenile court risk assessment that participation in a qualifying program would not be appropriate.

(6) A parent who signed for a probation bond has the right to notify the counselor if the juvenile fails to comply with the bond or conditions of supervision. The counselor shall notify the court and surety of any failure to comply. A surety shall notify the court of the juvenile's failure to comply with the probation bond. The state shall bear the burden to prove, by a preponderance of the evidence, that the juvenile has failed to comply with the terms of community supervision.

(7)(a) Anytime prior to the conclusion of the period of supervision, the prosecutor or the juvenile's juvenile court community supervision counselor may file a motion with the court requesting the court revoke the deferred disposition based on the juvenile's lack of compliance or treat the juvenile's lack of compliance as a violation pursuant to RCW 13.40.200.

(b) If the court finds the juvenile failed to comply with the terms of the deferred disposition, the court may:

(i) Revoke the deferred disposition and enter an order of disposition; or

(ii) Impose sanctions for the violation pursuant to RCW 13.40.200.

(8) At any time following deferral of disposition the court may, following a hearing, continue supervision for an additional one-year period for good cause.

(9)(a) At the conclusion of the period of supervision, the court shall determine whether the juvenile is entitled to dismissal of the deferred disposition only when the court finds:

(i) The deferred disposition has not been previously revoked;

(ii) The juvenile has completed the terms of supervision;

(iii) There are no pending motions concerning lack of compliance pursuant to subsection (7) of this section; and

(iv) The juvenile has either paid the full amount of restitution, or, made a good faith effort to pay the full amount of restitution during the period of supervision.

(b) If the court finds the juvenile is entitled to dismissal of the deferred disposition pursuant to (a) of this subsection, the juvenile's conviction shall be vacated and the court shall dismiss the case with prejudice, except that a conviction under RCW 16.52.205 shall not be vacated. Whenever a case is dismissed with restitution still owing, the court shall enter a restitution order pursuant to RCW 7.80.130 for any unpaid restitution. Jurisdiction to enforce payment and modify terms of the restitution order shall be the same as those set forth in RCW 7.80.130.

(c) If the court finds the juvenile is not entitled to dismissal of the deferred disposition pursuant to (a) of this subsection, the court shall revoke the deferred disposition and enter an order of disposition. A deferred disposition shall remain a conviction unless the case is dismissed and the conviction is vacated pursuant to (b) of this subsection or sealed pursuant to RCW 13.50.260.

(10)(a)(i) Any time the court vacates a conviction pursuant to subsection (9) of this section, if the juvenile is eighteen years of age or older and the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW has been paid, the court shall enter a written order sealing the case.

(ii) Any time the court vacates a conviction pursuant to subsection (9) of this section, if the juvenile is not eighteen years of age or older and full restitution ordered has been paid, the court shall schedule an administrative sealing hearing to take place no later than thirty days after the respondent's eighteenth birthday, at which time the court shall enter a written order sealing the case. The respondent's presence at the administrative sealing hearing is not required.

(iii) Any deferred disposition vacated prior to June 7, 2012, is not subject to sealing under this subsection.

(b) Nothing in this subsection shall preclude a juvenile from petitioning the court to have the records of his or her deferred dispositions sealed under RCW 13.50.260.

(c) Records sealed under this provision shall have the same legal status as records sealed under RCW 13.50.260. [2016 c 136 § 3; 2015 c 265 § 26. Prior: 2014 c 175 § 6; 2014 c 117 § 2; 2013 c 179 § 5; 2012 c 177 § 1; 2009 c 236 § 1; 2004 c 117 § 2; 2001 c 175 § 3; 1997 c 338 § 21.]

**Finding—Intent—2015 c 265:** See note following RCW 13.50.010.

**Findings—Intent—2014 c 175:** See note following RCW 13.50.010.

**Finding—2013 c 179:** See note following RCW 13.40.042.

**Effective date—2004 c 117:** See note following RCW 13.40.0357.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.



**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**RCW 13.40.130 Procedure upon plea of guilty or not guilty to information allegations—Notice—Adjudicatory and disposition hearing—Disposition standards used in sentencing.** (1) The respondent shall be advised of the allegations in the information and shall be required to plead guilty or not guilty to the allegation(s). The state or the respondent may make preliminary motions up to the time of the plea.

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

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

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

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

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

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

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

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

(10) A person notified under this section who fails without reasonable cause to appear and abide by the order of the court may be proceeded against as for contempt of court. In determining whether a parent, guardian, or custodian had reasonable cause not to appear, the court may consider all factors relevant to the person's ability to appear as summoned. [1997 c 338 § 22; 1981 c 299 § 10; 1979 c 155 § 65; 1977 ex.s. c 291 § 67.]

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.135 Sexual motivation special allegation—Procedures.**

(1) The prosecuting attorney shall file a special allegation of sexual motivation in every juvenile offense other than sex offenses as defined in RCW 9.94A.030 when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably consistent defense that could be raised under the evidence, would justify a finding of sexual motivation by a reasonable and objective fact finder.

(2) In a juvenile case wherein there has been a special allegation the state shall prove beyond a reasonable doubt that the juvenile committed the offense with a sexual motivation. The court shall make a finding of fact of whether or not the sexual motivation was present at the time of the commission of the offense. This finding shall not be applied to sex offenses as defined in RCW 9.94A.030.

(3) The prosecuting attorney shall not withdraw the special allegation of "sexual motivation" without approval of the court through an order of dismissal. The court shall not dismiss the special allegation unless it finds that such an order is necessary to correct an error in the initial charging decision or unless there are evidentiary problems which make proving the special allegation doubtful. [2009 c 28 § 33; 1997 c 338 § 23; 1990 c 3 § 604.]

**Effective date—2009 c 28:** See note following RCW 2.24.040.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Effective date—Application—1990 c 3 §§ 601-605:** See note following RCW 9.94A.835.

**RCW 13.40.140 Juveniles entitled to usual judicial rights—Notice of—Open court—Privilege against self-incrimination—Waiver of rights, when.** (1) A juvenile shall be advised of the juvenile's rights when appearing before the court.

(2) A juvenile and the juvenile's parent, guardian, or custodian shall be advised by the court or its representative that the juvenile has a right to be represented by counsel at all critical stages of the proceedings. Unless waived, counsel shall be provided to a juvenile who is financially unable to obtain counsel without causing substantial hardship to himself or herself or the juvenile's family, in any proceeding where the juvenile may be subject to transfer for criminal prosecution, or in any proceeding where the juvenile may be in danger of confinement. The ability to pay part of the cost of counsel does not preclude assignment. In no case may a juvenile be deprived of counsel because of a parent, guardian, or custodian

refusing to pay therefor. The juvenile shall be fully advised of the juvenile's right to an attorney and of the relevant services an attorney can provide.

(3) The right to counsel includes the right to the appointment of experts necessary, and the experts shall be required pursuant to the procedures and requirements established by the supreme court.

(4) Upon application of a party, the clerk of the court shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing, or such subpoenas may be issued by an attorney of record.

(5) All proceedings shall be transcribed verbatim by means which will provide an accurate record.

(6) The general public and press shall be permitted to attend any hearing unless the court, for good cause, orders a particular hearing to be closed. The presumption shall be that all such hearings will be open.

(7) In all adjudicatory proceedings before the court, all parties shall have the right to adequate notice, discovery as provided in criminal cases, opportunity to be heard, confrontation of witnesses except in such cases as this chapter expressly permits the use of hearsay testimony, findings based solely upon the evidence adduced at the hearing, and an unbiased fact finder.

(8) A juvenile shall be accorded the same privilege against self-incrimination as an adult and the protections provided in RCW 13.40.740. An extrajudicial statement which would be constitutionally inadmissible in a criminal proceeding may not be received in evidence at an adjudicatory hearing over objection. Evidence illegally seized or obtained, including evidence obtained in violation of RCW 13.40.740, may not be received in evidence over objection at an adjudicatory hearing to prove the allegations against the juvenile if the evidence would be inadmissible in an adult criminal proceeding. An extrajudicial admission or confession made by the juvenile out of court is insufficient to support a finding that the juvenile committed the acts alleged in the information unless evidence of a corpus delicti is first independently established in the same manner as required in an adult criminal proceeding.

(9) Statements, admissions, or confessions made by a juvenile in the course of a mental health or chemical dependency screening or assessment, whether or not the screening or assessment was ordered by the court, shall not be admissible into evidence against the juvenile on the issue of guilt in any juvenile offense matter or adult criminal proceeding, unless the juvenile has placed the juvenile's mental health at issue. The statement is admissible for any other purpose or proceeding allowed by law. This prohibition does not apply to statements, admissions, or confessions made to law enforcement, and may not be used to argue for derivative suppression of other evidence lawfully obtained as a result of an otherwise inadmissible statement, admission, or confession.

(10) Waiver of any right which a juvenile has under this chapter must be an express waiver intelligently made by the juvenile after the juvenile has been fully informed of the right being waived, including having access to an attorney for consultation if required under RCW 13.40.740.

(11) Whenever this chapter refers to waiver or objection by a juvenile, the word juvenile shall be construed to refer to a juvenile who is at least 12 years of age. If a juvenile is under 12 years of

age, the juvenile's parent, guardian, or custodian shall give any waiver or offer any objection contemplated by this chapter. [2021 c 328 § 2; 2014 c 110 § 2; 1981 c 299 § 11; 1979 c 155 § 66; 1977 ex.s. c 291 § 68.]

**Effective date—2021 c 328:** See note following RCW 13.40.740.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.150 Disposition hearing—Scope—Factors to be considered prior to entry of dispositional order.** (1) In disposition hearings all relevant and material evidence, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value, even though such evidence may not be admissible in a hearing on the information. The youth or the youth's counsel and the prosecuting attorney shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making reports when such individuals are reasonably available, but sources of confidential information need not be disclosed. The prosecutor and counsel for the juvenile may submit recommendations for disposition.

(2) For purposes of disposition:

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

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

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

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

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

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

(c) Consider any predisposition reports;

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

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

(f) Determine the amount of restitution owing to the victim, if any, or set a hearing for a later date not to exceed one hundred eighty days from the date of the disposition hearing to determine the amount, except that the court may continue the hearing beyond the one hundred eighty days for good cause;

(g) Determine the respondent's offender score;

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

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

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

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

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

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

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

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

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

(iii) The victim or victims were particularly vulnerable;

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

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

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

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

(viii) The standard range disposition is clearly too lenient considering the seriousness of the juvenile's prior adjudications.

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

(a) The sex of the respondent;

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

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

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

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

(5) A court may not commit a juvenile to a state institution solely because of the lack of facilities, including treatment facilities, existing in the community. [1998 c 86 § 1; 1997 c 338 § 24; 1995 c 268 § 5; 1992 c 205 § 109; 1990 c 3 § 605; 1981 c 299 § 12; 1979 c 155 § 67; 1977 ex.s. c 291 § 69.]

**Effective date—1998 c 86:** "This act takes effect July 1, 1998."  
[1998 c 86 § 2.]

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Purpose—1995 c 268:** See note following RCW 9.94A.030.

**Part headings not law—Severability—1992 c 205:** See notes following RCW 13.40.010.

**Effective date—Application—1990 c 3 §§ 601-605:** See note following RCW 9.94A.835.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.160 Disposition order—Court's action prescribed—Disposition outside standard range—Right of appeal—Special sex offender disposition alternative.** (1) The standard range disposition for a juvenile adjudicated of an offense is determined according to RCW 13.40.0357.

(a) When the court sentences an offender to a local sanction as provided in RCW 13.40.0357 option A, the court shall impose a determinate disposition within the standard ranges, except as provided in subsection (2), (3), (4), (5), or (6) of this section. The disposition may be comprised of one or more local sanctions.

(b) When the court sentences an offender to a standard range as provided in RCW 13.40.0357 option A that includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement, except as provided in subsection (2), (3), (4), (5), or (6) of this section.

(2) If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option D of RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

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

(3) If a juvenile offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and has no history of a prior sex offense, the court may impose the special sex offender disposition alternative under RCW 13.40.162.

(4) If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and

has not committed an A- or B+ offense, the court may impose the disposition alternative under RCW 13.40.165.

(5) If a juvenile is subject to a commitment of 15 to 65 weeks of confinement, the court may impose the disposition alternative under \*RCW 13.40.167.

(6) When the offender is subject to a standard range commitment of 15 to 36 weeks and is ineligible for a suspended disposition alternative, a manifest injustice disposition below the standard range, special sex offender disposition alternative, chemical dependency disposition alternative, or mental health disposition alternative, the court in a county with a pilot program under \*\*RCW 13.40.169 may impose the disposition alternative under \*\*RCW 13.40.169.

(7) RCW 13.40.193 shall govern the disposition of any juvenile adjudicated of possessing a firearm in violation of RCW 9.41.040(2)(a)(vii) or any crime in which a special finding is entered that the juvenile was armed with a firearm.

(8) RCW 13.40.308 shall govern the disposition of any juvenile adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065, possession of a stolen motor vehicle as defined under RCW 9A.56.068, taking a motor vehicle without permission in the first degree under RCW 9A.56.070, and taking a motor vehicle without permission in the second degree under RCW 9A.56.075.

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

(10) Except as provided under subsection (3), (4), (5), or (6) of this section, or option B of RCW 13.40.0357, or RCW 13.40.127, the court shall not suspend or defer the imposition or the execution of the disposition.

(11) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense. [2022 c 268 § 38; 2020 c 18 § 9; 2011 c 338 § 2; 2007 c 199 § 14. Prior: 2004 c 120 § 4; 2004 c 38 § 11; prior: 2003 c 378 § 3; 2003 c 53 § 99; 2002 c 175 § 22; 1999 c 91 § 2; prior: 1997 c 338 § 25; 1997 c 265 § 1; 1995 c 395 § 7; 1994 sp.s. c 7 § 523; 1992 c 45 § 6; 1990 c 3 § 302; 1989 c 407 § 4; 1983 c 191 § 8; 1981 c 299 § 13; 1979 c 155 § 68; 1977 ex.s. c 291 § 70.]

**Reviser's note:** \*(1) RCW 13.40.167 was repealed by 2016 c 106 § 4.

\*\* (2) RCW 13.40.169 expired July 1, 2005.

**Effective dates—2022 c 268:** See note following RCW 7.105.010.

**Explanatory statement—2020 c 18:** See note following RCW 43.79A.040.

**Findings—Intent—Short title—2007 c 199:** See notes following RCW 9A.56.065.

**Effective date—2004 c 120:** See note following RCW 13.40.010.

**Effective date—2004 c 38:** See note following RCW 18.155.075.

**Intent—Effective date—2003 c 53:** See notes following RCW 2.48.180.

**Effective date—2002 c 175:** See note following RCW 7.80.130.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Severability—1997 c 265:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1997 c 265 § 9.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Severability—Application—1992 c 45:** See notes following RCW 9.94A.840.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.162 Special sex offender disposition alternative.** (1)  
A juvenile offender is eligible for the special sex offender disposition alternative when:

(a) The offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and the offender has no history of a prior sex offense; or

(b) The offender is found to have committed assault in the fourth degree with sexual motivation, and the offender has no history of a prior sex offense.

(2) If the court finds the offender is eligible for this alternative, the court, on its own motion or the motion of the state or the respondent, may order an examination to determine whether the respondent is amenable to treatment.

(a) The report of the examination shall include at a minimum the following:

(i) The respondent's version of the facts and the official version of the facts;

(ii) The respondent's offense history;

(iii) An assessment of problems in addition to alleged deviant behaviors;

(iv) The respondent's social, educational, and employment situation;

(v) Other evaluation measures used.

The report shall set forth the sources of the evaluator's information.



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

(i) The frequency and type of contact between the offender and therapist;

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

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

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions.

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

(3) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this special sex offender disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall impose a determinate disposition within the standard range for the offense, or if the court concludes, and enters reasons for its conclusions, that such disposition would cause a manifest injustice, the court shall impose a disposition under option D, and the court may suspend the execution of the disposition and place the offender on community supervision for at least two years.

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

(a) Devote time to a specific education, employment, or occupation;

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

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

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

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

(f) Pay all court-ordered legal financial obligations, perform community restitution, or any combination thereof;

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

(h) Comply with the conditions of any court-ordered probation bond.

(5) If the court orders twenty-four hour, continuous monitoring of the offender while on probation, the court shall include the basis for this condition in its findings.

(6) (a) The court must order the offender not to attend the public or approved private elementary, middle, or high school attended by the victim or the victim's siblings.

(b) The parents or legal guardians of the offender are responsible for transportation or other costs associated with the offender's change of school that would otherwise be paid by the school district.

(c) The court shall send notice of the disposition and restriction on attending the same school as the victim or victim's siblings to the public or approved private school the juvenile will attend, if known, or if unknown, to the approved private schools and the public school district board of directors of the district in which the juvenile resides or intends to reside. This notice must be sent at the earliest possible date but not later than ten calendar days after entry of the disposition.

(7) For offenders required to register under RCW 9A.44.130, at the end of the supervision ordered under this disposition alternative, there is a presumption that the offender is sufficiently rehabilitated to warrant removal from the central registry of sex offenders. The court shall relieve the offender's duty to register unless the court finds that the offender is not sufficiently rehabilitated to warrant removal and may consider the following factors:

(a) The nature of the offense committed, including the number of victims and the length of the offense history;

(b) Any subsequent criminal history of the juvenile;

(c) The juvenile's compliance with supervision requirements;

(d) The length of time since the charged incident occurred;

(e) Any input from community corrections officers, juvenile parole or probation officers, law enforcement, or treatment providers;

(f) The juvenile's participation in sex offender treatment;

(g) The juvenile's participation in other treatment and rehabilitative programs;

(h) The juvenile's stability in employment and housing;

(i) The juvenile's community and personal support system;

(j) Any risk assessments or evaluations prepared by a qualified professional related to the juvenile;

(k) Any updated polygraph examination completed by the juvenile;

(l) Any input of the victim; and

(m) Any other factors the court may consider relevant.

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

(b) At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

(c) Except as provided in this subsection, examinations and treatment ordered pursuant to this subsection shall be conducted by

qualified professionals as described under (d) of this subsection, certified sex offender treatment providers, or certified affiliate sex offender treatment providers under chapter 18.155 RCW.

(d) A sex offender therapist who examines or treats a juvenile sex offender pursuant to this subsection does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the therapist is a professional licensed under chapter 18.225 or 18.83 RCW and the treatment employed is evidence-based for sex offender treatment, or if the court finds that: (i) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (ii) no certified sex offender treatment providers or certified affiliate sex offender treatment providers are available for treatment within a reasonable geographical distance of the offender's home; and (iii) the evaluation and treatment plan comply with this subsection and the rules adopted by the department of health.

(9) (a) If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the disposition or the court may impose a penalty of up to thirty days confinement for violating conditions of the disposition.

(b) The court may order both execution of the disposition and up to thirty days confinement for the violation of the conditions of the disposition.

(c) The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

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

(11) A disposition entered under this section is not appealable under RCW 13.40.230. [2020 c 249 § 1; 2011 c 338 § 3.]

**RCW 13.40.165 Substance use disorder or mental health disposition alternative.** (1) The purpose of this disposition alternative is to ensure that successful treatment options to reduce recidivism are available to eligible youth, pursuant to RCW 71.24.615. It is also the purpose of the disposition alternative to assure that minors in need of substance use disorder, mental health, and/or co-occurring disorder treatment receive an appropriate continuum of culturally relevant care and treatment, including prevention and early intervention, self-directed care, parent-directed care, and residential treatment. To facilitate the continuum of care and treatment to minors in out-of-home placements, all divisions of the department that provide these services to minors shall jointly plan and deliver these services. It is also the purpose of the disposition alternative to protect the rights of minors against needless hospitalization and deprivations of liberty and to enable treatment decisions to be made in response to clinical needs and in accordance with sound professional judgment. The mental health, substance abuse, and co-occurring disorder treatment providers shall, to the extent

possible, offer services that involve minors' parents, guardians, and family.

(2) The court must consider eligibility for the substance use disorder or mental health disposition alternative when a juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, other than a first time B+ offense under chapter 69.50 RCW. The court, on its own motion or the motion of the state or the respondent if the evidence shows that the offender may be chemically dependent, substance abusing, or has significant mental health or co-occurring disorders may order an examination by a substance use disorder counselor from a substance use disorder treatment facility approved under \*chapter 70.96A RCW or a mental health professional as defined in chapter 71.34 RCW to determine if the youth is chemically dependent, substance abusing, or suffers from significant mental health or co-occurring disorders. The offender shall pay the cost of any examination ordered under this subsection unless the court finds that the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.

(3) The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of drug-alcohol problems, mental health diagnoses, previous treatment attempts, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the examiner's information.

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

- (a) Whether inpatient and/or outpatient treatment is recommended;
- (b) Availability of appropriate treatment;
- (c) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;
- (d) Anticipated length of treatment; and
- (e) Recommended crime-related prohibitions.

(5) The court on its own motion may order, or on a motion by the state or the respondent shall order, a second examination. The evaluator shall be selected by the party making the motion. The requesting party shall pay the cost of any examination ordered under this subsection unless the requesting party is the offender and the court finds that the offender is indigent and no third party insurance coverage is available, in which case the state shall pay the cost.

(6) (a) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section.

(b) If the court determines that this disposition alternative is appropriate, then the court shall impose the standard range for the offense, or if the court concludes, and enters reasons for its conclusion, that such disposition would effectuate a manifest injustice, the court shall impose a disposition above the standard range as indicated in option D of RCW 13.40.0357 if the disposition is an increase from the standard range and the confinement of the offender does not exceed a maximum of fifty-two weeks, suspend execution of the disposition, and place the offender on community

supervision for up to one year. As a condition of the suspended disposition, the court shall require the offender to undergo available outpatient drug/alcohol, mental health, or co-occurring disorder treatment and/or inpatient mental health or drug/alcohol treatment. The court shall only order inpatient treatment under this section if a funded bed is available. If the inpatient treatment is longer than ninety days, the court shall hold a review hearing every thirty days beyond the initial ninety days. The respondent may appear telephonically at these review hearings if in compliance with treatment. As a condition of the suspended disposition, the court may impose conditions of community supervision and other sanctions, including up to thirty days of confinement, one hundred fifty hours of community restitution, and payment of legal financial obligations and restitution.

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

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

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may impose sanctions pursuant to RCW 13.40.200 or revoke the suspension and order execution of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

(8) For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the offense charged. "Victim" may also include a known parent or guardian of a victim who is a minor child or is not a minor child but is incapacitated, incompetent, disabled, or deceased.

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

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

(11) A disposition under this section is not appealable under RCW 13.40.230.

(12) Subject to funds appropriated for this specific purpose, the costs incurred by the juvenile courts for the mental health, substance use disorder, and/or co-occurring disorder evaluations, treatment, and costs of supervision required under this section shall be paid by the health care authority. [2019 c 325 § 5007; 2016 c 106 § 3; 2004 c 120 § 5; 2003 c 378 § 6. Prior: 2002 c 175 § 23; 2002 c 42 § 1; 2001 c 164 § 1; 1997 c 338 § 26.]

**\*Reviser's note:** Chapter 70.96A RCW was repealed and/or recodified in its entirety pursuant to 2016 sp.s. c 29 §§ 301, 601, and 701.

**Effective date—2019 c 325:** See note following RCW 71.24.011.

**Effective date—2004 c 120:** See note following RCW 13.40.010.

**Effective date—2002 c 175:** See note following RCW 7.80.130.

**Effectiveness standards—1997 c 338 § 26:** "The University of Washington shall develop standards for measuring effectiveness of treatment programs established under section 26 of this act. The standards shall be developed and presented to the governor and legislature not later than January 1, 1998. The standards shall include methods for measuring success factors following treatment. Success factors shall include, but need not be limited to, continued use of alcohol or controlled substances, arrests, violations of terms of community supervision, and convictions for subsequent offenses." [1997 c 338 § 27.]

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**RCW 13.40.180 Single disposition order—Consecutive terms when two or more offenses—Limitations—Separate disposition order—Concurrent period of community supervision.** (1) Where a disposition in a single disposition order is imposed on a youth for two or more offenses, the terms shall run consecutively, subject to the following limitations:

(a) Where the offenses were committed through a single act or omission, omission, or through an act or omission which in itself constituted one of the offenses and also was an element of the other, the aggregate of all the terms shall not exceed one hundred fifty percent of the term imposed for the most serious offense;

(b) The aggregate of all consecutive terms shall not exceed three hundred percent of the term imposed for the most serious offense; and

(c) The aggregate of all consecutive terms of community supervision shall not exceed two years in length, or require payment of more than two hundred dollars in fines or the performance of more than two hundred hours of community restitution.

(2) Where disposition in separate disposition orders is imposed on a youth, the periods of community supervision contained in separate orders, if any, shall run concurrently. All other terms contained in separate disposition orders shall run consecutively. [2012 c 177 § 3; 2002 c 175 § 24; 1981 c 299 § 14; 1977 ex.s. c 291 § 72.]

**Effective date—2002 c 175:** See note following RCW 7.80.130.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.185 Disposition order—Confinement under departmental supervision or in juvenile facility, when.** (1) Any term of confinement imposed for an offense which exceeds thirty days shall be

served under the supervision of the department. If the period of confinement imposed for more than one offense exceeds thirty days but the term imposed for each offense is less than thirty days, the confinement may, in the discretion of the court, be served in a juvenile facility operated by or pursuant to a contract with the state or a county.

(2) Whenever a juvenile is confined in a detention facility or is committed to the department, the court may not directly order a juvenile into a particular county or state facility. The juvenile court administrator and the secretary or the secretary's designee, as appropriate, has the sole discretion to determine in which facility a juvenile should be confined or committed. The counties may operate a variety of detention facilities as determined by the county legislative authority subject to available funds. [2017 3rd sp.s. c 6 § 608; 1994 sp.s. c 7 § 524; 1981 c 299 § 15.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**RCW 13.40.190 Disposition order—Restitution for loss or damage—Modification of restitution order.** (1)(a) In its dispositional order, the court shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent. In addition, restitution may be ordered for loss or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which, pursuant to a plea agreement, are not prosecuted.

(b) Restitution may include the costs of counseling reasonably related to the offense.

(c) The payment of restitution shall be in addition to any punishment which is imposed pursuant to the other provisions of this chapter.

(d) The court may determine the amount, terms, and conditions of the restitution including a payment plan extending up to ten years if the court determines that the respondent does not have the means to make full restitution over a shorter period. If the court determines that a juvenile has insufficient funds to pay and upon agreement of the victim, the court may order performance of a number of hours of community restitution in lieu of monetary penalty, at the rate of the then state minimum wage per hour. The court shall allow the victim to determine the nature of the community restitution to be completed when it is practicable and appropriate to do so. For the purposes of this section, the respondent shall remain under the court's jurisdiction for a maximum term of ten years after the respondent's eighteenth birthday and, during this period, the restitution portion of the dispositional order may be modified as to amount, terms, and conditions at any time. Prior to the expiration of the ten-year period, the juvenile court may extend the judgment for the payment of

restitution for an additional ten years. If the court grants a respondent's petition pursuant to RCW 13.50.260, the court's jurisdiction under this subsection shall terminate.

(e) Nothing in this section shall prevent a respondent from petitioning the court pursuant to RCW 13.50.260 if the respondent has paid the full restitution amount stated in the court's order and has met the statutory criteria.

(f) If the respondent participated in the crime with another person or other persons, the court may either order joint and several restitution or may divide restitution equally among the respondents. In determining whether restitution should be joint and several or equally divided, the court shall consider the interest and circumstances of the victim or victims, the circumstances of the respondents, and the interest of justice.

(g) At any time, the court may determine that the respondent is not required to pay, or may relieve the respondent of the requirement to pay, full or partial restitution to any insurance provider authorized under Title 48 RCW if the respondent reasonably satisfies the court that he or she does not have the means to make full or partial restitution to the insurance provider.

(2) Regardless of the provisions of subsection (1) of this section, the court shall order restitution in all cases where the victim is entitled to benefits under the crime victims' compensation act, chapter 7.68 RCW. If the court does not order restitution and the victim of the crime has been determined to be entitled to benefits under the crime victims' compensation act, the department of labor and industries, as administrator of the crime victims' compensation program, may petition the court within one year of entry of the disposition order for entry of a restitution order. Upon receipt of a petition from the department of labor and industries, the court shall hold a restitution hearing and shall enter a restitution order.

(3) If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments. The county clerk shall make restitution disbursements to victims prior to payments to any insurance provider under Title 48 RCW.

(4) For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the offense charged. "Victim" may also include a known parent or guardian of a victim who is a minor child or is not a minor child but is incapacitated, incompetent, disabled, or deceased.

(5) A respondent under obligation to pay restitution may petition the court for modification of the restitution order for good cause shown, including inability to pay. [2015 c 265 § 6; 2014 c 175 § 7; 2010 c 134 § 1; 2004 c 120 § 6. Prior: 1997 c 338 § 29; 1997 c 121 § 9; 1996 c 124 § 2; 1995 c 33 § 5; 1994 sp.s. c 7 § 528; 1987 c 281 § 5; 1985 c 257 § 2; 1983 c 191 § 9; 1979 c 155 § 69; 1977 ex.s. c 291 § 73.]

**Finding—Intent—2015 c 265:** See note following RCW 13.50.010.

**Findings—Intent—2014 c 175:** See note following RCW 13.50.010.



**Effective date—2004 c 120:** See note following RCW 13.40.010.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1987 c 281:** See note following RCW 7.68.020.

**Severability—1985 c 257:** See note following RCW 13.34.165.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.192 Legal financial obligations—Enforceability—Treatment of obligations upon age of eighteen or conclusion of juvenile court jurisdiction—Extension of judgment—Petition for modification or relief.** (1) If a juvenile is ordered to pay legal financial obligations, including fines, penalty assessments, attorneys' fees, court costs, and restitution, the money judgment remains enforceable for a period of ten years. When the juvenile reaches the age of eighteen years or at the conclusion of juvenile court jurisdiction, whichever occurs later, the superior court clerk must docket the remaining balance of the juvenile's legal financial obligations in the same manner as other judgments for the payment of money. The judgment remains valid and enforceable until ten years from the date of its imposition. The clerk of the superior court may seek extension of the judgment for legal financial obligations, including crime victims' assessments, in the same manner as RCW 6.17.020 for purposes of collection as allowed under RCW 36.18.190.

(2) A respondent under obligation to pay legal financial obligations other than restitution, the victim penalty assessment set forth in RCW 7.68.035, or the crime laboratory analysis fee set forth in RCW 43.43.690 may petition the court for modification or relief from those legal financial obligations and interest accrued on those obligations for good cause shown, including inability to pay. The court shall consider factors such as, but not limited to incarceration and a respondent's other debts, including restitution, when determining a respondent's ability to pay. [2015 c 265 § 7; 1997 c 121 § 7.]

**Finding—Intent—2015 c 265:** See note following RCW 13.50.010.

**RCW 13.40.193 Firearms—Length of confinement.** (1) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040(2)(a)(vii), the court shall impose a minimum disposition of ten days of confinement. If the offender's standard

range of disposition for the offense as indicated in RCW 13.40.0357 is more than thirty days of confinement, the court shall commit the offender to the department for the standard range disposition. The offender shall not be released until the offender has served a minimum of ten days in confinement.

(2) (a) If a respondent is found to have been in possession of a firearm in violation of RCW 9.41.040, the disposition must include a requirement that the respondent participate in a qualifying program as described in (b) of this subsection, when available, unless the court makes a written finding based on the outcome of the juvenile court risk assessment that participation in a qualifying program would not be appropriate.

(b) For purposes of this section, "qualifying program" means an aggression replacement training program, a functional family therapy program, or another program applicable to the juvenile firearm offender population that has been identified as evidence-based or research-based and cost-beneficial in the current list prepared at the direction of the legislature by the Washington state institute for public policy.

(3) If the court finds that the respondent or an accomplice was armed with a firearm, the court shall determine the standard range disposition for the offense pursuant to RCW 13.40.160. If the offender or an accomplice was armed with a firearm when the offender committed any felony other than possession of a machine gun or bump-fire stock, possession of a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, or use of a machine gun or bump-fire stock in a felony, the following periods of total confinement must be added to the sentence: (a) Except for (b) of this subsection, for a class A felony, six months; for a class B felony, four months; and for a class C felony, two months; (b) for any violent offense as defined in RCW 9.94A.030, committed by a respondent who is sixteen or seventeen years old at the time of the offense, a period of twelve months. The additional time shall be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357.

(4) (a) If the court finds that the respondent who is sixteen or seventeen years old and committed the offense of robbery in the first degree, drive-by shooting, rape of a child in the first degree, burglary in the first degree, or any violent offense as defined in RCW 9.94A.030 and was armed with a firearm, and the court finds that the respondent's participation was related to membership in a criminal street gang or advancing the benefit, aggrandizement, gain, profit, or other advantage for a criminal street gang, a period of three months total confinement must be added to the sentence. The additional time must be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357 and must be served consecutively with any other sentencing enhancement.

(b) For the purposes of this section, "criminal street gang" means any ongoing organization, association, or group of three or more persons, whether formal or informal, having a common name or common identifying sign or symbol, having as one of its primary activities the commission of criminal acts, and whose members or associates individually or collectively engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

(5) When a disposition under this section would effectuate a manifest injustice, the court may impose another disposition. When a judge finds a manifest injustice and imposes a disposition of confinement exceeding thirty days, the court shall commit the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. When a judge finds a manifest injustice and imposes a disposition of confinement less than thirty days, the disposition shall be comprised of confinement or community supervision or both.

(6) Any term of confinement ordered pursuant to this section shall run consecutively to any term of confinement imposed in the same disposition for other offenses. [2022 c 268 § 39; 2020 c 18 § 10; 2019 c 64 § 4. Prior: 2018 c 162 § 5; 2018 c 22 § 7; 2018 c 7 § 9; 2014 c 117 § 1; 2003 c 53 § 100; 1997 c 338 § 30; 1994 sp.s. c 7 § 525.]

**Effective dates—2022 c 268:** See note following RCW 7.105.010.

**Explanatory statement—2020 c 18:** See note following RCW 43.79A.040.

**Explanatory statement—2019 c 64:** See note following RCW 1.20.110.

**Report to legislature—2019 c 322 §§ 2-6; 2018 c 162:** See RCW 13.04.800.

**Explanatory statement—2018 c 22:** See note following RCW 1.20.051.

**Effective dates—2018 c 7:** See note following RCW 9.41.010.

**Intent—Effective date—2003 c 53:** See notes following RCW 2.48.180.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**RCW 13.40.196 Firearms—Special allegation.** A prosecutor may file a special allegation that the offender or an accomplice was armed with a firearm when the offender committed the alleged offense. If a special allegation has been filed and the court finds that the offender committed the alleged offense, the court shall also make a finding whether the offender or an accomplice was armed with a firearm when the offender committed the offense. [1994 sp.s. c 7 § 526.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**RCW 13.40.198 Penalty assessments—Jurisdiction of court.** If a respondent is ordered to pay a penalty assessment pursuant to a dispositional order entered under this chapter, he or she shall remain under the court's jurisdiction for a maximum term of ten years after the respondent's eighteenth birthday. Prior to the expiration of the ten-year period, the juvenile court may extend the judgment for the payment of a penalty assessment for an additional ten years. [2000 c 71 § 1.]

**Effective date—2000 c 71:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 22, 2000]." [2000 c 71 § 4.]

**RCW 13.40.200 Violation of order of restitution, community supervision, fines, penalty assessments, or confinement—Modification of order after hearing—Scope—Rights—Use of fines.** (1) When a respondent fails to comply with an order of restitution, community supervision, penalty assessments, or confinement of less than thirty days, the court upon motion of the prosecutor or its own motion, may modify the order after a hearing on the violation.

(2) The hearing shall afford the respondent the same due process of law as would be afforded an adult probationer. The court may issue a summons or a warrant to compel the respondent's appearance. The state shall have the burden of proving by a preponderance of the evidence the fact of the violation. The respondent shall have the burden of showing that the violation was not a willful refusal to comply with the terms of the order. If a respondent has failed to pay a fine, penalty assessments, or restitution or to perform community restitution hours, as required by the court, it shall be the respondent's burden to show that he or she did not have the means and could not reasonably have acquired the means to pay the fine, penalty assessments, or restitution or perform community restitution.

(3) If the court finds that a respondent has willfully violated the terms of an order pursuant to subsections (1) and (2) of this section, it may impose a penalty of up to thirty days' confinement. Penalties for multiple violations occurring prior to the hearing shall not be aggregated to exceed thirty days' confinement. Regardless of the number of times a respondent is brought to court for violations of the terms of a single disposition order, the combined total number of days spent by the respondent in detention shall never exceed the maximum term to which an adult could be sentenced for the underlying offense.

(4) If a respondent has been ordered to pay a fine or monetary penalty and due to a change of circumstance cannot reasonably comply with the order, the court, upon motion of the respondent, may order that the unpaid fine or monetary penalty be converted to community restitution unless the monetary penalty is the crime victim penalty assessment, which cannot be converted, waived, or otherwise modified, except for schedule of payment. The number of hours of community restitution in lieu of a monetary penalty or fine shall be converted at the rate of the prevailing state minimum wage per hour. The monetary penalties or fines collected shall be deposited in the county general fund. A failure to comply with an order under this subsection

shall be deemed a failure to comply with an order of community supervision and may be proceeded against as provided in this section.

(5) When a respondent has willfully violated the terms of a probation bond, the court may modify, revoke, or retain the probation bond as provided in RCW 13.40.054. [2004 c 120 § 7; 2002 c 175 § 25; 1997 c 338 § 31; 1995 c 395 § 8; 1986 c 288 § 5; 1983 c 191 § 15; 1979 c 155 § 70; 1977 ex.s. c 291 § 74.]

**Effective date—2004 c 120:** See note following RCW 13.40.010.

**Effective date—2002 c 175:** See note following RCW 7.80.130.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Severability—1986 c 288:** See note following RCW 43.185C.260.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.205 Release from physical custody, when—Authorized leaves—Leave plan and order—Notice. (Contingent expiration date.)**

(1) A juvenile sentenced to a term of confinement to be served under the supervision of the department shall not be released from the physical custody of the department prior to the release date established under RCW 13.40.210 except as otherwise provided in this section.

(2) A juvenile serving a term of confinement under the supervision of the department may be released on authorized leave from the physical custody of the department only if consistent with public safety and if:

(a) Sixty percent of the minimum term of confinement has been served; and

(b) The purpose of the leave is to enable the juvenile:

(i) To visit the juvenile's family for the purpose of strengthening or preserving family relationships;

(ii) To make plans for parole or release which require the juvenile's personal appearance in the community and which will facilitate the juvenile's reintegration into the community; or

(iii) To make plans for a residential placement out of the juvenile's home which requires the juvenile's personal appearance in the community.

(3) No authorized leave may exceed seven consecutive days. The total of all preminimum term authorized leaves granted to a juvenile prior to final discharge from confinement shall not exceed thirty days.

(4) Prior to authorizing a leave, the secretary shall require a written leave plan, which shall detail the purpose of the leave and how it is to be achieved, the address at which the juvenile shall

reside, the identity of the person responsible for supervising the juvenile during the leave, and a statement by such person acknowledging familiarity with the leave plan and agreeing to supervise the juvenile and to notify the secretary immediately if the juvenile violates any terms or conditions of the leave. The leave plan shall include such terms and conditions as the secretary deems appropriate and shall be signed by the juvenile.

(5) Upon authorizing a leave, the secretary shall issue to the juvenile an authorized leave order which shall contain the name of the juvenile, the fact that the juvenile is on leave from a designated facility, the time period of the leave, and the identity of an appropriate official of the department to contact when necessary. The authorized leave order shall be carried by the juvenile at all times while on leave.

(6) Prior to the commencement of any authorized leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will reside during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave.

(7) The secretary may authorize a leave, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the period of time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. In cases of emergency or medical leave the secretary may waive all or any portions of subsections (2)(a), (3), (4), (5), and (6) of this section.

(8) If requested by the juvenile's victim or the victim's immediate family, the secretary shall give notice of any leave to the victim or the victim's immediate family.

(9) A juvenile who violates any condition of an authorized leave plan may be taken into custody and returned to the department in the same manner as an adult in identical circumstances.

(10) Notwithstanding the provisions of this section, a juvenile placed in minimum security status may participate in work, educational, community restitution, or treatment programs in the community up to twelve hours a day if approved by the secretary. Such a release shall not be deemed a leave of absence. This authorization may be increased to more than twelve hours a day up to sixteen hours a day if approved by the secretary and operated within the department's appropriations.

(11) Subsections (6), (7), and (8) of this section do not apply to juveniles covered by RCW 13.40.215. [2019 c 468 § 1; 2002 c 175 § 26; 1990 c 3 § 103; 1983 c 191 § 10.]

**Effective date—2002 c 175:** See note following RCW 7.80.130.

**RCW 13.40.205 Release from physical custody, when—Authorized leaves—Leave plan and order—Notice. (Contingent effective date.)** (1) A juvenile sentenced to a term of confinement to be served under the supervision of the department shall not be released from the physical

custody of the department prior to the release date established under RCW 13.40.210 except as otherwise provided in this section.

(2) A juvenile serving a term of confinement under the supervision of the department may be released on authorized leave from the physical custody of the department only if consistent with public safety and if:

(a) Sixty percent of the minimum term of confinement has been served; and

(b) The purpose of the leave is to enable the juvenile:

(i) To visit the juvenile's family for the purpose of strengthening or preserving family relationships;

(ii) To make plans for parole or release which require the juvenile's personal appearance in the community and which will facilitate the juvenile's reintegration into the community; or

(iii) To make plans for a residential placement out of the juvenile's home which requires the juvenile's personal appearance in the community.

(3) No authorized leave may exceed seven consecutive days. The total of all preminimum term authorized leaves granted to a juvenile prior to final discharge from confinement shall not exceed thirty days.

(4) Prior to authorizing a leave, the secretary shall require a written leave plan, which shall detail the purpose of the leave and how it is to be achieved, the address at which the juvenile shall reside, the identity of the person responsible for supervising the juvenile during the leave, and a statement by such person acknowledging familiarity with the leave plan and agreeing to supervise the juvenile and to notify the secretary immediately if the juvenile violates any terms or conditions of the leave. The leave plan shall include such terms and conditions as the secretary deems appropriate and shall be signed by the juvenile.

(5) Upon authorizing a leave, the secretary shall issue to the juvenile an authorized leave order which shall contain the name of the juvenile, the fact that the juvenile is on leave from a designated facility, the time period of the leave, and the identity of an appropriate official of the department to contact when necessary. The authorized leave order shall be carried by the juvenile at all times while on leave.

(6) Prior to the commencement of any authorized leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will reside during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave.

(7) The secretary may authorize a leave, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the period of time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. In cases of emergency or medical leave the secretary may waive all or any portions of subsections (2)(a), (3), (4), (5), and (6) of this section.

(8) If requested by the juvenile's victim or the victim's immediate family, the secretary shall give notice of any leave or

community transition services under subsection (13) of this section to the victim or the victim's immediate family.

(9) A juvenile who violates any condition of an authorized leave plan or community transition services under subsection (13) of this section may be taken into custody and returned to the department in the same manner as an adult in identical circumstances.

(10) Community transition services is an electronic monitoring program as that term is used in RCW 9A.76.130.

(11) Notwithstanding the provisions of this section, a juvenile placed in minimum security status or in community transition services under subsection (13) of this section may participate in work, educational, community restitution, or treatment programs in the community up to twelve hours a day if approved by the secretary. Such a release shall not be deemed a leave of absence. This authorization may be increased to more than twelve hours a day up to sixteen hours a day if approved by the secretary and operated within the department's appropriations.

(12) Subsections (6), (7), and (8) of this section do not apply to juveniles covered by RCW 13.40.215.

(13)(a) The department may require a person in its custody to serve the remainder of the person's sentence in community transition services if the department determines that such placement is in the best interest of the person and the community using the risk assessment tool and considering the availability of appropriate placements, treatment, and programming. The department's determination described under this subsection must include consideration of the person's behavior while in confinement and any disciplinary considerations. The department shall establish appropriate conditions the person must comply with to remain in community transition services. A person must have served 60 percent of their minimum term of confinement and no less than 15 weeks of total confinement including time spent in detention prior to sentencing or the entry of a dispositional order before becoming eligible for community transition services under the authority and supervision of the department.

(b) A person placed in community transition services under this section must have access to appropriate treatment and programming as determined by the department, including but not limited to:

- (i) Behavioral health treatment;
- (ii) Independent living;
- (iii) Employment;
- (iv) Education;
- (v) Connections to family and natural supports; and
- (vi) Community connections.

(c) Community transition services under this section is in lieu of confinement in an institution or community facility operated by the department, and will not fulfill any period of parole required under RCW 13.40.210.

(d) If a person placed in community transition services under this section violates a condition of participation in the community transition services program, or if the department determines that placement in the program is no longer in the best interests of the person or community, the person may be returned to an institution operated by the department at the department's discretion.

(e) The following persons are not eligible for community transition services under this section:

- (i) Persons with pending charges or warrants;



(ii) Persons who will be transferred to the department of corrections, who are in the custody of the department of corrections, or who are under the supervision of the department of corrections;

(iii) Persons who were adjudicated or convicted of the crime of murder in the first or second degree;

(iv) Persons who meet the definition of a "persistent offender" as defined under RCW 9.94A.030;

(v) Level III sex offenders; and

(vi) Persons requiring out-of-state placement.

(14) The department shall design, or contract for the design, and implement a risk assessment tool. The tool must be designed to limit bias related to race, ethnicity, gender, and age. The risk assessment tool must be certified at least every three years based on current academic standards for assessment validation, and can be certified by the office of innovation, alignment, and accountability or an outside researcher. [2021 c 206 § 4; 2019 c 468 § 1; 2002 c 175 § 26; 1990 c 3 § 103; 1983 c 191 § 10.]

**Contingent effective date—Findings—Appropriation—Rental vouchers—2021 c 206:** See notes following RCW 72.01.412.

**Effective date—2002 c 175:** See note following RCW 7.80.130.

**RCW 13.40.210 Setting of release date—Administrative release authorized, when—Parole program, revocation or modification of, scope—Intensive supervision program—Parole officer's right of arrest.** (1)

The secretary shall set a release date for each juvenile committed to its custody. The release date shall be within the prescribed range to which a juvenile has been committed under RCW 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning offenders the department determines are eligible for the juvenile offender basic training camp program. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter. Days spent in the custody of the department shall be tolled by any period of time during which a juvenile has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities. When the secretary concludes that in-residence population of residential facilities exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary has authority to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined

by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing court of the release at the time of release if any such early releases have occurred as a result of excessive in-residence population. In no event shall an offender adjudicated of a violent offense be granted release under the provisions of this subsection.

(3) (a) Following the release of any juvenile under subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months, except that in the case of a juvenile sentenced for rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, or indecent liberties with forcible compulsion, the period of parole shall be twenty-four months and, in the discretion of the secretary, may be up to thirty-six months when the secretary finds that an additional period of parole is necessary and appropriate in the interests of public safety or to meet the ongoing needs of the juvenile. A parole program is mandatory for offenders released under subsection (2) of this section and for offenders who receive a juvenile residential commitment sentence for theft of a motor vehicle, possession of a stolen motor vehicle, or taking a motor vehicle without permission 1. A juvenile adjudicated for unlawful possession of a firearm, possession of a stolen firearm, theft of a firearm, or drive-by shooting may participate in aggression replacement training, functional family therapy, or functional family parole aftercare if the juvenile meets eligibility requirements for these services. The decision to place an offender in an evidence-based parole program shall be based on an assessment by the department of the offender's risk for reoffending upon release and an assessment of the ongoing treatment needs of the juvenile. The department shall prioritize available parole resources to provide supervision and services to offenders at moderate to high risk for reoffending.

(b) The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal shall require the juvenile to refrain from possessing a firearm or using a deadly weapon and refrain from committing new offenses and may require the juvenile to: (i) Undergo available medical, psychiatric, drug and alcohol, sex offender, mental health, and other offense-related treatment services; (ii) report as directed to a parole officer and/or designee; (iii) pursue a course of study, vocational training, or employment; (iv) notify the parole officer of the current address where he or she resides; (v) be present at a particular address during specified hours; (vi) remain within prescribed geographical boundaries; (vii) submit to electronic monitoring; (viii) refrain from using illegal drugs and alcohol, and submit to random urinalysis when requested by the assigned parole officer; (ix) refrain from contact with specific individuals or a specified class of individuals; (x) meet other conditions determined by the parole officer to further enhance the juvenile's reintegration into the community; (xi) pay any court-ordered fines or restitution; and (xii) perform community restitution. Community restitution for the purpose of this section means compulsory service, without compensation, performed for the benefit of the community by the offender. Community restitution may be performed through public or private organizations or through work crews.

(c) The secretary may further require up to twenty-five percent of the highest risk juvenile offenders who are placed on parole to participate in an intensive supervision program. Offenders participating in an intensive supervision program shall be required to comply with all terms and conditions listed in (b) of this subsection and shall also be required to comply with the following additional terms and conditions: (i) Obey all laws and refrain from any conduct that threatens public safety; (ii) report at least once a week to an assigned community case manager; and (iii) meet all other requirements imposed by the community case manager related to participating in the intensive supervision program. As a part of the intensive supervision program, the secretary may require day reporting.

(d) After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4) (a) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (i) Continued supervision under the same conditions previously imposed; (ii) intensified supervision with increased reporting requirements; (iii) additional conditions of supervision authorized by this chapter; (iv) except as provided in (a) (v) and (vi) of this subsection, imposition of a period of confinement not to exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days or weeks spent under supervision; (v) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined by RCW 9.94A.030; and (vi) the secretary may order any of the conditions or may return the offender to confinement for the remainder of the sentence range if the youth has completed the basic training camp program as described in RCW 13.40.320.

(b) The secretary may modify parole and order any of the conditions or may return the offender to confinement for up to twenty-four weeks if the offender was sentenced for a sex offense as defined under RCW 9A.44.128 and is known to have violated the terms of parole. Confinement beyond thirty days is intended to only be used for a small and limited number of sex offenders. It shall only be used when other graduated sanctions or interventions have not been effective or the behavior is so egregious it warrants the use of the higher level intervention and the violation: (i) Is a known pattern of behavior consistent with a previous sex offense that puts the youth at high risk for reoffending sexually; (ii) consists of sexual behavior that is determined to be predatory as defined in RCW 71.09.020; or (iii) requires a review under chapter 71.09 RCW, due to a recent overt act. The total number of days of confinement for violations of parole conditions during the parole period shall not exceed the number of days provided by the maximum sentence imposed by the disposition for the underlying offense pursuant to RCW 13.40.0357. The department shall not aggregate multiple parole violations that occur prior to the

parole revocation hearing and impose consecutive twenty-four week periods of confinement for each parole violation. The department is authorized to engage in rule making pursuant to chapter 34.05 RCW, to implement this subsection, including narrowly defining the behaviors that could lead to this higher level intervention.

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

(5) A parole officer of the department of children, youth, and families shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest the person.

(6) If so requested and approved under chapter 13.06 RCW, the secretary shall permit a county or group of counties to perform functions under subsections (3) through (5) of this section. [2017 3rd sp.s. c 6 § 609; 2014 c 117 § 3; 2009 c 187 § 1. Prior: 2007 c 203 § 1; 2007 c 199 § 13; 2002 c 175 § 27; prior: 2001 c 137 § 2; 2001 c 51 § 1; 1997 c 338 § 32; 1994 sp.s. c 7 § 527; 1990 c 3 § 304; 1987 c 505 § 4; 1985 c 287 § 1; 1985 c 257 § 4; 1983 c 191 § 11; 1979 c 155 § 71; 1977 ex.s. c 291 § 75.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Applicability—2007 c 203:** "This act applies prospectively only and not retroactively. It applies only to juvenile offenders who have been adjudicated for an offense that occurred on or after October 1, 2007." [2007 c 203 § 2.]

**Effective date—2007 c 203:** "This act takes effect October 1, 2007." [2007 c 203 § 3.]

**Findings—Intent—Short title—2007 c 199:** See notes following RCW 9A.56.065.

**Effective date—2002 c 175:** See note following RCW 7.80.130.

**Effective date—2001 c 51:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 17, 2001]." [2001 c 51 § 2.]

**Findings—Intent—1997 c 338 §§ 32 and 34:** See note following RCW 13.40.212.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Intent—1985 c 257 § 4:** "To promote both public safety and the welfare of juvenile offenders, it is the intent of the legislature that services to juvenile offenders be delivered in the most effective and efficient means possible. Section 4 of this act facilitates those objectives by permitting counties to supervise parole of juvenile offenders. This is consistent with the philosophy of chapter 13.06 RCW to deliver community services to juvenile offenders comprehensively at the county level." [1985 c 257 § 3.]

**Severability—1985 c 257:** See note following RCW 13.34.165.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**Effective dates—Severability—1977 ex.s. c 291:** See notes following RCW 13.04.005.

**RCW 13.40.212 Intensive supervision program—Elements.** The department shall, no later than January 1, 1999, implement an intensive supervision program as a part of its parole services that includes, at a minimum, the following program elements:

(1) A process of case management involving coordinated and comprehensive planning, information exchange, continuity and consistency, service provision and referral, and monitoring. The components of the case management system shall include assessment, classification, and selection criteria; individual case planning that incorporates a family and community perspective; a mixture of intensive surveillance and services; a balance of incentives and graduated consequences coupled with the imposition of realistic, enforceable conditions; and service brokerage with community resources and linkage with social networks;

(2) Administration of transition services that transcend traditional agency boundaries and professional interests and include courts, institutions, aftercare, education, social and mental health services, substance abuse treatment, and employment and vocational training; and

(3) A plan for information management and program evaluation that maintains close oversight over implementation and quality control, and determines the effectiveness of both the processes and outcomes of the program. [2020 c 262 § 6; 1997 c 338 § 34.]

**Findings—Intent—1997 c 338 §§ 32 and 34:** "The legislature finds the present system of transitioning youths from residential status to parole status to discharge is insufficient to provide adequate rehabilitation and public safety in many instances, particularly in cases of offenders at highest risk of reoffending. The legislature further finds that an intensive supervision program based on the following principles holds much promise for positively impacting recidivism rates for juvenile offenders: (1) Progressive increase in responsibility and freedom in the community; (2) facilitation of youths' interaction and involvement with their communities; (3) involvement of both the youth and targeted community support systems

such as family, peers, schools, and employers, on the qualities needed for constructive interaction and successful adjustment with the community; (4) development of new resources, supports, and opportunities where necessary; and (5) ongoing monitoring and testing of youth on their ability to abide by community rules and standards.

The legislature intends for the department to create an intensive supervision program based on the principles stated in this section that will be available to the highest risk juvenile offenders placed on parole." [1997 c 338 § 33.]

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**RCW 13.40.213 Juveniles alleged to have committed offenses of prostitution or prostitution loitering—Diversion. (Effective until January 1, 2024.)** (1) When a juvenile is alleged to have committed the offenses of prostitution or prostitution loitering, and the allegation, if proved, would not be the juvenile's first offense, a prosecutor may divert the offense if the county in which the offense is alleged to have been committed has a comprehensive program that provides:

- (a) Safe and stable housing;
- (b) Comprehensive on-site case management;
- (c) Integrated mental health and chemical dependency services, including specialized trauma recovery services;
- (d) Education and employment training delivered on-site; and
- (e) Referrals to off-site specialized services, as appropriate.

(2) A prosecutor may divert a case for prostitution or prostitution loitering into the comprehensive program described in this section, notwithstanding the filing criteria set forth in RCW 13.40.070(5).

(3) A diversion agreement under this section may extend to twelve months.

(4) (a) The administrative office of the courts shall compile data regarding:

- (i) The number of juveniles whose cases are diverted into the comprehensive program described in this section;
- (ii) Whether the juveniles complete their diversion agreements under this section; and
- (iii) Whether juveniles whose cases have been diverted under this section have been subsequently arrested or committed subsequent offenses.

(b) An annual report of the data compiled shall be provided to the governor and the appropriate committee of the legislature. The first report is due by November 1, 2010. [2010 c 289 § 8; 2009 c 252 § 2.]

**Findings—2009 c 252:** "The legislature finds that juveniles involved in the commercial sex trade are sexually exploited and that they face extreme threats to their physical and emotional well-being. In order to help them break out of the isolation, fear, and danger of the commercial sex trade and to assist them in their recovery from the

resulting mental and physical harm and in the development of skills that will allow them to become independent and achieve long-term security, these juveniles are in critical need of comprehensive services, including housing, mental health counseling, education, employment, chemical dependency treatment, and skill building. The legislature further finds that a diversion program to provide these comprehensive services, working within existing resources in the counties which prosecute juveniles for prostitution and prostitution loitering, may be an appropriate alternative to the prosecution of juveniles involved in the commercial sex trade." [2009 c 252 § 1.]

**RCW 13.40.213 Juveniles alleged to have committed a prostitution loitering offense—Diversion. (Effective January 1, 2024.)** (1) When a juvenile is alleged to have committed a prostitution loitering offense, and the allegation, if proved, would not be the juvenile's first offense, a prosecutor may divert the offense if the county in which the offense is alleged to have been committed has a comprehensive program that provides:

- (a) Safe and stable housing;
- (b) Comprehensive on-site case management;
- (c) Integrated mental health and chemical dependency services, including specialized trauma recovery services;
- (d) Education and employment training delivered on-site; and
- (e) Referrals to off-site specialized services, as appropriate.

(2) A prosecutor may divert a case for prostitution loitering into the comprehensive program described in this section, notwithstanding the filing criteria set forth in RCW 13.40.070(5).

(3) A diversion agreement under this section may extend to twelve months.

(4) (a) The administrative office of the courts shall compile data regarding:

- (i) The number of juveniles whose cases are diverted into the comprehensive program described in this section;
- (ii) Whether the juveniles complete their diversion agreements under this section; and
- (iii) Whether juveniles whose cases have been diverted under this section have been subsequently arrested or committed subsequent offenses.

(b) An annual report of the data compiled shall be provided to the governor and the appropriate committee of the legislature. [2020 c 331 § 6; 2010 c 289 § 8; 2009 c 252 § 2.]

**Effective date—2020 c 331 §§ 4, 5, and 6:** See note following RCW 7.68.380.

**Finding—2020 c 331:** See note following RCW 7.68.380.

**Findings—2009 c 252:** "The legislature finds that juveniles involved in the commercial sex trade are sexually exploited and that they face extreme threats to their physical and emotional well-being. In order to help them break out of the isolation, fear, and danger of the commercial sex trade and to assist them in their recovery from the resulting mental and physical harm and in the development of skills that will allow them to become independent and achieve long-term security, these juveniles are in critical need of comprehensive

services, including housing, mental health counseling, education, employment, chemical dependency treatment, and skill building. The legislature further finds that a diversion program to provide these comprehensive services, working within existing resources in the counties which prosecute juveniles for prostitution and prostitution loitering, may be an appropriate alternative to the prosecution of juveniles involved in the commercial sex trade." [2009 c 252 § 1.]

**RCW 13.40.215 Juveniles found to have committed violent or sex offense or stalking—Notification of discharge, parole, leave, release, transfer, or escape—To whom given—School attendance—Definitions. (Contingent expiration date.)**

(1) (a) Except as provided in subsection (2) of this section, at the earliest practicable date, and in no event later than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking, to the following:

(i) The chief of police of the city, if any, in which the juvenile will reside; and  
(ii) The sheriff of the county in which the juvenile will reside.

(b) (i) Except as provided in subsection (2) of this section, at the earliest practicable date, and in no event later than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of an individual who is found to have committed a violent offense or a sex offense, is twenty-one years of age or younger, and has not received a high school diploma or its equivalent, to the designated recipient of the school where the juvenile either: (A) Was enrolled prior to incarceration or detention; or (B) has expressed an intention to enroll following his or her release. This notice must also include the restrictions described in subsection (5) of this section.

(ii) The community residential facility shall provide written notice of the offender's criminal history to the designated recipient of any school that the offender attends while residing at the community residential facility and to any employer that employs the offender while residing at the community residential facility.

(iii) As used in this subsection, "designated recipient" means: (A) The superintendent of the school district, or his or her designee, of a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW; (B) the administrator of a charter public school governed by chapter 28A.710 RCW; or (C) the administrator of a private school approved under chapter 28A.195 RCW.

(c) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific juvenile:

(i) The victim of the offense for which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the juvenile in any court proceedings involving the offense; and



(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the juvenile. The notice to the chief of police or the sheriff shall include the identity of the juvenile, the residence where the juvenile will reside, the identity of the person, if any, responsible for supervising the juvenile, and the time period of any authorized leave.

(d) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical furloughs.

(e) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) (a) If a juvenile found to have committed a violent offense, a sex offense, or stalking escapes from a facility of the department, the secretary shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the juvenile resided immediately before the juvenile's arrest. If previously requested, the secretary shall also notify the witnesses and the victim of the offense which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide. If the juvenile is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(b) The secretary may authorize a leave, for a juvenile found to have committed a violent offense, a sex offense, or stalking, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. Prior to the commencement of an emergency or medical leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will be during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave. If previously requested, the department shall also notify the witnesses and victim of the offense which the juvenile was found to have committed or the victim's next of kin if the offense was a homicide.

In case of an emergency or medical leave the secretary may waive all or any portion of the requirements for leaves pursuant to RCW 13.40.205 (2) (a), (3), (4), and (5).

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The secretary shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) Upon discharge, parole, transfer to a community residential facility, or other authorized leave or release, a convicted juvenile sex offender shall not attend a public or approved private elementary,

middle, or high school that is attended by a victim or a sibling of a victim of the sex offender. The parents or legal guardians of the convicted juvenile sex offender shall be responsible for transportation or other costs associated with or required by the sex offender's change in school that otherwise would be paid by a school district.

(6) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Stalking" means the crime of stalking as defined in RCW 9A.46.110;

(d) "Next of kin" means a person's spouse, parents, siblings, and children. [2020 c 167 § 7; 1999 c 198 § 1; 1997 c 265 § 2; 1995 c 324 § 1. Prior: 1994 c 129 § 6; 1994 c 78 § 1; 1993 c 27 § 1; 1990 c 3 § 101.]

**Severability—1997 c 265:** See note following RCW 13.40.160.

**Findings—Intent—1994 c 129:** See note following RCW 4.24.550.

**RCW 13.40.215 Juveniles found to have committed violent or sex offense or stalking—Notification of discharge, parole, leave, release, transfer, or escape—To whom given—School attendance—**

**Definitions. (Contingent effective date.)** (1) (a) Except as provided in subsection (2) of this section, at the earliest practicable date, and in no event later than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility or community transition services program, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense, a sex offense, or stalking, to the following:

(i) The chief of police of the city, if any, in which the juvenile will reside; and

(ii) The sheriff of the county in which the juvenile will reside.

(b) (i) Except as provided in subsection (2) of this section, at the earliest practicable date, and in no event later than thirty days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility or community transition services program, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of an individual who is found to have committed a violent offense or a sex offense, is twenty-one years of age or younger, and has not received a high school diploma or its equivalent, to the designated recipient of the school where the juvenile either: (A) Was enrolled prior to incarceration or detention; or (B) has expressed an intention to enroll following his or her release. This notice must also include the restrictions described in subsection (5) of this section.

(ii) The community residential facility shall provide written notice of the offender's criminal history to the designated recipient of any school that the offender attends while residing at the community residential facility and to any employer that employs the offender while residing at the community residential facility.

(iii) As used in this subsection, "designated recipient" means:  
(A) The superintendent of the school district, or his or her designee, of a common school as defined in RCW 28A.150.020 or a school that is the subject of a state-tribal education compact under chapter 28A.715 RCW; (B) the administrator of a charter public school governed by chapter 28A.710 RCW; or (C) the administrator of a private school approved under chapter 28A.195 RCW.

(c) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific juvenile:

(i) The victim of the offense for which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the juvenile in any court proceedings involving the offense; and

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the juvenile. The notice to the chief of police or the sheriff shall include the identity of the juvenile, the residence where the juvenile will reside, the identity of the person, if any, responsible for supervising the juvenile, and the time period of any authorized leave.

(d) The thirty-day notice requirements contained in this subsection shall not apply to emergency medical furloughs.

(e) The existence of the notice requirements in this subsection will not require any extension of the release date in the event the release plan changes after notification.

(2) (a) If a juvenile found to have committed a violent offense, a sex offense, or stalking escapes from a facility of the department, the secretary shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the juvenile resided immediately before the juvenile's arrest. If previously requested, the secretary shall also notify the witnesses and the victim of the offense which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide. If the juvenile is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(b) The secretary may authorize a leave, for a juvenile found to have committed a violent offense, a sex offense, or stalking, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. Prior to the commencement of an emergency or medical leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will be during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave. If previously requested, the department shall also notify the witnesses and victim of the

offense which the juvenile was found to have committed or the victim's next of kin if the offense was a homicide.

In case of an emergency or medical leave the secretary may waive all or any portion of the requirements for leaves pursuant to RCW 13.40.205 (2)(a), (3), (4), and (5).

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The secretary shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) Upon discharge, parole, transfer to a community residential facility, or other authorized leave or release, a convicted juvenile sex offender shall not attend a public or approved private elementary, middle, or high school that is attended by a victim or a sibling of a victim of the sex offender. The parents or legal guardians of the convicted juvenile sex offender shall be responsible for transportation or other costs associated with or required by the sex offender's change in school that otherwise would be paid by a school district.

(6) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Stalking" means the crime of stalking as defined in RCW 9A.46.110;

(d) "Next of kin" means a person's spouse, parents, siblings, and children. [2021 c 206 § 5; 2020 c 167 § 7; 1999 c 198 § 1; 1997 c 265 § 2; 1995 c 324 § 1. Prior: 1994 c 129 § 6; 1994 c 78 § 1; 1993 c 27 § 1; 1990 c 3 § 101.]

**Contingent effective date—Findings—Appropriation—Rental vouchers—2021 c 206:** See notes following RCW 72.01.412.

**Severability—1997 c 265:** See note following RCW 13.40.160.

**Findings—Intent—1994 c 129:** See note following RCW 4.24.550.

**RCW 13.40.217 Juveniles adjudicated of sex offenses—Release of information authorized.** (1) In addition to any other information required to be released under this chapter, the department is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public concerning juveniles adjudicated of sex offenses.

(2) In order for public agencies to have the information necessary for notifying the public about sex offenders as authorized in RCW 4.24.550, the secretary shall issue to appropriate law enforcement agencies narrative notices regarding the pending release of sex offenders from the department's juvenile rehabilitation facilities. The narrative notices shall, at a minimum, describe the identity and criminal history behavior of the offender and shall include the department's risk level classification for the offender. For sex offenders classified as either risk level II or III, the

narrative notices shall also include the reasons underlying the classification.

(3) For the purposes of this section, the department shall classify as risk level I those offenders whose risk assessments indicate a low risk of reoffense within the community at large. The department shall classify as risk level II those offenders whose risk assessments indicate a moderate risk of reoffense within the community at large. The department shall classify as risk level III those offenders whose risk assessments indicate a high risk of reoffense within the community at large. [1997 c 364 § 2; 1990 c 3 § 102.]

**Severability—1997 c 364:** See note following RCW 4.24.550.

**RCW 13.40.219 Arrest for prostitution or prostitution loitering—Alleged offender—Victim of severe form of trafficking, commercial sex abuse of a minor.** In any proceeding under this chapter related to an arrest for prostitution or prostitution loitering, there is a presumption that the alleged offender meets the criteria for a certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States code, and that the alleged offender is also a victim of commercial sex abuse of a minor. [2010 c 289 § 9.]

**RCW 13.40.230 Appeal from order of disposition—Jurisdiction—Procedure—Scope—Release pending appeal.** (1) Dispositions reviewed pursuant to RCW 13.40.160 shall be reviewed in the appropriate division of the court of appeals.

An appeal under this section shall be heard solely upon the record that was before the disposition court. No written briefs may be required, and the appeal shall be heard within thirty days following the date of sentencing and a decision rendered within fifteen days following the argument. The supreme court shall promulgate any necessary rules to effectuate the purposes of this section.

(2) To uphold a disposition outside the standard range, the court of appeals must find (a) that the reasons supplied by the disposition judge are supported by the record which was before the judge and that those reasons clearly and convincingly support the conclusion that a disposition within the range would constitute a manifest injustice, and (b) that the sentence imposed was neither clearly excessive nor clearly too lenient.

(3) If the court does not find subsection (2)(a) of this section it shall remand the case for disposition within the standard range.

(4) If the court finds subsection (2)(a) but not subsection (2)(b) of this section it shall remand the case with instructions for further proceedings consistent with the provisions of this chapter.

(5) The disposition court may impose conditions on release pending appeal as provided in RCW \*13.40.040(4) and 13.40.050(6).

(6) Appeal of a disposition under this section does not affect the finality or appeal of the underlying adjudication of guilt. [1997 c 338 § 35; 1981 c 299 § 16; 1979 c 155 § 72; 1977 ex.s. c 291 § 77.]

**\*Reviser's note:** RCW 13.40.040 was amended by 2002 c 171 § 2, changing subsection (4) to subsection (5).

~~Finding—Evaluation—Report—1997 c 338~~: See note following RCW 13.40.0357.

~~Severability—Effective dates—1997 c 338~~: See notes following RCW 5.60.060.

~~Effective date—Severability—1979 c 155~~: See notes following RCW 13.04.011.

~~Effective dates—Severability—1977 ex.s. c 291~~: See notes following RCW 13.04.005.

**RCW 13.40.240 Construction of RCW references to juvenile delinquents or juvenile delinquency.** All references to juvenile delinquents or juvenile delinquency in other chapters of the Revised Code of Washington shall be construed as meaning juvenile offenders or the commitment of an offense by juveniles as defined by this chapter. [1977 ex.s. c 291 § 78.]

~~Effective dates—Severability—1977 ex.s. c 291~~: See notes following RCW 13.04.005.

**RCW 13.40.250 Traffic infraction, transit infraction, and civil infraction cases—Diversion agreements.** A traffic infraction, transit infraction, or civil infraction case involving a juvenile under the age of sixteen may be diverted in accordance with the provisions of this chapter or filed in juvenile court.

(1) If a notice of a traffic infraction, transit infraction, or civil infraction is filed in juvenile court, the juvenile named in the notice shall be afforded the same due process afforded to adult defendants in traffic infraction cases.

(2) A monetary penalty imposed upon a juvenile under the age of sixteen who is found to have committed a traffic infraction, transit infraction, or civil infraction may not exceed one hundred dollars. At the juvenile's request, the court may order performance of a number of hours of community restitution in lieu of a monetary penalty, at the rate of the prevailing state minimum wage per hour.

(3) A diversion agreement entered into by a juvenile referred pursuant to this section shall be limited to thirty hours of community restitution, or educational or informational sessions.

(4) Traffic infractions, transit infractions, or civil infractions referred to a youth court pursuant to this section are subject to the conditions imposed by RCW 13.40.630.

(5) A diversion agreement entered into by a juvenile referred pursuant to this section may include a requirement that the juvenile participate in a district or municipal youth court program under chapter 3.72 RCW, provided the youth court program accepts the referral and only subject to the following conditions:

(a) Upon entering the diversion agreement, the juvenile shall be referred to the youth court program, the completion of which shall be the only condition of the diversion agreement;

(b) The juvenile shall not serve more than thirty hours of participation in the youth court program;

(c) Other than filing a petition for termination of the diversion agreement in juvenile court, nothing concerning the juvenile's participation in the youth court program shall be filed in any public court file concerning the juvenile's participation or presence in the youth court program. The only written record of participation shall be the diversion agreement entered into with the juvenile court, subject to confidentiality under chapter 13.50 RCW. No court cause number shall be assigned to the case against the juvenile while he or she participates in the youth court program. The proceedings in the youth court program shall be on open record and may be recorded if necessary;

(d) Nothing concerning the alleged offense or the diversion shall be reported to the department of licensing;

(e) The youth court program may refer the juvenile back to the juvenile diversion unit for termination of the diversion agreement due to noncompliance at any time prior to completion; and

(f) The juvenile court diversion unit shall maintain primary jurisdiction over supervision of the juvenile during his or her participation in the youth court program. The youth court shall notify the diversion unit upon completion of the youth court program and the diversion agreement shall be complete. [2020 c 191 § 5. Prior: 2002 c 237 § 19; 2002 c 175 § 28; 1997 c 338 § 36; 1980 c 128 § 16.]

**Effective date—2002 c 175:** See note following RCW 7.80.130.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Effective date—Severability—1980 c 128:** See notes following RCW 46.63.060.

**RCW 13.40.265 Firearm, alcohol, and drug violations.** (1) If a juvenile thirteen years of age or older is found by juvenile court to have committed an offense while armed with a firearm or an offense that is a violation of RCW 9.41.040(2)(a)(vii) or chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court shall notify the department of licensing within twenty-four hours after entry of the judgment, unless the offense is the juvenile's first offense while armed with a firearm, first unlawful possession of a firearm offense, or first offense in violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court may at any time the court deems appropriate notify the department of licensing that the juvenile's driving privileges should be reinstated.

(3) If the offense is the juvenile's second or subsequent violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the date the juvenile turns seventeen or one year after the date judgment was entered, whichever is later. [2022 c 268 § 40; 2020 c 18 § 11; 2016 c

136 § 6; 2003 c 53 § 101; 1997 c 338 § 37; 1994 sp.s. c 7 § 435; 1989 c 271 § 116; 1988 c 148 § 2.]

**Effective dates—2022 c 268:** See note following RCW 7.105.010.

**Explanatory statement—2020 c 18:** See note following RCW 43.79A.040.

**Intent—Effective date—2003 c 53:** See notes following RCW 2.48.180.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Effective date—1994 sp.s. c 7 §§ 401-410, 413-416, 418-437, and 439-460:** See note following RCW 9.41.010.

**Severability—1989 c 271:** See note following RCW 9.94A.510.

**Legislative finding—1988 c 148:** "The legislature finds that many persons under the age of eighteen unlawfully use intoxicating liquor and controlled substances. The use of these substances by juveniles can cause serious damage to their physical, mental, and emotional well-being, and in some instances results in lifelong disabilities.

The legislature also finds that juveniles who unlawfully use alcohol and controlled substances frequently operate motor vehicles while under the influence of and impaired by alcohol or drugs. Juveniles who use these substances often have seriously impaired judgment and motor skills and pose an unduly high risk of causing injury or death to themselves or other persons on the public highways.

The legislature also finds that juveniles will be deterred from the unlawful use of alcohol and controlled substances if their driving privileges are suspended or revoked for using illegal drugs or alcohol." [1988 c 148 § 1.]

**Severability—1988 c 148:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 148 § 10.]

**RCW 13.40.280 Transfer of juvenile to department of corrections facility—Grounds—Hearing—Term—Retransfer to a facility for juveniles.** (1) The secretary of the department of children, youth, and families, with the consent of the secretary of the department of corrections, has the authority to transfer a juvenile presently or hereafter committed to the department of children, youth, and families to the department of corrections for appropriate institutional placement in accordance with this section.



(2) The secretary of the department of children, youth, and families may, with the consent of the secretary of the department of corrections, transfer a juvenile offender to the department of corrections if it is established at a hearing before a review board that continued placement of the juvenile offender in an institution for juvenile offenders presents a continuing and serious threat to the safety of others in the institution. The department of children, youth, and families shall establish rules for the conduct of the hearing, including provision of counsel for the juvenile offender.

(3) Assaults made against any staff member at a juvenile corrections institution that are reported to a local law enforcement agency shall require a hearing held by the department of children, youth, and families review board within ten judicial working days. The board shall determine whether the accused juvenile offender represents a continuing and serious threat to the safety of others in the institution.

(4) Upon conviction in a court of law for custodial assault as defined in RCW 9A.36.100, the department of children, youth, and families review board shall conduct a second hearing, within five judicial working days, to recommend to the secretary of the department of children, youth, and families that the convicted juvenile be transferred to an adult correctional facility if the review board has determined the juvenile offender represents a continuing and serious threat to the safety of others in the institution.

The juvenile has the burden to show cause why the transfer to an adult correctional facility should not occur.

(5) A juvenile offender transferred to an institution operated by the department of corrections shall not remain in such an institution beyond the maximum term of confinement imposed by the juvenile court.

(6) A juvenile offender who has been transferred to the department of corrections under this section may, in the discretion of the secretary of the department of children, youth, and families and with the consent of the secretary of the department of corrections, be transferred from an institution operated by the department of corrections to a facility for juvenile offenders deemed appropriate by the secretary. [2017 3rd sp.s. c 6 § 611. Prior: 1989 c 410 § 2; 1989 c 407 § 8; 1983 c 191 § 22.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:**  
See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Purpose—1989 c 410:** "The legislature recognizes the ever-increasing severity of offenses committed by juvenile offenders residing in this state's juvenile detention facilities and the increasing aggressive nature of detained juveniles due to drugs and gang-related violence. The purpose of this act is to provide necessary protection to state employees and juvenile residents of these institutions from assaults committed against them by juvenile detainees." [1989 c 410 § 1.]

**RCW 13.40.285 Juvenile offender sentenced to terms in juvenile and adult facilities—Transfer to department of corrections—Term of**

**confinement.** A juvenile offender ordered to serve a term of confinement with the department of children, youth, and families who is subsequently sentenced to the department of corrections may, with the consent of the department of corrections, be transferred by the secretary of children, youth, and families to the department of corrections to serve the balance of the term of confinement ordered by the juvenile court. The juvenile and adult sentences shall be served consecutively. In no case shall the secretary credit time served as a result of an adult conviction against the term of confinement ordered by the juvenile court. [2017 3rd sp.s. c 6 § 612; 1983 c 191 § 23.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**RCW 13.40.300 Commitment of juvenile beyond age twenty-one prohibited—Exceptions—Commitment up to age twenty-five permitted under certain circumstances—Jurisdiction of juvenile court after juvenile's eighteenth birthday.** (1) Except as provided in subsection (2) of this section, a juvenile offender may not be committed by the juvenile court to the department of children, youth, and families for placement in a juvenile rehabilitation facility beyond the juvenile offender's twenty-first birthday.

(2) A juvenile offender adjudicated of an A++ juvenile disposition category offense listed in RCW 13.40.0357, or found to be armed with a firearm and sentenced to an additional twelve months pursuant to RCW 13.40.193(3)(b), may be committed by the juvenile court to the department of children, youth, and families for placement in a juvenile rehabilitation facility up to the juvenile offender's twenty-fifth birthday, but not beyond.

(3) A juvenile may be under the jurisdiction of the juvenile court or the authority of the department of children, youth, and families beyond the juvenile's eighteenth birthday only if prior to the juvenile's eighteenth birthday:

(a) Proceedings are pending seeking the adjudication of a juvenile offense and the court by written order setting forth its reasons extends jurisdiction of juvenile court over the juvenile beyond his or her eighteenth birthday, except:

(i) If the court enters a written order extending jurisdiction under this subsection, it shall not extend jurisdiction beyond the juvenile's twenty-first birthday;

(ii) If the order fails to specify a specific date, it shall be presumed that jurisdiction is extended to age twenty-one; and

(iii) If the juvenile court previously extended jurisdiction beyond the juvenile's eighteenth birthday, and that period of extension has not expired, the court may further extend jurisdiction by written order setting forth its reasons;

(b) The juvenile has been found guilty after a fact finding or after a plea of guilty and an automatic extension is necessary to allow for the imposition of disposition;

(c) Disposition has been held and an automatic extension is necessary to allow for the execution and enforcement of the court's order of disposition, subject to the following:

(i) If an order of disposition imposes commitment to the department, then jurisdiction is automatically extended to include a period of up to twelve months of parole, in no case extending beyond the offender's twenty-first birthday, except;

(ii) If an order of disposition imposes a commitment to the department for a juvenile offender adjudicated of an A++ juvenile disposition category offense listed in RCW 13.40.0357, or found to be armed with a firearm and sentenced to an additional twelve months pursuant to RCW 13.40.193(3)(b), then jurisdiction for parole is automatically extended to include a period of up to twenty-four months of parole, in no case extending beyond the offender's twenty-fifth birthday;

(d) While proceedings are pending in a case in which jurisdiction is vested in the adult criminal court pursuant to RCW 13.04.030, the juvenile turns eighteen years of age and is subsequently found not guilty of the charge for which he or she was transferred, or is convicted in the adult criminal court of an offense that is not also an offense listed in RCW 13.04.030(1)(e)(v), and an automatic extension is necessary to impose the juvenile disposition as required by RCW 13.04.030(1)(e)(v)(C)(II); or

(e) Pursuant to the terms of RCW 13.40.190 and 13.40.198, the juvenile court maintains jurisdiction beyond the juvenile offender's twenty-first birthday for the purpose of enforcing an order of restitution or penalty assessment.

(4) Except as otherwise provided herein, in no event may the juvenile court have authority to extend jurisdiction over any juvenile offender beyond the juvenile offender's twenty-first birthday.

(5) Notwithstanding any extension of jurisdiction over a person pursuant to this section, the juvenile court has no jurisdiction over any offenses alleged to have been committed by a person eighteen years of age or older. [2019 c 322 § 3; 2018 c 162 § 7; (2018 c 162 § 6 expired July 1, 2019); 2017 3rd sp.s. c 6 § 613; 2005 c 238 § 2; 2000 c 71 § 2; 1994 sp.s. c 7 § 530; 1986 c 288 § 6; 1983 c 191 § 17; 1981 c 299 § 17; 1979 c 155 § 73; 1975 1st ex.s. c 170 § 1. Formerly RCW 13.04.260.]

**Findings—Intent—2019 c 322:** See note following RCW 72.01.410.

**Effective date—2018 c 162 §§ 2 and 7:** See note following RCW 13.04.030.

**Expiration date—2018 c 162 §§ 1 and 6:** See note following RCW 13.04.030.

**Report to legislature—2019 c 322 §§ 2-6; 2018 c 162:** See RCW 13.04.800.

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Effective date—2000 c 71:** See note following RCW 13.40.198.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**Severability—1986 c 288:** See note following RCW 43.185C.260.

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**RCW 13.40.301 Department to protect younger children in confinement from older youth confined pursuant to 2018 c 162.** The department must take appropriate actions to protect younger children in confinement from older youth who may be confined pursuant to chapter 162, Laws of 2018, recognizing both the potential for positive mentorship and the potential risks relating to victimization and the exercise of negative influence. The court may exercise oversight if needed to accomplish the goals of this section. [2018 c 162 § 8.]

**Report to legislature—2019 c 322 §§ 2-6; 2018 c 162:** See RCW 13.04.800.

**RCW 13.40.305 Juvenile offender adjudicated of theft of motor vehicle, possession of stolen vehicle, taking motor vehicle without permission in the first degree, taking motor vehicle without permission in the second degree—Local sanctions—Evaluation.** If a juvenile is adjudicated of theft of a motor vehicle under RCW 9A.56.065, possession of a stolen vehicle under RCW 9A.56.068, taking a motor vehicle without permission in the first degree as defined in RCW 9A.56.070(1), or taking a motor vehicle without permission in the second degree as defined in RCW 9A.56.075(1) and is sentenced to local sanctions, the juvenile's disposition shall include an evaluation to determine whether the juvenile is in need of community-based rehabilitation services and to complete any treatment recommended by the evaluation. [2007 c 199 § 12.]

**Findings—Intent—Short title—2007 c 199:** See notes following RCW 9A.56.065.

**RCW 13.40.308 Juvenile offender adjudicated of taking motor vehicle without permission in the first degree, theft of motor vehicle, possession of a stolen vehicle, taking motor vehicle without permission in the second degree—Minimum sentences.** (1) If a respondent is adjudicated of taking a motor vehicle without permission in the first degree as defined in RCW 9A.56.070, the court shall impose the following minimum sentence, in addition to any restitution the court may order payable to the victim:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes no less than three months of community supervision, forty-five hours of community restitution, and a requirement that the juvenile remain at home such that the juvenile is confined to a private residence for no less than five days. The juvenile may be subject to electronic monitoring where available. If the juvenile is enrolled in school, the confinement shall be served on nonschool days;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to a standard range sentence that includes six months of community supervision, no less than ten days of detention, and ninety hours of community restitution; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than fifteen to thirty-six weeks commitment to the juvenile rehabilitation administration, four months of parole supervision, and ninety hours of community restitution.

(2) If a respondent is adjudicated of theft of a motor vehicle as defined under RCW 9A.56.065, or possession of a stolen vehicle as defined under RCW 9A.56.068, the court shall impose the following minimum sentence, in addition to any restitution the court may order payable to the victim:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes no less than three months of community supervision and either ninety hours of community restitution or a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than five days, or a combination thereof that includes a minimum of three days home confinement and a minimum of forty hours of community restitution. The juvenile may be subject to electronic monitoring where available;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to a standard range sentence that includes no less than six months of community supervision, no less than ten days of detention, and ninety hours of community restitution; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than fifteen to thirty-six weeks commitment to the juvenile rehabilitation administration, four months of parole supervision, and ninety hours of community restitution.

(3) If a respondent is adjudicated of taking a motor vehicle without permission in the second degree as defined in RCW 9A.56.075, the court shall impose a standard range as follows:

(a) Juveniles with a prior criminal history score of zero to one-half points shall be sentenced to a standard range sentence that includes three months of community supervision, fifteen hours of community restitution, and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than one day. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring where available;

(b) Juveniles with a prior criminal history score of three-quarters to one and one-half points shall be sentenced to a standard range sentence that includes no less than one day of detention, three months of community supervision, thirty hours of community restitution, and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than two days. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring where available; and

(c) Juveniles with a prior criminal history score of two or more points shall be sentenced to no less than three days of detention, six months of community supervision, forty-five hours of community restitution, and a requirement that the juvenile remain at home such that the juvenile is confined in a private residence for no less than

seven days. If the juvenile is enrolled in school, the confinement shall be served on nonschool days. The juvenile may be subject to electronic monitoring where available. [2016 c 136 § 4; 2009 c 454 § 4; 2007 c 199 § 15.]

**Findings—Intent—Short title—2007 c 199:** See notes following RCW 9A.56.065.

**RCW 13.40.310 Transitional treatment program for gang and drug-involved juvenile offenders.** (1) The department may contract with a community-based nonprofit organization to establish a three-step transitional treatment program for gang and drug-involved juvenile offenders committed to the custody of the department under this chapter. Any such program shall provide six to twenty-four months of treatment. The program shall emphasize the principles of self-determination, unity, collective work and responsibility, cooperative economics, and creativity. The program shall be culturally relevant and appropriate and shall include:

(a) A culturally relevant and appropriate institution-based program that provides comprehensive drug and alcohol services, individual and family counseling, and a wilderness experience of constructive group living, rigorous physical exercise, and academic studies;

(b) A culturally relevant and appropriate community-based structured group living program that focuses on individual goals, positive community involvement, coordinated drug and alcohol treatment, coordinated individual and family counseling, academic and vocational training, and employment in apprenticeship, internship, and entrepreneurial programs; and

(c) A culturally relevant and appropriate transitional group living program that provides support services, academic services, and coordinated individual and family counseling.

(2) Participation in any such program shall be on a voluntary basis.

(3) The department shall adopt rules as necessary to implement any such program. [2017 3rd sp.s. c 6 § 614; 1991 c 326 § 4.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Finding—1991 c 326:** "The legislature finds that a destructive lifestyle of drug and street gang activity is rapidly becoming prevalent among some of the state's youths. Gang and drug activity may be a culturally influenced phenomenon which the legislature intends public and private agencies to consider and address in prevention and treatment programs. Gang and drug-involved youths are more likely to become addicted to drugs or alcohol, live in poverty, experience high unemployment, be incarcerated, and die of violence than other youths." [1991 c 326 § 3.]

**RCW 13.40.320 Juvenile offender basic training camp program.**

(1) The department may establish a medium security juvenile offender basic training camp program. This program for juvenile offenders serving a term of confinement under the supervision of the department is exempt from the licensing requirements of chapter 74.15 RCW.

(2) The department may contract under this chapter with private companies, the national guard, or other federal, state, or local agencies to operate the juvenile offender basic training camp.

(3) The juvenile offender basic training camp shall be a structured and regimented model emphasizing the building up of an offender's self-esteem, confidence, and discipline. The juvenile offender basic training camp program shall provide participants with basic education, prevocational training, work-based learning, work experience, work ethic skills, conflict resolution counseling, substance abuse intervention, anger management counseling, and structured intensive physical training. The juvenile offender basic training camp program shall have a curriculum training and work schedule that incorporates a balanced assignment of these or other rehabilitation and training components for no less than sixteen hours per day, six days a week.

The department shall develop standards for the safe and effective operation of the juvenile offender basic training camp program, for an offender's successful program completion, and for the continued after-care supervision of offenders who have successfully completed the program.

(4) Offenders eligible for the juvenile offender basic training camp option shall be those with a disposition of not more than sixty-five weeks. Violent and sex offenders shall not be eligible for the juvenile offender basic training camp program.

(5) If the court determines that the offender is eligible for the juvenile offender basic training camp option, the court may recommend that the department place the offender in the program. The department shall evaluate the offender and may place the offender in the program. The evaluation shall include, at a minimum, a risk assessment developed by the department and designed to determine the offender's suitability for the program. No juvenile who is assessed as a high risk offender or suffers from any mental or physical problems that could endanger his or her health or drastically affect his or her performance in the program shall be admitted to or retained in the juvenile offender basic training camp program.

(6) All juvenile offenders eligible for the juvenile offender basic training camp sentencing option shall spend one hundred twenty days of their disposition in a juvenile offender basic training camp. This period may be extended for up to forty days by the secretary if a juvenile offender requires additional time to successfully complete the basic training camp program. If the juvenile offender's activities while in the juvenile offender basic training camp are so disruptive to the juvenile offender basic training camp program, as determined by the secretary according to standards developed by the department, as to result in the removal of the juvenile offender from the juvenile offender basic training camp program, or if the offender cannot complete the juvenile offender basic training camp program due to medical problems, the secretary shall require that the offender be committed to a juvenile institution to serve the entire remainder of his or her disposition, less the amount of time already served in the juvenile offender basic training camp program.

(7) All offenders who successfully graduate from the juvenile offender basic training camp program shall spend the remainder of their disposition on parole in a department juvenile rehabilitation intensive aftercare program in the local community. Violation of the conditions of parole is subject to sanctions specified in RCW 13.40.210(4). The program shall provide for the needs of the offender based on his or her progress in the aftercare program as indicated by ongoing assessment of those needs and progress. The intensive aftercare program shall monitor postprogram juvenile offenders and assist them to successfully reintegrate into the community. In addition, the program shall develop a process for closely monitoring and assessing public safety risks. The intensive aftercare program shall be designed and funded by the department.

(8) The department shall also develop and maintain a database to measure recidivism rates specific to this incarceration program. The database shall maintain data on all juvenile offenders who complete the juvenile offender basic training camp program for a period of two years after they have completed the program. The database shall also maintain data on the criminal activity, educational progress, and employment activities of all juvenile offenders who participated in the program. [2017 3rd sp.s. c 6 § 615; 2015 3rd sp.s. c 23 § 1; 2002 c 354 § 234; 2001 c 137 § 1; 1997 c 338 § 38; 1995 c 40 § 1; 1994 sp.s. c 7 § 532.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Short title—Headings, captions not law—Severability—Effective dates—2002 c 354:** See RCW 41.80.907 through 41.80.910.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**Findings and intent—Juvenile basic training camps—1994 sp.s. c 7:** "The legislature finds that the number of juvenile offenders and the severity of their crimes is increasing rapidly statewide. In addition, many juvenile offenders continue to reoffend after they are released from the juvenile justice system causing disproportionately high and expensive rates of recidivism.

The legislature further finds that juvenile criminal behavior is often the result of a lack of self-discipline, the lack of systematic work habits and ethics, the inability to deal with authority figures, and an unstable or unstructured living environment. The legislature further finds that the department of social and health services currently operates an insufficient number of confinement beds to meet the rapidly growing juvenile offender population. Together these factors are combining to produce a serious public safety hazard and the need to develop more effective and stringent juvenile punishment and rehabilitation options.



The legislature intends that juvenile offenders who enter the state rehabilitation system have the opportunity and are given the responsibility to become more effective participants in society by enhancing their personal development, work ethics, and life skills. The legislature recognizes that structured incarceration programs for juvenile offenders such as juvenile offender basic training camps, can instill the self-discipline, accountability, self-esteem, and work ethic skills that could discourage many offenders from returning to the criminal justice system. Juvenile offender basic training camp incarceration programs generally emphasize life skills training, prevocational work skills training, anger management, dealing with difficult at-home family problems and/or abuses, discipline, physical training, structured and intensive work activities, and educational classes. The legislature further recognizes that juvenile offenders can benefit from a highly structured basic training camp environment and the public can also benefit through increased public protection and reduced cost due to lowered rates of recidivism." [1994 sp.s. c 7 § 531.]

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**RCW 13.40.400 Applicability of RCW 10.01.040 to chapter.** The provisions of RCW 10.01.040 apply to chapter 13.40 RCW. [1979 c 155 § 74.]

**Effective date—Severability—1979 c 155:** See notes following RCW 13.04.011.

**RCW 13.40.430 Disparity in disposition of juvenile offenders—Data collection.** The administrative office of the courts shall collect such data as may be necessary to monitor any disparity in processing or disposing of cases involving juvenile offenders due to economic, gender, geographic, or racial factors that may result from implementation of section 1, chapter 373, Laws of 1993. The administrative office of the courts may, in consultation with juvenile courts, determine a format for the collection of such data and a schedule for the reporting of such data and shall keep a minimum of five years of data at any given time. [2005 c 282 § 27; 2003 c 207 § 13; 1993 c 373 § 2.]

**Severability—1993 c 373:** See note following RCW 13.40.020.

**RCW 13.40.460 Juvenile rehabilitation programs—Administration.** The secretary or the secretary's designee shall manage and administer the department's juvenile rehabilitation responsibilities, including but not limited to the operation of all state institutions or facilities used for juvenile rehabilitation.

The secretary or the secretary's designee shall:

(1) Prepare a biennial budget request sufficient to meet the confinement and rehabilitative needs of the juvenile rehabilitation program, as forecast by the office of financial management;

(2) Create by rule a formal system for inmate classification. This classification system shall consider:

(a) Public safety;  
(b) Internal security and staff safety;  
(c) Rehabilitative resources both within and outside the department;

(d) An assessment of each offender's risk of sexually aggressive behavior as provided in RCW 13.40.470; and

(e) An assessment of each offender's vulnerability to sexually aggressive behavior as provided in RCW 13.40.470;

(3) Develop agreements with local jurisdictions to develop regional facilities with a variety of custody levels;

(4) Adopt rules establishing effective disciplinary policies to maintain order within institutions;

(5) Develop a comprehensive diagnostic evaluation process to be used at intake, including but not limited to evaluation for substance addiction or abuse, literacy, learning disabilities, fetal alcohol syndrome or effect, attention deficit disorder, and mental health;

(6) Develop placement criteria:

(a) To avoid assigning youth who present a moderate or high risk of sexually aggressive behavior to the same sleeping quarters as youth assessed as vulnerable to sexual victimization under RCW 13.40.470(1)(c); and

(b) To avoid placing a juvenile offender on parole status who has been assessed as a moderate to high risk for sexually aggressive behavior in a department community residential program with another child who is: (i) Dependent under chapter 13.34 RCW, or an at-risk youth or child in need of services under chapter 13.32A RCW; and (ii) not also a juvenile offender on parole status;

(7) Develop a plan to implement, by July 1, 1995:

(a) Substance abuse treatment programs for all state juvenile rehabilitation facilities and institutions;

(b) Vocational education and instruction programs at all state juvenile rehabilitation facilities and institutions; and

(c) An educational program to establish self-worth and responsibility in juvenile offenders. This educational program shall emphasize instruction in character-building principles such as: Respect for self, others, and authority; victim awareness; accountability; work ethics; good citizenship; and life skills; and

(8)(a) The department shall develop uniform policies related to custodial assaults consistent with RCW 72.01.045 and 9A.36.100 that are to be followed in all juvenile rehabilitation facilities; and

(b) The department will report assaults in accordance with the policies developed in (a) of this subsection. [2017 3rd sp.s. c 6 § 616; 2003 c 229 § 1; 1999 c 372 § 2; 1997 c 386 § 54; 1994 sp.s. c 7 § 516.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Implementation deadline—1997 c 386 § 54:** "The policy developed under RCW 13.40.460(6)(b) shall be implemented within the juvenile

rehabilitation administration and the division of children and family services by July 1, 1998." [1997 c 386 § 55.]

**Finding—Intent—1997 c 386 §§ 50-55:** See note following RCW 13.40.470.

**Finding—Intent—Severability—1994 sp.s. c 7:** See notes following RCW 43.70.540.

**RCW 13.40.462 Reinvesting in youth program.** (1) The department shall establish a reinvesting in youth program that awards grants to counties for implementing research-based early intervention services that target juvenile justice-involved youth and reduce crime, subject to the availability of amounts appropriated for this specific purpose.

(2) Effective July 1, 2007, any county or group of counties may apply for participation in the reinvesting in youth program.

(3) Counties that participate in the reinvesting in youth program shall have a portion of their costs of serving youth through the research-based intervention service models paid for with moneys from the reinvesting in youth account established pursuant to RCW 13.40.466.

(4) The department shall review county applications for funding through the reinvesting in youth program and shall select the counties that will be awarded grants with funds appropriated to implement this program. The department, in consultation with the Washington state institute for public policy, shall develop guidelines to determine which counties will be awarded funding in accordance with the reinvesting in youth program. At a minimum, counties must meet the following criteria in order to participate in the reinvesting in youth program:

(a) Counties must match state moneys awarded for research-based early intervention services with nonstate resources that are at least proportional to the expected local government share of state and local government cost avoidance that would result from the implementation of such services;

(b) Counties must demonstrate that state funds allocated pursuant to this section are used only for the intervention service models authorized pursuant to RCW 13.40.464;

(c) Counties must participate fully in the state quality assurance program established in RCW 13.40.468 to ensure fidelity of program implementation. If no state quality assurance program is in effect for a particular selected research-based service, the county must submit a quality assurance plan for state approval with its grant application. Failure to demonstrate continuing compliance with quality assurance plans shall be grounds for termination of state funding; and

(d) Counties that submit joint applications must submit for approval by the department multicounty plans for efficient program delivery. [2017 3rd sp.s. c 6 § 617; 2011 1st sp.s. c 32 § 4; 2006 c 304 § 2.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Transition plan—Report to the legislature—2011 1st sp.s. c 32:**  
See note following RCW 70.305.005.

**Finding—Intent—2006 c 304:** "The legislature finds that there are youth and family-focused intervention services that have been proven through rigorous evaluation in the state of Washington and elsewhere to significantly reduce violence and crime while saving more public safety dollars than they cost. Under current state laws, no local government acting alone has the financial incentive to invest in these cost-effective services because the savings accrue to multiple levels of government with the largest savings going to the state. It is the intent of the legislature to create incentives for local government to invest in cost-effective intervention services that reduce crime by reimbursing local governments with a portion of the cost savings that accrue to the state as the result of local investments in such services." [2006 c 304 § 1.]

**Entitlement not created—2006 c 304:** "Nothing in this act creates an entitlement for a county or group of counties to receive funding under the program in sections 2 and 3 of this act." [2006 c 304 § 8.]

**Effective date—2006 c 304:** "This act takes effect July 1, 2006." [2006 c 304 § 9.]

**RCW 13.40.464 Reinvesting in youth program—Guidelines.** (1)(a) In order to receive funding through the reinvesting in youth program established pursuant to RCW 13.40.462, intervention service models must meet the following minimum criteria:

(i) There must be scientific evidence from at least one rigorous evaluation study of the specific service model that measures recidivism reduction;

(ii) There must be evidence that the specific service model's results can be replicated outside of an academic research environment;

(iii) The evaluation or evaluations of the service model must permit dollar cost estimates of both benefits and costs so that the benefit-cost ratio of the model can be calculated; and

(iv) The public taxpayer benefits to all levels of state and local government must exceed the service model costs.

(b) In calendar year 2006, for use beginning in fiscal year 2008, the Washington state institute for public policy shall publish a list of service models that are eligible for reimbursement through the investing in youth program. As authorized by the board of the institute and to the extent necessary to respond to new research and information, the institute shall periodically update the list of service models. The institute shall use the technical advisory committee established in \*RCW 13.40.462(5) to review and provide comments on the list of service models that are eligible for reimbursement.

(2) In calendar year 2006, for use beginning in fiscal year 2008, the Washington state institute for public policy shall review and update the methodology for calculating cost savings resulting from implementation of this program. As authorized by the board of the institute and to the extent necessary to respond to new research and information, the institute shall periodically further review and update the methodology. As authorized by the board of the institute,

when the institute reviews and updates the methodology for calculating cost savings, the institute shall provide an estimate of savings and avoided costs resulting from this program, along with a projection of future savings and avoided costs, to the appropriate committees of the legislature. The institute shall use the technical advisory committee established in \*RCW 13.40.462(5) to review and provide comments on its methodology and cost calculations.

(3) In calendar year 2006, for use beginning in fiscal year 2008, the department shall establish a distribution formula to provide funding to local governments that implement research-based intervention services pursuant to this program. The department shall periodically update the distribution formula. The distribution formula shall require that the state allocation to local governments be proportional to the expected state government share of state and local government cost avoidance that would result from the implementation of such services based on the methodology maintained by the Washington state institute for public policy pursuant to subsection (2) of this section. The department shall use the technical advisory committee established in \*RCW 13.40.462(5) to review and provide comments on its proposed distribution formula. [2017 3rd sp.s. c 6 § 618; 2006 c 304 § 3.]

**\*Reviser's note:** RCW 13.40.462 was amended by 2011 1st sp.s. c 32 § 4, deleting subsection (5).

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Finding—Intent—Entitlement not created—Effective date—2006 c 304:** See notes following RCW 13.40.462.

**RCW 13.40.466 Reinvesting in youth account.** (1) The reinvesting in youth account is created in the state treasury. Moneys in the account shall be spent only after appropriation. Expenditures from the account may be used to reimburse local governments for the implementation of the reinvesting in youth program established in RCW 13.40.462 and 13.40.464. During the 2013-2015 fiscal biennium, the legislature may appropriate moneys from the reinvesting in youth account for juvenile rehabilitation purposes.

(2) Revenues to the reinvesting in youth account consist of revenues appropriated to or deposited in the account.

(3) The department shall review and monitor the expenditures made by any county or group of counties that is funded, in whole or in part, with funds provided through the reinvesting in youth account. Counties shall repay any funds that are not spent in accordance with RCW 13.40.462 and 13.40.464. [2017 3rd sp.s. c 6 § 619; 2013 2nd sp.s. c 4 § 953; 2006 c 304 § 4.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Effective dates—2013 2nd sp.s. c 4:** See note following RCW 2.68.020.

**Finding—Intent—Entitlement not created—Effective date—2006 c 304:** See notes following RCW 13.40.462.

**RCW 13.40.468 Juvenile rehabilitation administration—State quality assurance program.** The department shall establish a state quality assurance program. The department shall monitor the implementation of intervention services funded pursuant to RCW 13.40.466 and shall evaluate adherence to service model design and service completion rate. [2017 3rd sp.s. c 6 § 620; 2006 c 304 § 6.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Finding—Intent—Entitlement not created—Effective date—2006 c 304:** See notes following RCW 13.40.462.

**RCW 13.40.470 Vulnerable youth committed to residential facilities—Protection from sexually aggressive youth—Assessment process.** (1) The department shall implement a policy for protecting youth committed to state-operated or state-funded residential facilities under this chapter who are vulnerable to sexual victimization by other youth committed to those facilities who are sexually aggressive. The policy shall include, at a minimum, the following elements:

(a) Development and use of an assessment process for identifying youth, within thirty days of commitment to the department, who present a moderate or high risk of sexually aggressive behavior for the purposes of this section. The assessment process need not require that every youth who is adjudicated or convicted of a sex offense as defined in RCW 9.94A.030 be determined to be sexually aggressive, nor shall a sex offense adjudication or conviction be required in order to determine a youth is sexually aggressive. Instead, the assessment process shall consider the individual circumstances of the youth, including his or her age, physical size, sexual abuse history, mental and emotional condition, and other factors relevant to sexual aggressiveness. The definition of "sexually aggressive youth" in RCW 74.13.075 does not apply to this section to the extent that it conflicts with this section;

(b) Development and use of an assessment process for identifying youth, within thirty days of commitment to the department, who may be vulnerable to victimization by youth identified under (a) of this subsection as presenting a moderate or high risk of sexually aggressive behavior. The assessment process shall consider the individual circumstances of the youth, including his or her age, physical size, sexual abuse history, mental and emotional condition, and other factors relevant to vulnerability;

(c) Development and use of placement criteria to avoid assigning youth who present a moderate or high risk of sexually aggressive

behavior to the same sleeping quarters as youth assessed as vulnerable to sexual victimization, except that they may be assigned to the same multiple-person sleeping quarters if those sleeping quarters are regularly monitored by visual surveillance equipment or staff checks;

(d) Development and use of procedures for minimizing, within available funds, unsupervised contact in state-operated or state-funded residential facilities between youth presenting moderate to high risk of sexually aggressive behavior and youth assessed as vulnerable to sexual victimization. The procedures shall include taking reasonable steps to prohibit any youth committed under this chapter who present a moderate to high risk of sexually aggressive behavior from entering any sleeping quarters other than the one to which they are assigned, unless accompanied by an authorized adult.

(2) For the purposes of this section, the following terms have the following meanings:

(a) "Sleeping quarters" means the bedrooms or other rooms within a residential facility where youth are assigned to sleep.

(b) "Unsupervised contact" means contact occurring outside the sight or hearing of a responsible adult for more than a reasonable period of time under the circumstances. [1997 c 386 § 50.]

**Finding—Intent—1997 c 386 §§ 50-55:** "The legislature finds that the placement of children and youth in state-operated or state-funded residential facilities must be done in such a manner as to protect children who are vulnerable to sexual victimization from youth who are sexually aggressive. To achieve this purpose, the legislature intends the department of social and health services to develop a policy for assessing sexual aggressiveness and vulnerability to sexual victimization of children and youth who are placed in state-operated or state-funded residential facilities." [1997 c 386 § 49.]

**RCW 13.40.480 Student records and information—Reasons for release—Who may request.** (1) Pursuant to RCW 28A.600.475, and to the extent permitted by the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g(b), and in order to serve the juvenile while in detention and to prepare any postconviction services, schools shall make all student records and information necessary for risk assessment, security classification, and placement available to court personnel and the department within three working days of a request under this section.

(2) (a) When a juvenile has one or more prior convictions, a request for records shall be made by the county prosecuting attorney, or probation department if available, to the school not more than ten days following the juvenile's arrest or detention, whichever occurs later, and prior to trial. The request may be made by subpoena.

(b) Where a juvenile has no prior conviction, a request to release records shall be made by subpoena upon the juvenile's conviction. When the request for a juvenile's student records and information is made by subpoena following conviction, the court or other issuing agency shall order the school on which the subpoena is served not to disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena. When the court or issuing agency so orders, the school shall not provide notice to the juvenile or his or her parents. [1998 c 269 § 12.]

~~Intent—Finding—Effective date—1998 c 269~~: See notes following RCW 72.05.020.

**RCW 13.40.500 Community juvenile accountability programs—Findings—Purpose.** The legislature finds that meaningful community involvement is vital to the juvenile justice system's ability to respond to the serious problem of juvenile crime. Citizens and crime victims need to be active partners in responding to crime, in the management of resources, and in the disposition decisions regarding juvenile offenders in their community. Involvement of citizens and crime victims increase offender accountability and build healthier communities, which will reduce recidivism and crime rates in Washington state.

The legislature also finds that local governments are in the best position to develop, coordinate, and manage local community prevention, intervention, and corrections programs for juvenile offenders, and to determine local resource priorities. Local community management will build upon local values and increase local control of resources, encourage the use of a comprehensive range of community-based intervention strategies.

The primary purpose of RCW 13.40.500 through 13.40.540, the community juvenile accountability act, is to provide a continuum of community-based programs that emphasize the juvenile offender's accountability for his or her actions while assisting him or her in the development of skills necessary to function effectively and positively in the community in a manner consistent with public safety. [1997 c 338 § 60.]

**Evaluation—Report—1997 c 338 §§ 60-64:** "The Washington state institute for public policy shall evaluate the costs and benefits of the programs funded in sections 60 through 64 of this act. The evaluation must measure whether the programs cost-effectively reduce recidivism and crime rates in Washington state. The institute shall submit reports to the governor and the legislature by December 1, 1998, and December 1, 2000." [1997 c 338 § 65.]

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**RCW 13.40.510 Community juvenile accountability programs—Establishment—Proposals—Guidelines.** (1) In order to receive funds under RCW 13.40.500 through 13.40.540, local governments may, through their respective agencies that administer funding for consolidated juvenile services, submit proposals that establish community juvenile accountability programs within their communities. These proposals must be submitted to the department for certification.

(2) The proposals must:

(a) Demonstrate that the proposals were developed with the input of the local law and justice councils established under RCW 72.09.300;



(b) Describe how local community groups or members are involved in the implementation of the programs funded under RCW 13.40.500 through 13.40.540;

(c) Include a description of how the grant funds will contribute to the expected outcomes of the program and the reduction of youth violence and juvenile crime in their community. Data approaches are not required to be replicated if the networks have information that addresses risks in the community for juvenile offenders.

(3) A local government receiving a grant under this section shall agree that any funds received must be used efficiently to encourage the use of community-based programs that reduce the reliance on secure confinement as the sole means of holding juvenile offenders accountable for their crimes. The local government shall also agree to account for the expenditure of all funds received under the grant and to submit to audits for compliance with the grant criteria developed under RCW 13.40.520.

(4) The department, in consultation with the Washington association of juvenile court administrators and the state law and justice advisory council, shall establish guidelines for programs that may be funded under RCW 13.40.500 through 13.40.540. The guidelines must:

(a) Target referred and diverted youth, as well as adjudicated juvenile offenders;

(b) Include assessment methods to determine services, programs, and intervention strategies most likely to change behaviors and norms of juvenile offenders;

(c) Provide maximum structured supervision in the community. Programs should use natural surveillance and community guardians such as employers, relatives, teachers, clergy, and community mentors to the greatest extent possible;

(d) Promote good work ethic values and educational skills and competencies necessary for the juvenile offender to function effectively and positively in the community;

(e) Maximize the efficient delivery of treatment services aimed at reducing risk factors associated with the commission of juvenile offenses;

(f) Maximize the reintegration of the juvenile offender into the community upon release from confinement;

(g) Maximize the juvenile offender's opportunities to make full restitution to the victims and amends to the community;

(h) Support and encourage increased court discretion in imposing community-based intervention strategies;

(i) Be compatible with research that shows which prevention and early intervention strategies work with juvenile offenders;

(j) Be outcome-based in that it describes what outcomes will be achieved or what outcomes have already been achieved;

(k) Include an evaluation component; and

(l) Recognize the diversity of local needs.

(5) The state law and justice advisory council may provide support and technical assistance to local governments for training and education regarding community-based prevention and intervention strategies.

(6) For purposes of this section and RCW \*13.40.541 and 13.40.511, "referred youth" means a youth who:

(a) Was contacted by a law enforcement officer and the law enforcement officer has probable cause to believe that he or she has committed a crime;

(b) Was referred to a program that allows youth to enter before being diverted or charged with a juvenile offense; and

(c) Would have been diverted or charged with a juvenile offense, if not for the program to which he or she was referred. [2019 c 461 § 1; 2017 3rd sp.s. c 6 § 621; 2010 1st sp.s. c 7 § 62; 1997 c 338 § 61.]

**\*Reviser's note:** RCW 13.40.541 expired July 1, 2021.

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7:** See note following RCW 43.03.027.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Evaluation—Report—1997 c 338 §§ 60-64:** See note following RCW 13.40.500.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**RCW 13.40.511 Community juvenile accountability programs—Stop loss policy—Funding for juvenile courts—Report to legislature.** (1) As of July 28, 2019, the block grant oversight committee must implement a stop loss policy when allocating funding under RCW 13.40.510. The stop loss policy must limit the loss in funding for any juvenile court from one year to the next. The block grant oversight committee must establish a minimum base level of funding for juvenile courts with lower numbers of at-risk youth ten years of age and over but under eighteen years of age. The department of children, youth, and families must report, in compliance with RCW 43.01.036, to the legislature by December 1, 2019, about how funding is used for referred youth and the impact of that use on overall use of funding.

(2) For purposes of this section, "block grant oversight committee" means a committee established by the juvenile rehabilitation division of the department of children, youth, and families and the juvenile courts that provides block grant funding formula oversight with equal representation from the juvenile rehabilitation division of the department of children, youth, and families and the juvenile courts. The purpose of this committee is to assess the ongoing implementation of the block grant funding formula, utilizing data-driven decision making and the most current available information. The committee is cochaired by the juvenile rehabilitation division of the department of children, youth, and families and the juvenile courts, who have the ability to change members of the committee as needed to achieve its purpose. [2019 c 461 § 3.]

**Reviser's note:** Although 2019 c 461 § 3 did not include a codification directive, codification in chapter 13.40 RCW appears to be appropriate.

**RCW 13.40.520 Community juvenile accountability programs—Grants.** (1) The state may make grants to local governments for the provision of community-based programs for juvenile offenders. The grants must be made under a grant formula developed by the department, in consultation with the Washington association of juvenile court administrators.

(2) Upon certification by the department that a proposal satisfies the application and selection criteria, grant funds will be distributed to the local government agency that administers funding for consolidated juvenile services. [2017 3rd sp.s. c 6 § 622; 1997 c 338 § 62.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Evaluation—Report—1997 c 338 §§ 60-64:** See note following RCW 13.40.500.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**RCW 13.40.530 Community juvenile accountability programs—Effectiveness standards.** The legislature recognizes the importance of evaluation and outcome measurements of programs serving juvenile offenders in order to ensure cost-effective use of public funds.

The Washington state institute for public policy shall develop standards for measuring the effectiveness of juvenile accountability programs established and approved under RCW 13.40.510. The standards must be developed and presented to the governor and legislature not later than January 1, 1998. The standards must include methods for measuring success factors following intervention. Success factors include, but are not limited to, continued use of alcohol or controlled substances, arrests, violations of terms of community supervision, convictions for subsequent offenses, and restitution to victims. [1997 c 338 § 63.]

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Evaluation—Report—1997 c 338 §§ 60-64:** See note following RCW 13.40.500.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**RCW 13.40.540 Community juvenile accountability programs—Information collection—Report.** (1) Each community juvenile accountability program approved and funded under RCW 13.40.500 through

13.40.540 shall comply with the information collection requirements in subsection (2) of this section and the reporting requirements in subsection (3) of this section.

(2) The information collected by each community juvenile accountability program must include, at a minimum for each juvenile participant: (a) The name, date of birth, gender, social security number, and, when available, the juvenile information system (JUVIS) control number; (b) an initial intake assessment of each juvenile participating in the program; (c) a list of all juveniles who completed the program; and (d) an assessment upon completion or termination of each juvenile, including outcomes and, where applicable, reasons for termination.

(3) The department shall annually compile the data and report to the legislature on: (a) The programs funded under RCW 13.40.500 through 13.40.540; (b) the total cost for each funded program and cost per juvenile; and (c) the essential elements of the program. [2017 3rd sp.s. c 6 § 623; 1997 c 338 § 64.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:** See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Evaluation—Report—1997 c 338 §§ 60-64:** See note following RCW 13.40.500.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**RCW 13.40.550 Community juvenile accountability programs—Short title.** RCW 13.40.500 through 13.40.540 may be known as the community juvenile accountability act. [1997 c 338 § 66.]

**Finding—Evaluation—Report—1997 c 338:** See note following RCW 13.40.0357.

**Severability—Effective dates—1997 c 338:** See notes following RCW 5.60.060.

**RCW 13.40.560 Juvenile accountability incentive account.** The juvenile accountability incentive account is created in the custody of the state treasurer. Federal awards for juvenile accountability incentives received by the secretary of the department shall be deposited into the account. Interest earned from the inception of the trust account shall be deposited in the account. Expenditures from the account may be used only for the purposes specified in the federal award or awards. Moneys in the account may be spent only after appropriation. [2017 3rd sp.s. c 6 § 624; 1999 c 182 § 1.]

**Effective date—2017 3rd sp.s. c 6 §§ 601-631, 701-728, and 804:**  
See note following RCW 13.04.011.

**Conflict with federal requirements—2017 3rd sp.s. c 6:** See RCW 43.216.908.

**RCW 13.40.570 Sexual misconduct by state employees, contractors.**

(1) When the secretary has reasonable cause to believe that sexual intercourse or sexual contact between an employee and an offender has occurred, notwithstanding any rule adopted under chapter 41.06 RCW the secretary shall immediately suspend the employee.

(2) The secretary shall immediately institute proceedings to terminate the employment of any person:

(a) Who is found by the department, based on a preponderance of the evidence, to have had sexual intercourse or sexual contact with the offender; or

(b) Upon a guilty plea or conviction for any crime specified in chapter 9A.44 RCW when the victim was an offender.

(3) When the secretary has reasonable cause to believe that sexual intercourse or sexual contact between the employee of a contractor and an offender has occurred, the secretary shall require the employee of a contractor to be immediately removed from any employment position which would permit the employee to have any access to any offender.

(4) The secretary shall disqualify for employment with a contractor in any position with access to an offender, any person:

(a) Who is found by the department, based on a preponderance of the evidence, to have had sexual intercourse or sexual contact with the offender; or

(b) Upon a guilty plea or conviction for any crime specified in chapter 9A.44 RCW when the victim was an offender.

(5) The secretary, when considering the renewal of a contract with a contractor who has taken action under subsection (3) or (4) of this section, shall require the contractor to demonstrate that there has been significant progress made in reducing the likelihood that any of its employees will have sexual intercourse or sexual contact with an offender. The secretary shall examine whether the contractor has taken steps to improve hiring, training, and monitoring practices and whether the employee remains with the contractor. The secretary shall not renew a contract unless he or she determines that significant progress has been made.

(6) (a) For the purposes of RCW 50.20.060, a person terminated under this section shall be considered discharged for misconduct.

(b) (i) The department may, within its discretion or upon request of any member of the public, release information to an individual or to the public regarding any person or contract terminated under this section.

(ii) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages for any discretionary release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity provided under this section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the public.

(iii) Except as provided in chapter 42.56 RCW, or elsewhere, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information authorized under this section. Nothing in this section implies that information regarding persons designated in subsection (2) of this section is confidential except as may otherwise be provided by law.

(7) The department shall adopt rules to implement this section. The rules shall reflect the legislative intent that this section prohibits individuals who are employed by the department or a contractor of the department from having sexual intercourse or sexual contact with offenders. The rules shall also reflect the legislative intent that when a person is employed by the department or a contractor of the department, and has sexual intercourse or sexual contact with an offender against the employed person's will, the termination provisions of this section shall not be invoked.

(8) As used in this section:

(a) "Contractor" includes all subcontractors of a contractor;

(b) "Offender" means a person under the jurisdiction or supervision of the department; and

(c) "Sexual intercourse" and "sexual contact" have the meanings provided in RCW 9A.44.010. [2005 c 274 § 210; 1999 c 72 § 1.]

**Application—1999 c 72:** "Nothing in section 1 or 2 of this act affects any collective bargaining agreement in place on July 25, 1999." [1999 c 72 § 3.]

**RCW 13.40.580 Youth courts—Diversion.** Youth courts provide a diversion for cases involving juvenile offenders, in which participants, under the supervision of an adult coordinator, may serve in various capacities within the program, acting in the role of jurors, lawyers, bailiffs, clerks, and judges. Youths who appear before youth courts are youths eligible for diversion pursuant to \*RCW 13.40.070 (6) and (7). Youth courts have no jurisdiction except as provided for in chapter 237, Laws of 2002. Youth courts are diversion units and not courts established under Article IV of the state Constitution. [2002 c 237 § 9.]

**\*Reviser's note:** RCW 13.40.070 was amended by 2010 c 289 § 7, changing subsection (7) to subsection (8).

**RCW 13.40.590 Youth court programs.** (1) The administrative office of the courts shall encourage the juvenile courts to work with cities and counties to implement, expand, or use youth court programs for juveniles who commit diversion-eligible offenses, civil, or traffic infractions. Program operations of youth court programs may be funded by government and private grants. Youth court programs are limited to those that:

(a) Are developed using the guidelines for creating and operating youth court programs developed by nationally recognized experts in youth court projects;

(b) Target offenders age eight through seventeen; and

(c) Emphasize the following principles:

(i) Youth must be held accountable for their problem behavior;

(ii) Youth must be educated about the impact their actions have on themselves and others including their victims, their families, and their community;

(iii) Youth must develop skills to resolve problems with their peers more effectively; and

(iv) Youth should be provided a meaningful forum to practice and enhance newly developed skills.

(2) Youth court programs under this section may be established by private nonprofit organizations and schools, upon prior approval and under the supervision of juvenile court. [2002 c 237 § 10.]

**RCW 13.40.600 Youth court jurisdiction.** (1) Youth courts have authority over juveniles ages eight through seventeen who:

(a) Along with their parent, guardian, or legal custodian, voluntarily and in writing request youth court involvement;

(b) Admit they have committed the offense they are referred for;

(c) Along with their parent, guardian, or legal custodian, waive any privilege against self-incrimination concerning the offense; and

(d) Along with their parent, guardian, or legal custodian, agree to comply with the youth court disposition of the case.

(2) Youth courts shall not exercise authority over youth who are under the continuing jurisdiction of the juvenile court for law violations, including a youth with a matter pending before the juvenile court but which has not yet been adjudicated.

(3) Youth courts may decline to accept a youth for youth court disposition for any reason and may terminate a youth from youth court participation at any time.

(4) A youth or his or her parent, guardian, or legal custodian may withdraw from the youth court process at any time.

(5) Youth courts shall give any victims of a juvenile the opportunity to be notified, present, and heard in any youth court proceeding. [2002 c 237 § 11.]

**RCW 13.40.610 Youth court notification of satisfaction of conditions.** Youth court may not notify the juvenile court of satisfaction of conditions until all ordered restitution has been paid. [2002 c 237 § 12.]

**RCW 13.40.620 Appearance before youth court with parent, guardian, or legal custodian.** Every youth appearing before a youth court shall be accompanied by his or her parent, guardian, or legal custodian. [2002 c 237 § 13.]

**RCW 13.40.630 Youth court dispositions.** (1) Youth court dispositional options include those delineated in RCW 13.40.080, and may also include:

(a) Participating in law-related education classes, appropriate counseling, treatment, or other education [educational] programs;

(b) Providing periodic reports to the youth court;

(c) Participating in mentoring programs;

(d) Serving as a participant in future youth court proceedings;

(e) Writing apology letters; or

(f) Writing essays.

(2) Youth courts shall not impose a term of confinement or detention. Youth courts may require that the youth pay reasonable fees to participate in youth court and in classes, counseling, treatment, or other educational programs that are the disposition of the youth court.

(3) A youth court disposition shall be completed within one hundred eighty days from the date of referral.

(4) Pursuant to RCW 13.40.080(1), a youth court disposition shall be reduced to writing and signed by the youth and his or her parent, guardian, or legal custodian accepting the disposition terms.

(5) [A] youth court shall notify the juvenile court upon successful or unsuccessful completion of the disposition.

(6) [A] youth court shall notify the prosecutor or probation counselor of a failure to successfully complete the youth court disposition. [2002 c 237 § 14.]

**RCW 13.40.640 Youth court nonrefundable fee.** A youth court may require that a youth pay a nonrefundable fee, not exceeding thirty dollars, to cover the costs of administering the program. The fee may be reduced or waived for a participant. Fees shall be paid to and accounted for by the youth court. [2002 c 237 § 15.]

**RCW 13.40.650 Use of restraints on pregnant youth in custody— Allowed in extraordinary circumstances.** (1) Except in extraordinary circumstances, no restraints of any kind may be used on any pregnant youth in an institution or detention facility covered by this chapter during transportation to and from visits to medical providers and court proceedings during the third trimester of her pregnancy, or during postpartum recovery. For purposes of this section, "extraordinary circumstances" exist where an employee at an institution or detention facility makes an individualized determination that restraints are necessary to prevent an incarcerated pregnant youth from escaping, or from injuring herself, medical or correctional personnel, or others. In the event the employee of the institution or detention facility determines that extraordinary circumstances exist and restraints are used, the employee of the institution or detention facility must fully document in writing the reasons that he or she determined such extraordinary circumstances existed such that restraints were used. As part of this documentation, the employee of the institution or detention facility must also include the kind of restraints used and the reasons those restraints were considered the least restrictive available and the most reasonable under the circumstances.

(2) While the pregnant youth is in labor or in childbirth no restraints of any kind may be used. Nothing in this section affects the use of hospital restraints requested for the medical safety of a patient by treating physicians licensed under Title 18 RCW.

(3) Anytime restraints are permitted to be used on a pregnant youth, the restraints must be the least restrictive available and the most reasonable under the circumstances, but in no case shall leg irons or waist chains be used on any youth known to be pregnant.

(4) No employee of the institution or detention facility shall be present in the room during the pregnant youth's labor or childbirth, unless specifically requested by medical personnel. If the employee's



presence is requested by medical personnel, the employee should be female, if practicable.

(5) If the doctor, nurse, or other health professional treating the pregnant youth requests that restraints not be used, the employee of the institution or detention facility accompanying the pregnant youth shall immediately remove all restraints. [2010 c 181 § 11.]

**RCW 13.40.651 Use of restraints on pregnant youth in custody— Provision of information to staff and pregnant youth in custody.** (1) The director of the juvenile detention facility shall provide an informational packet about the requirements of chapter 181, Laws of 2010 to all medical staff and nonmedical staff who are involved in the transportation of youth who are pregnant, as well as such other staff as appropriate. The informational packet provided to staff under this section shall be developed as provided in RCW 70.48.800.

(2) The director shall cause the requirements of chapter 181, Laws of 2010 to be provided to all youth who are pregnant, at the time the facility assumes custody of the person. In addition, the facility shall cause a notice containing the requirements of chapter 181, Laws of 2010 to be posted in conspicuous locations in the detention facilities, including but not limited to the locations in which medical care is provided within the facilities. [2010 c 181 § 12.]

**RCW 13.40.660 Exchange of intimate images by minors—Findings— Work group.** (1) The legislature finds that exchange of intimate images by minors is increasingly common, and that such actions may lead to harm and long-term consequences. The legislature intends to develop age-appropriate prevention and interventions to prevent harm and to hold accountable youth who harm others through exchange of intimate images.

(2) The Washington coalition of sexual assault programs, in consultation with the office of the superintendent of public instruction, the Washington association for the treatment of sexual abusers, the department of children, youth, and families, the department of social and health services, the juvenile court administrators, the Washington association of prosecuting attorneys, representatives from public defense, youth representatives, and other relevant stakeholders, shall convene a work group to make recommendations to the legislature regarding age-appropriate prevention and intervention strategies to address potential harms caused by exchange of intimate images by minors.

(3) By December 1, 2019, the work group shall make a report to the legislature identifying education, prevention, and other responses to the harms that may be associated with exchange of intimate images by minors. [2019 c 128 § 2.]

**Short title—2019 c 128:** "This act may be known and cited as the responsible teen communications act." [2019 c 128 § 1.]

**RCW 13.40.720 Imposition of legal financial obligations—City, town, or county authority.** Cities, towns, and counties may not impose any legal financial obligations, fees, fines, or costs associated with juvenile offenses unless there is express statutory authority for

those legal financial obligations, fees, fines, or costs. [2015 c 265 § 5.]

**Finding—Intent—2015 c 265:** See note following RCW 13.50.010.

**RCW 13.40.730 Community transition services program.** The department of children, youth, and families shall adopt rules, policies, and procedures as may be needed to implement a community transition services program required by chapter 206, Laws of 2021, to include the following:

(1) Identification and regular monitoring of metrics of quality implementation for the community transition program, and regularly publishing outcome analyses for program participants; and

(2) Allowing for the use of new electronic home monitoring equipment and technologies as they become available that eliminate or minimize trauma, social stigma, and racial injustice, and imposing penalties for the knowing or intentional tampering, damaging, or destruction of equipment that renders it not fully functional. [2021 c 206 § 7.]

**Findings—Appropriation—Rental vouchers—2021 c 206:** See notes following RCW 72.01.412.

**RCW 13.40.735 Planned release—Notice to health care insurance provider.** (1) At least 30 days before release from a residential facility, the secretary shall send written notice of the planned release to the person's health care insurance provider. The notice shall include the person's current location and contact information as well as the person's expected location and contact information upon release. The notice shall not disclose the person's incarceration status unless their consent is given.

(2) If the person is not enrolled in a health insurance program, the secretary and the health care authority shall assist the person in obtaining coverage for which they are eligible in accordance with the time frames specified in subsection (1) of this section.

(3) The secretary may share with the health insurance provider additional health information related to the person to assist with care coordination and continuity of care consistent with RCW 70.02.230(2)(u) and other provisions of chapter 70.02 RCW. [2021 c 265 § 3.]

**RCW 13.40.740 Juvenile access to an attorney.** (1) Except as provided in subsection (4) of this section, law enforcement shall provide a juvenile with access to an attorney for consultation, which may be provided in person, by telephone, or by video conference, before the juvenile waives any constitutional rights if a law enforcement officer:

(a) Questions a juvenile during a custodial interrogation;

(b) Detains a juvenile based on probable cause of involvement in criminal activity; or

(c) Requests that the juvenile provide consent to an evidentiary search of the juvenile or the juvenile's property, dwellings, or vehicles under the juvenile's control.

(2) The consultation required by subsection (1) of this section may not be waived.

(3) Statements made by a juvenile after the juvenile is contacted by a law enforcement officer in a manner described under subsection (1) of this section are not admissible in a juvenile offender or adult criminal court proceeding, unless:

(a) The juvenile has been provided with access to an attorney for consultation; and the juvenile provides an express waiver knowingly, intelligently, and voluntarily made by the juvenile after the juvenile has been fully informed of the rights being waived as required under RCW 13.40.140;

(b) The statement is for impeachment purposes; or

(c) The statement was made spontaneously.

(4) A law enforcement officer may question a juvenile without following the requirement in subsection (1) of this section if:

(a) The law enforcement officer believes the juvenile is a victim of trafficking as defined in RCW 9A.40.100; however, any information obtained from the juvenile by law enforcement pursuant to this subsection cannot be used in any prosecution of that juvenile; or

(b) (i) The law enforcement officer believes that the information sought is necessary to protect an individual's life from an imminent threat;

(ii) A delay to allow legal consultation would impede the protection of an individual's life from an imminent threat; and

(iii) Questioning by the law enforcement officer is limited to matters reasonably expected to obtain information necessary to protect an individual's life from an imminent threat.

(5) After the juvenile has consulted with legal counsel, the juvenile may advise, direct a parent or guardian to advise, or direct legal counsel to advise the law enforcement officer that the juvenile chooses to assert a constitutional right. Any assertion of constitutional rights by the juvenile through legal counsel must be treated by a law enforcement officer as though it came from the juvenile. The waiver of any constitutional rights of the juvenile may only be made according to the requirements of RCW 13.40.140.

(6) For purposes of this section, the following definitions apply:

(a) "Juvenile" means any individual who is under the chronological age of 18 years; and

(b) "Law enforcement officer" means any general authority, limited authority, or specially commissioned Washington peace officer or federal peace officer as those terms are defined in RCW 10.93.020, including school resource officers as defined in RCW 28A.320.124 and other public officers who are responsible for enforcement of fire, building, zoning, and life and safety codes. [2021 c 328 § 1.]

**Effective date—2021 c 328:** "This act takes effect January 1, 2022." [2021 c 328 § 7.]

**RCW 13.40.900 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.** For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to

marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 43.]