
HOUSE BILL 2219

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By Representatives Foreman, Sheahan, Ballasiotes, Schoesler, Pennington, Mastin, Chandler, Delvin, Robertson, Campbell, Huff, Hickel, Thompson, Blanton, McMahan, Hargrove and Stevens

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1 AN ACT Relating to offenders; amending RCW 5.60.060, 9.94A.390,
2 13.40.010, 13.40.025, 13.40.027, 13.40.030, 13.40.0357, 13.40.045,
3 13.40.050, 13.40.060, 13.40.080, 13.40.110, 13.40.130, 13.40.150,
4 13.40.160, 35.20.030, and 72.01.410; reenacting and amending RCW
5 9.94A.030, 9.94A.320, 9.94A.360, 13.04.030, and 13.40.020; adding a new
6 section to chapter 13.04 RCW; adding new sections to chapter 13.40 RCW;
7 adding a new section to chapter 28A.175 RCW; adding a new section to
8 chapter 28A.225 RCW; creating new sections; prescribing penalties;
9 providing effective dates; and providing an expiration date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 **Sec. 2.** RCW 9.94A.030 and 1995 c 268 s 2, 1995 c 108 s 1, and 1995
29 c 101 s 2 are each reenacted and amended to read as follows:

30 Unless the context clearly requires otherwise, the definitions in
31 this section apply throughout this chapter.

32 (1) "Collect," or any derivative thereof, "collect and remit," or
33 "collect and deliver," when used with reference to the department of
34 corrections, means that the department is responsible for monitoring
35 and enforcing the offender's sentence with regard to the legal
36 financial obligation, receiving payment thereof from the offender, and,
37 consistent with current law, delivering daily the entire payment to the
38 superior court clerk without depositing it in a departmental account.

1 (2) "Commission" means the sentencing guidelines commission.

2 (3) "Community corrections officer" means an employee of the
3 department who is responsible for carrying out specific duties in
4 supervision of sentenced offenders and monitoring of sentence
5 conditions.

6 (4) "Community custody" means that portion of an inmate's sentence
7 of confinement in lieu of earned early release time or imposed pursuant
8 to RCW 9.94A.120(6) served in the community subject to controls placed
9 on the inmate's movement and activities by the department of
10 corrections.

11 (5) "Community placement" means that period during which the
12 offender is subject to the conditions of community custody and/or
13 postrelease supervision, which begins either upon completion of the
14 term of confinement (postrelease supervision) or at such time as the
15 offender is transferred to community custody in lieu of earned early
16 release. Community placement may consist of entirely community
17 custody, entirely postrelease supervision, or a combination of the two.

18 (6) "Community service" means compulsory service, without
19 compensation, performed for the benefit of the community by the
20 offender.

21 (7) "Community supervision" means a period of time during which a
22 convicted offender is subject to crime-related prohibitions and other
23 sentence conditions imposed by a court pursuant to this chapter or RCW
24 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
25 may include crime-related prohibitions and other conditions imposed
26 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
27 for out-of-state supervision of parolees and probationers, RCW
28 9.95.270, community supervision is the functional equivalent of
29 probation and should be considered the same as probation by other
30 states.

31 (8) "Confinement" means total or partial confinement as defined in
32 this section.

33 (9) "Conviction" means an adjudication of guilt pursuant to Titles
34 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
35 acceptance of a plea of guilty.

36 (10) "Court-ordered legal financial obligation" means a sum of
37 money that is ordered by a superior court of the state of Washington
38 for legal financial obligations which may include restitution to the
39 victim, statutorily imposed crime victims' compensation fees as

1 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
2 drug funds, court-appointed attorneys' fees, and costs of defense,
3 fines, and any other financial obligation that is assessed to the
4 offender as a result of a felony conviction. Upon conviction for
5 vehicular assault while under the influence of intoxicating liquor or
6 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
7 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
8 legal financial obligations may also include payment to a public agency
9 of the expense of an emergency response to the incident resulting in
10 the conviction, subject to the provisions in RCW 38.52.430.

11 (11) "Crime-related prohibition" means an order of a court
12 prohibiting conduct that directly relates to the circumstances of the
13 crime for which the offender has been convicted, and shall not be
14 construed to mean orders directing an offender affirmatively to
15 participate in rehabilitative programs or to otherwise perform
16 affirmative conduct.

17 (12)(a) "Criminal history" means the list of a defendant's prior
18 convictions, whether in this state, in federal court, or elsewhere.
19 The history shall include, where known, for each conviction (i) whether
20 the defendant has been placed on probation and the length and terms
21 thereof; and (ii) whether the defendant has been incarcerated and the
22 length of incarceration.

23 (b) "Criminal history" shall always include juvenile convictions
24 for sex offenses and (~~serious~~) violent offenses and shall also
25 include a defendant's other prior convictions in juvenile court if:
26 (i) The conviction was for an offense which is a felony or a serious
27 traffic offense and is criminal history as defined in RCW 13.40.020(9);
28 (ii) the defendant was fifteen years of age or older at the time the
29 offense was committed; and (iii) with respect to prior juvenile class
30 B and C felonies or serious traffic offenses, the defendant was less
31 than twenty-three years of age at the time the offense for which he or
32 she is being sentenced was committed.

33 (13) "Day fine" means a fine imposed by the sentencing judge that
34 equals the difference between the offender's net daily income and the
35 reasonable obligations that the offender has for the support of the
36 offender and any dependents.

37 (14) "Day reporting" means a program of enhanced supervision
38 designed to monitor the defendant's daily activities and compliance
39 with sentence conditions, and in which the defendant is required to

1 report daily to a specific location designated by the department or the
2 sentencing judge.

3 (15) "Department" means the department of corrections.

4 (16) "Determinate sentence" means a sentence that states with
5 exactitude the number of actual years, months, or days of total
6 confinement, of partial confinement, of community supervision, the
7 number of actual hours or days of community service work, or dollars or
8 terms of a legal financial obligation. The fact that an offender
9 through "earned early release" can reduce the actual period of
10 confinement shall not affect the classification of the sentence as a
11 determinate sentence.

12 (17) "Disposable earnings" means that part of the earnings of an
13 individual remaining after the deduction from those earnings of any
14 amount required by law to be withheld. For the purposes of this
15 definition, "earnings" means compensation paid or payable for personal
16 services, whether denominated as wages, salary, commission, bonuses, or
17 otherwise, and, notwithstanding any other provision of law making the
18 payments exempt from garnishment, attachment, or other process to
19 satisfy a court-ordered legal financial obligation, specifically
20 includes periodic payments pursuant to pension or retirement programs,
21 or insurance policies of any type, but does not include payments made
22 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
23 or Title 74 RCW.

24 (18) "Drug offense" means:

25 (a) Any felony violation of chapter 69.50 RCW except possession of
26 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
27 controlled substance (RCW 69.50.403);

28 (b) Any offense defined as a felony under federal law that relates
29 to the possession, manufacture, distribution, or transportation of a
30 controlled substance; or

31 (c) Any out-of-state conviction for an offense that under the laws
32 of this state would be a felony classified as a drug offense under (a)
33 of this subsection.

34 (19) "Escape" means:

35 (a) Escape in the first degree (RCW 9A.76.110), escape in the
36 second degree (RCW 9A.76.120), willful failure to return from furlough
37 (RCW 72.66.060), willful failure to return from work release (RCW
38 72.65.070), or willful failure to be available for supervision by the
39 department while in community custody (RCW 72.09.310); or

1 (b) Any federal or out-of-state conviction for an offense that
2 under the laws of this state would be a felony classified as an escape
3 under (a) of this subsection.

4 (20) "Felony traffic offense" means:

5 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
6 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
7 and-run injury-accident (RCW 46.52.020(4)); or

8 (b) Any federal or out-of-state conviction for an offense that
9 under the laws of this state would be a felony classified as a felony
10 traffic offense under (a) of this subsection.

11 (21) "Fines" means the requirement that the offender pay a specific
12 sum of money over a specific period of time to the court.

13 (22)(a) "First-time offender" means any person who is convicted of
14 a felony (i) not classified as a violent offense or a sex offense under
15 this chapter, or (ii) that is not the manufacture, delivery, or
16 possession with intent to manufacture or deliver a controlled substance
17 classified in schedule I or II that is a narcotic drug, nor the
18 manufacture, delivery, or possession with intent to deliver
19 methamphetamine, its salts, isomers, and salts of its isomers as
20 defined in RCW 69.50.206(d)(2), nor the selling for profit of any
21 controlled substance or counterfeit substance classified in schedule I,
22 RCW 69.50.204, except leaves and flowering tops of marihuana, and
23 except as provided in (b) of this subsection, who previously has never
24 been convicted of a felony in this state, federal court, or another
25 state, and who has never participated in a program of deferred
26 prosecution for a felony offense.

27 (b) For purposes of (a) of this subsection, a juvenile adjudication
28 for an offense committed before the age of fifteen years is not a
29 previous felony conviction except for adjudications of sex offenses and
30 serious violent offenses.

31 (23) "Most serious offense" means any of the following felonies or
32 a felony attempt to commit any of the following felonies, as now
33 existing or hereafter amended:

34 (a) Any felony defined under any law as a class A felony or
35 criminal solicitation of or criminal conspiracy to commit a class A
36 felony;

37 (b) Assault in the second degree;

38 (c) Assault of a child in the second degree;

39 (d) Child molestation in the second degree;

1 (e) Controlled substance homicide;
2 (f) Extortion in the first degree;
3 (g) Incest when committed against a child under age fourteen;
4 (h) Indecent liberties;
5 (i) Kidnapping in the second degree;
6 (j) Leading organized crime;
7 (k) Manslaughter in the first degree;
8 (l) Manslaughter in the second degree;
9 (m) Promoting prostitution in the first degree;
10 (n) Rape in the third degree;
11 (o) Robbery in the second degree;
12 (p) Sexual exploitation;
13 (q) Vehicular assault;
14 (r) Vehicular homicide, when proximately caused by the driving of
15 any vehicle by any person while under the influence of intoxicating
16 liquor or any drug as defined by RCW 46.61.502, or by the operation of
17 any vehicle in a reckless manner;
18 (s) Any other class B felony offense with a finding of sexual
19 motivation, as "sexual motivation" is defined under this section;
20 (t) Any other felony with a deadly weapon verdict under RCW
21 9.94A.125;
22 (u) Any felony offense in effect at any time prior to December 2,
23 1993, that is comparable to a most serious offense under this
24 subsection, or any federal or out-of-state conviction for an offense
25 that under the laws of this state would be a felony classified as a
26 most serious offense under this subsection.
27 (24) "Nonviolent offense" means an offense which is not a violent
28 offense.
29 (25) "Offender" means a person who has committed a felony
30 established by state law and is eighteen years of age or older ((or)).
31 "Offender also means a person who is less than eighteen years of age
32 but whose case has been transferred by the appropriate juvenile court
33 to a criminal court pursuant to RCW 13.40.110 or who is under adult
34 criminal court jurisdiction pursuant to RCW 13.04.030. Throughout this
35 chapter, the terms "offender" and "defendant" are used interchangeably.
36 (26) "Partial confinement" means confinement for no more than one
37 year in a facility or institution operated or utilized under contract
38 by the state or any other unit of government, or, if home detention or
39 work crew has been ordered by the court, in an approved residence, for

1 a substantial portion of each day with the balance of the day spent in
2 the community. Partial confinement includes work release, home
3 detention, work crew, and a combination of work crew and home detention
4 as defined in this section.

5 (27) "Persistent offender" is an offender who:

6 (a) Has been convicted in this state of any felony considered a
7 most serious offense; and

8 (b) Has, before the commission of the offense under (a) of this
9 subsection, been convicted as an offender on at least two separate
10 occasions, whether in this state or elsewhere, of felonies that under
11 the laws of this state would be considered most serious offenses and
12 would be included in the offender score under RCW 9.94A.360; provided
13 that of the two or more previous convictions, at least one conviction
14 must have occurred before the commission of any of the other most
15 serious offenses for which the offender was previously convicted.

16 (28) "Postrelease supervision" is that portion of an offender's
17 community placement that is not community custody.

18 (29) "Restitution" means the requirement that the offender pay a
19 specific sum of money over a specific period of time to the court as
20 payment of damages. The sum may include both public and private costs.
21 The imposition of a restitution order does not preclude civil redress.

22 (30) "Serious traffic offense" means:

23 (a) Driving while under the influence of intoxicating liquor or any
24 drug (RCW 46.61.502), actual physical control while under the influence
25 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
26 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
27 or

28 (b) Any federal, out-of-state, county, or municipal conviction for
29 an offense that under the laws of this state would be classified as a
30 serious traffic offense under (a) of this subsection.

31 (31) "Serious violent offense" is a subcategory of violent offense
32 and means:

33 (a) Murder in the first degree, homicide by abuse, murder in the
34 second degree, assault in the first degree, kidnapping in the first
35 degree, or rape in the first degree, assault of a child in the first
36 degree, or an attempt, criminal solicitation, or criminal conspiracy to
37 commit one of these felonies; or

1 (b) Any federal or out-of-state conviction for an offense that
2 under the laws of this state would be a felony classified as a serious
3 violent offense under (a) of this subsection.

4 (32) "Sentence range" means the sentencing court's discretionary
5 range in imposing a nonappealable sentence.

6 (33) "Sex offense" means:

7 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
8 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
9 criminal attempt, criminal solicitation, or criminal conspiracy to
10 commit such crimes;

11 (b) A felony with a finding of sexual motivation under RCW
12 9.94A.127 or 13.40.135; or

13 (c) Any federal or out-of-state conviction for an offense that
14 under the laws of this state would be a felony classified as a sex
15 offense under (a) of this subsection.

16 (34) "Sexual motivation" means that one of the purposes for which
17 the defendant committed the crime was for the purpose of his or her
18 sexual gratification.

19 (35) "Total confinement" means confinement inside the physical
20 boundaries of a facility or institution operated or utilized under
21 contract by the state or any other unit of government for twenty-four
22 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

23 (36) "Transition training" means written and verbal instructions
24 and assistance provided by the department to the offender during the
25 two weeks prior to the offender's successful completion of the work
26 ethic camp program. The transition training shall include instructions
27 in the offender's requirements and obligations during the offender's
28 period of community custody.

29 (37) "Victim" means any person who has sustained emotional,
30 psychological, physical, or financial injury to person or property as
31 a direct result of the crime charged.

32 (38) "Violent offense" means:

33 (a) Any of the following felonies, as now existing or hereafter
34 amended: Any felony defined under any law as a class A felony or an
35 attempt to commit a class A felony, criminal solicitation of or
36 criminal conspiracy to commit a class A felony, manslaughter in the
37 first degree, manslaughter in the second degree, indecent liberties if
38 committed by forcible compulsion, kidnapping in the second degree,
39 arson in the second degree, assault in the second degree, assault of a

1 child in the second degree, extortion in the first degree, robbery in
2 the second degree, vehicular assault, and vehicular homicide, when
3 proximately caused by the driving of any vehicle by any person while
4 under the influence of intoxicating liquor or any drug as defined by
5 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

6 (b) Any conviction for a felony offense in effect at any time prior
7 to July 1, 1976, that is comparable to a felony classified as a violent
8 offense in (a) of this subsection; and

9 (c) Any federal or out-of-state conviction for an offense that
10 under the laws of this state would be a felony classified as a violent
11 offense under (a) or (b) of this subsection.

12 (39) "Work crew" means a program of partial confinement consisting
13 of civic improvement tasks for the benefit of the community of not less
14 than thirty-five hours per week that complies with RCW 9.94A.135. The
15 civic improvement tasks shall have minimal negative impact on existing
16 private industries or the labor force in the county where the service
17 or labor is performed. The civic improvement tasks shall not affect
18 employment opportunities for people with developmental disabilities
19 contracted through sheltered workshops as defined in RCW 82.04.385.
20 Only those offenders sentenced to a facility operated or utilized under
21 contract by a county or the state are eligible to participate on a work
22 crew. Offenders sentenced for a sex offense as defined in subsection
23 (33) of this section are not eligible for the work crew program.

24 (40) "Work ethic camp" means an alternative incarceration program
25 designed to reduce recidivism and lower the cost of corrections by
26 requiring offenders to complete a comprehensive array of real-world job
27 and vocational experiences, character-building work ethics training,
28 life management skills development, substance abuse rehabilitation,
29 counseling, literacy training, and basic adult education.

30 (41) "Work release" means a program of partial confinement
31 available to offenders who are employed or engaged as a student in a
32 regular course of study at school. Participation in work release shall
33 be conditioned upon the offender attending work or school at regularly
34 defined hours and abiding by the rules of the work release facility.

35 (42) "Home detention" means a program of partial confinement
36 available to offenders wherein the offender is confined in a private
37 residence subject to electronic surveillance.

1 Over 18 and deliver narcotic from Schedule
2 III, IV, or V or a nonnarcotic from
3 Schedule I-V to someone under 18 and
4 3 years junior (RCW 69.50.406)
5 Controlled Substance Homicide (RCW
6 69.50.415)
7 Sexual Exploitation (RCW 9.68A.040)
8 Inciting Criminal Profiteering (RCW
9 9A.82.060(1)(b))
10 Vehicular Homicide, by being under the
11 influence of intoxicating liquor or
12 any drug (RCW 46.61.520)

13 VIII Arson 1 (RCW 9A.48.020)
14 Promoting Prostitution 1 (RCW 9A.88.070)
15 Selling for profit (controlled or
16 counterfeit) any controlled substance
17 (RCW 69.50.410)
18 Manufacture, deliver, or possess with
19 intent to deliver heroin or cocaine
20 (RCW 69.50.401(a)(1)(i))
21 Manufacture, deliver, or possess with
22 intent to deliver methamphetamine
23 (RCW 69.50.401(a)(1)(ii))
24 Vehicular Homicide, by the operation of
25 any vehicle in a reckless manner (RCW
26 46.61.520)

27 VII Burglary 1 (RCW 9A.52.020)
28 Vehicular Homicide, by disregard for the
29 safety of others (RCW 46.61.520)
30 Introducing Contraband 1 (RCW 9A.76.140)
31 Indecent Liberties (without forcible
32 compulsion) (RCW 9A.44.100(1) (b) and
33 (c))
34 Child Molestation 2 (RCW 9A.44.086)
35 Dealing in depictions of minor engaged in
36 sexually explicit conduct (RCW
37 9.68A.050)

1 Sending, bringing into state depictions of
2 minor engaged in sexually explicit
3 conduct (RCW 9.68A.060)
4 Involving a minor in drug dealing (RCW
5 69.50.401(f))
6 Reckless Endangerment 1 (RCW 9A.36.045)
7 Unlawful Possession of a Firearm in the
8 first degree (RCW 9.41.040(1)(a))

9 VI Bribery (RCW 9A.68.010)
10 Manslaughter 2 (RCW 9A.32.070)
11 Rape of a Child 3 (RCW 9A.44.079)
12 Intimidating a Juror/Witness (RCW
13 9A.72.110, 9A.72.130)
14 Damaging building, etc., by explosion with
15 no threat to human being (RCW
16 70.74.280(2))
17 Endangering life and property by
18 explosives with no threat to human
19 being (RCW 70.74.270)
20 Incest 1 (RCW 9A.64.020(1))
21 Manufacture, deliver, or possess with
22 intent to deliver narcotics from
23 Schedule I or II (except heroin or
24 cocaine) (RCW 69.50.401(a)(1)(i))
25 Intimidating a Judge (RCW 9A.72.160)
26 Bail Jumping with Murder 1 (RCW
27 9A.76.170(2)(a))
28 Theft of a Firearm (RCW 9A.56.300)

29 V Robbery 2 (RCW 9A.56.210)
30 Assault 2 (RCW 9A.36.021)
31 Persistent prison misbehavior (RCW
32 9.94.070)
33 Criminal Mistreatment 1 (RCW 9A.42.020)
34 Rape 3 (RCW 9A.44.060)
35 Sexual Misconduct with a Minor 1 (RCW
36 9A.44.093)
37 Child Molestation 3 (RCW 9A.44.089)
38 Kidnapping 2 (RCW 9A.40.030)

1 Extortion 1 (RCW 9A.56.120)
2 Incest 2 (RCW 9A.64.020(2))
3 Perjury 1 (RCW 9A.72.020)
4 Extortionate Extension of Credit (RCW
5 9A.82.020)
6 Advancing money or property for
7 extortionate extension of credit (RCW
8 9A.82.030)
9 Extortionate Means to Collect Extensions
10 of Credit (RCW 9A.82.040)
11 Rendering Criminal Assistance 1 (RCW
12 9A.76.070)
13 Bail Jumping with class A Felony (RCW
14 9A.76.170(2)(b))
15 Sexually Violating Human Remains (RCW
16 9A.44.105)
17 Delivery of imitation controlled substance
18 by person eighteen or over to person
19 under eighteen (RCW 69.52.030(2))
20 Possession of a Stolen Firearm (RCW
21 9A.56.310)

22 IV Residential Burglary (RCW 9A.52.025)
23 Theft of Livestock 1 (RCW 9A.56.080)
24 (~~Robbery 2 (RCW 9A.56.210)~~
25 ~~Assault 2 (RCW 9A.36.021)~~)
26 Escape 1 (RCW 9A.76.110)
27 Arson 2 (RCW 9A.48.030)
28 Commercial Bribery (RCW 9A.68.060)
29 Bribing a Witness/Bribe Received by
30 Witness (RCW 9A.72.090, 9A.72.100)
31 Malicious Harassment (RCW 9A.36.080)
32 Threats to Bomb (RCW 9.61.160)
33 Willful Failure to Return from Furlough
34 (RCW 72.66.060)
35 Hit and Run « Injury Accident (RCW
36 46.52.020(4))
37 Vehicular Assault (RCW 46.61.522)

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule III, IV, or V or
4 nonnarcotics from Schedule I-V
5 (except marijuana or
6 methamphetamines) (RCW
7 69.50.401(a)(1)(ii) through (iv))
8 Influencing Outcome of Sporting Event (RCW
9 9A.82.070)
10 Use of Proceeds of Criminal Profiteering
11 (RCW 9A.82.080 (1) and (2))
12 Knowingly Trafficking in Stolen Property
13 (RCW 9A.82.050(2))
14 III Criminal Mistreatment 2 (RCW 9A.42.030)
15 Extortion 2 (RCW 9A.56.130)
16 Unlawful Imprisonment (RCW 9A.40.040)
17 Assault 3 (RCW 9A.36.031)
18 Assault of a Child 3 (RCW 9A.36.140)
19 Custodial Assault (RCW 9A.36.100)
20 Unlawful possession of firearm in the
21 second degree (RCW 9.41.040(1)(b))
22 Harassment (RCW 9A.46.020)
23 Promoting Prostitution 2 (RCW 9A.88.080)
24 Willful Failure to Return from Work
25 Release (RCW 72.65.070)
26 Burglary 2 (RCW 9A.52.030)
27 Introducing Contraband 2 (RCW 9A.76.150)
28 Communication with a Minor for Immoral
29 Purposes (RCW 9.68A.090)
30 Patronizing a Juvenile Prostitute (RCW
31 9.68A.100)
32 Escape 2 (RCW 9A.76.120)
33 Perjury 2 (RCW 9A.72.030)
34 Bail Jumping with class B or C Felony (RCW
35 9A.76.170(2)(c))
36 Intimidating a Public Servant (RCW
37 9A.76.180)
38 Tampering with a Witness (RCW 9A.72.120)

1 Manufacture, deliver, or possess with
2 intent to deliver marijuana (RCW
3 69.50.401(a)(1)(ii))
4 Delivery of a material in lieu of a
5 controlled substance (RCW
6 69.50.401(c))
7 Manufacture, distribute, or possess with
8 intent to distribute an imitation
9 controlled substance (RCW
10 69.52.030(1))
11 Recklessly Trafficking in Stolen Property
12 (RCW 9A.82.050(1))
13 Theft of livestock 2 (RCW 9A.56.080)
14 Securities Act violation (RCW 21.20.400)

15 II Unlawful Practice of Law (RCW 2.48.180)
16 Malicious Mischief 1 (RCW 9A.48.070)
17 Possession of Stolen Property 1 (RCW
18 9A.56.150)
19 Theft 1 (RCW 9A.56.030)
20 Trafficking in Insurance Claims (RCW
21 48.30A.015)
22 Unlicensed Practice of a Profession or
23 Business (RCW 18.130.190(7))
24 Health Care False Claims (RCW 48.80.030)
25 Possession of controlled substance that is
26 either heroin or narcotics from
27 Schedule I or II (RCW 69.50.401(d))
28 Possession of phencyclidine (PCP) (RCW
29 69.50.401(d))
30 Create, deliver, or possess a counterfeit
31 controlled substance (RCW
32 69.50.401(b))
33 Computer Trespass 1 (RCW 9A.52.110)
34 Escape from Community Custody (RCW
35 72.09.310)

1 I Theft 2 (RCW 9A.56.040)
2 Possession of Stolen Property 2 (RCW
3 9A.56.160)
4 Forgery (RCW 9A.60.020)
5 Taking Motor Vehicle Without Permission
6 (RCW 9A.56.070)
7 Vehicle Prowl 1 (RCW 9A.52.095)
8 Attempting to Elude a Pursuing Police
9 Vehicle (RCW 46.61.024)
10 Malicious Mischief 2 (RCW 9A.48.080)
11 Reckless Burning 1 (RCW 9A.48.040)
12 Unlawful Issuance of Checks or Drafts (RCW
13 9A.56.060)
14 Unlawful Use of Food Stamps (RCW 9.91.140
15 (2) and (3))
16 False Verification for Welfare (RCW
17 74.08.055)
18 Forged Prescription (RCW 69.41.020)
19 Forged Prescription for a Controlled
20 Substance (RCW 69.50.403)
21 Possess Controlled Substance that is a
22 Narcotic from Schedule III, IV, or V
23 or Non-narcotic from Schedule I-V
24 (except phencyclidine) (RCW
25 69.50.401(d))

26 **Sec. 4.** RCW 9.94A.360 and 1995 c 316 s 1 and 1995 c 101 s 1 are
27 each reenacted and amended to read as follows:

28 The offender score is measured on the horizontal axis of the
29 sentencing grid. The offender score rules are as follows:

30 The offender score is the sum of points accrued under this section
31 rounded down to the nearest whole number.

32 (1) A prior conviction is a conviction which exists before the date
33 of sentencing for the offense for which the offender score is being
34 computed. Convictions entered or sentenced on the same date as the
35 conviction for which the offender score is being computed shall be
36 deemed "other current offenses" within the meaning of RCW 9.94A.400.

37 (2) Except as provided in subsection (4) of this section, class A
38 and sex prior felony convictions shall always be included in the

1 offender score. Class B prior felony convictions other than sex
2 offenses shall not be included in the offender score, if since the last
3 date of release from confinement (including full-time residential
4 treatment) pursuant to a felony conviction, if any, or entry of
5 judgment and sentence, the offender had spent ten consecutive years in
6 the community without committing any crime that subsequently results in
7 a conviction. Class C prior felony convictions other than sex offenses
8 shall not be included in the offender score if, since the last date of
9 release from confinement (including full-time residential treatment)
10 pursuant to a felony conviction, if any, or entry of judgment and
11 sentence, the offender had spent five consecutive years in the
12 community without committing any crime that subsequently results in a
13 conviction. Serious traffic convictions shall not be included in the
14 offender score if, since the last date of release from confinement
15 (including full-time residential treatment) pursuant to a felony
16 conviction, if any, or entry of judgment and sentence, the offender
17 spent five years in the community without committing any crime that
18 subsequently results in a conviction. This subsection applies to both
19 adult and juvenile prior convictions.

20 (3) Out-of-state convictions for offenses shall be classified
21 according to the comparable offense definitions and sentences provided
22 by Washington law. Federal convictions for offenses shall be
23 classified according to the comparable offense definitions and
24 sentences provided by Washington law. If there is no clearly
25 comparable offense under Washington law or the offense is one that is
26 usually considered subject to exclusive federal jurisdiction, the
27 offense shall be scored as a class C felony equivalent if it was a
28 felony under the relevant federal statute.

29 (4) Always include juvenile convictions for sex offenses and
30 (~~serious~~) violent offenses. Include other class A juvenile felonies
31 only if the offender was 15 or older at the time the juvenile offense
32 was committed. Include other class B and C juvenile felony convictions
33 only if the offender was 15 or older at the time the juvenile offense
34 was committed and the offender was less than 23 at the time the offense
35 for which he or she is being sentenced was committed.

36 (5) Score prior convictions for felony anticipatory offenses
37 (attempts, criminal solicitations, and criminal conspiracies) the same
38 as if they were convictions for completed offenses.

1 (6)(a) In the case of multiple prior convictions, for the purpose
2 of computing the offender score, count all convictions separately,
3 except:

4 (i) Prior adult offenses which were found, under RCW
5 9.94A.400(1)(a), to encompass the same criminal conduct, shall be
6 counted as one offense, the offense that yields the highest offender
7 score. The current sentencing court shall determine with respect to
8 other prior adult offenses for which sentences were served concurrently
9 whether those offenses shall be counted as one offense or as separate
10 offenses using the "same criminal conduct" analysis found in RCW
11 9.94A.400(1)(a), and if the court finds that they shall be counted as
12 one offense, then the offense that yields the highest offender score
13 shall be used. The current sentencing court may presume that such
14 other prior adult offenses were not the same criminal conduct from
15 sentences imposed on separate dates, or in separate counties or
16 jurisdictions, or in separate complaints, indictments, or informations;

17 (ii) Juvenile prior convictions entered or sentenced on the same
18 date shall count as one offense, the offense that yields the highest
19 offender score, except for juvenile prior convictions for violent
20 offenses with separate victims, which shall count as separate offenses;
21 and

22 (iii) In the case of multiple prior convictions for offenses
23 committed before July 1, 1986, for the purpose of computing the
24 offender score, count all adult convictions served concurrently as one
25 offense, and count all juvenile convictions entered on the same date as
26 one offense. Use the conviction for the offense that yields the
27 highest offender score.

28 (b) As used in this subsection (6), "served concurrently" means
29 that: (i) The latter sentence was imposed with specific reference to
30 the former; (ii) the concurrent relationship of the sentences was
31 judicially imposed; and (iii) the concurrent timing of the sentences
32 was not the result of a probation or parole revocation on the former
33 offense.

34 (7) If the present conviction is one of the anticipatory offenses
35 of criminal attempt, solicitation, or conspiracy, count each prior
36 conviction as if the present conviction were for a completed offense.

37 (8) If the present conviction is for a nonviolent offense and not
38 covered by subsection (12) or (13) of this section, count one point for
39 each adult prior felony conviction and one point for each juvenile

1 prior violent felony conviction and 1/2 point for each juvenile prior
2 nonviolent felony conviction.

3 (9) If the present conviction is for a violent offense and not
4 covered in subsection (10), (11), (12), or (13) of this section, count
5 two points for each prior adult and juvenile violent felony conviction,
6 one point for each prior adult nonviolent felony conviction, and 1/2
7 point for each prior juvenile nonviolent felony conviction.

8 (10) If the present conviction is for Murder 1 or 2, Assault 1,
9 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count
10 three points for prior adult and juvenile convictions for crimes in
11 these categories, two points for each prior adult and juvenile violent
12 conviction (not already counted), one point for each prior adult
13 nonviolent felony conviction, and 1/2 point for each prior juvenile
14 nonviolent felony conviction.

15 (11) If the present conviction is for Burglary 1, count prior
16 convictions as in subsection (9) of this section; however count two
17 points for each prior adult Burglary 2 or residential burglary
18 conviction, and one point for each prior juvenile Burglary 2 or
19 residential burglary conviction.

20 (12) If the present conviction is for a felony traffic offense
21 count two points for each adult or juvenile prior conviction for
22 Vehicular Homicide or Vehicular Assault; for each felony offense or
23 serious traffic offense, count one point for each adult and 1/2 point
24 for each juvenile prior conviction.

25 (13) If the present conviction is for a drug offense count three
26 points for each adult prior felony drug offense conviction and two
27 points for each juvenile drug offense. All other adult and juvenile
28 felonies are scored as in subsection (9) of this section if the current
29 drug offense is violent, or as in subsection (8) of this section if the
30 current drug offense is nonviolent.

31 (14) If the present conviction is for Willful Failure to Return
32 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
33 Release, RCW 72.65.070, or Escape from Community Custody, RCW
34 72.09.310, count only prior escape convictions in the offender score.
35 Count adult prior escape convictions as one point and juvenile prior
36 escape convictions as 1/2 point.

37 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
38 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
39 juvenile prior convictions as 1/2 point.

1 (16) If the present conviction is for Burglary 2 or residential
2 burglary, count priors as in subsection (8) of this section; however,
3 count two points for each adult and juvenile prior Burglary 1
4 conviction, two points for each adult prior Burglary 2 or residential
5 burglary conviction, and one point for each juvenile prior Burglary 2
6 or residential burglary conviction.

7 (17) If the present conviction is for a sex offense, count priors
8 as in subsections (8) through (16) of this section; however count three
9 points for each adult and juvenile prior sex offense conviction.

10 (18) If the present conviction is for an offense committed while
11 the offender was under community placement, add one point.

12 **Sec. 5.** RCW 9.94A.390 and 1995 c 316 s 2 are each amended to read
13 as follows:

14 If the sentencing court finds that an exceptional sentence outside
15 the standard range should be imposed in accordance with RCW
16 9.94A.120(2), the sentence is subject to review only as provided for in
17 RCW 9.94A.210(4).

18 The following are illustrative factors which the court may consider
19 in the exercise of its discretion to impose an exceptional sentence.
20 The following are illustrative only and are not intended to be
21 exclusive reasons for exceptional sentences.

22 (1) Mitigating Circumstances

23 (a) To a significant degree, the victim was an initiator, willing
24 participant, aggressor, or provoker of the incident.

25 (b) Before detection, the defendant compensated, or made a good
26 faith effort to compensate, the victim of the criminal conduct for any
27 damage or injury sustained.

28 (c) The defendant committed the crime under duress, coercion,
29 threat, or compulsion insufficient to constitute a complete defense but
30 which significantly affected his or her conduct.

31 (d) The defendant, with no apparent predisposition to do so, was
32 induced by others to participate in the crime.

33 (e) The defendant's capacity to appreciate the wrongfulness of his
34 or her conduct or to conform his or her conduct to the requirements of
35 the law, was significantly impaired (voluntary use of drugs or alcohol
36 is excluded).

1 (f) The offense was principally accomplished by another person and
2 the defendant manifested extreme caution or sincere concern for the
3 safety or well-being of the victim.

4 (g) The operation of the multiple offense policy of RCW 9.94A.400
5 results in a presumptive sentence that is clearly excessive in light of
6 the purpose of this chapter, as expressed in RCW 9.94A.010.

7 (h) The defendant or the defendant's children suffered a continuing
8 pattern of physical or sexual abuse by the victim of the offense and
9 the offense is a response to that abuse.

10 (2) Aggravating Circumstances

11 (a) The defendant's conduct during the commission of the current
12 offense manifested deliberate cruelty to the victim.

13 (b) The defendant knew or should have known that the victim of the
14 current offense was particularly vulnerable or incapable of resistance
15 due to extreme youth, advanced age, disability, or ill health.

16 (c) The current offense was a major economic offense or series of
17 offenses, so identified by a consideration of any of the following
18 factors:

19 (i) The current offense involved multiple victims or multiple
20 incidents per victim;

21 (ii) The current offense involved attempted or actual monetary loss
22 substantially greater than typical for the offense;

23 (iii) The current offense involved a high degree of sophistication
24 or planning or occurred over a lengthy period of time; or

25 (iv) The defendant used his or her position of trust, confidence,
26 or fiduciary responsibility to facilitate the commission of the current
27 offense.

28 (d) The current offense was a major violation of the Uniform
29 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
30 trafficking in controlled substances, which was more onerous than the
31 typical offense of its statutory definition: The presence of ANY of
32 the following may identify a current offense as a major VUCSA:

33 (i) The current offense involved at least three separate
34 transactions in which controlled substances were sold, transferred, or
35 possessed with intent to do so;

36 (ii) The current offense involved an attempted or actual sale or
37 transfer of controlled substances in quantities substantially larger
38 than for personal use;

1 (iii) The current offense involved the manufacture of controlled
2 substances for use by other parties;

3 (iv) The circumstances of the current offense reveal the offender
4 to have occupied a high position in the drug distribution hierarchy;

5 (v) The current offense involved a high degree of sophistication or
6 planning or occurred over a lengthy period of time or involved a broad
7 geographic area of disbursement; or

8 (vi) The offender used his or her position or status to facilitate
9 the commission of the current offense, including positions of trust,
10 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
11 other medical professional).

12 (e) The current offense included a finding of sexual motivation
13 pursuant to RCW 9.94A.127.

14 (f) The offense was part of an ongoing pattern of sexual abuse of
15 the same victim under the age of eighteen years manifested by multiple
16 incidents over a prolonged period of time.

17 (g) The operation of the multiple offense policy of RCW 9.94A.400
18 results in a presumptive sentence that is clearly too lenient in light
19 of the purpose of this chapter, as expressed in RCW 9.94A.010.

20 (h) The defendant's prior unscored misdemeanor or prior unscored
21 foreign criminal history results in a presumptive sentence that is
22 clearly too lenient in light of the purpose of this chapter as
23 expressed in RCW 9.94A.010.

24 (i) The presumptive sentence is clearly too lenient in light of the
25 purposes of this chapter as expressed in RCW 9.94A.010 considering the
26 defendant's prior unscored juvenile misdemeanor or felony
27 adjudications.

28 **Sec. 6.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are
29 each reenacted and amended to read as follows:

30 (1) Except as provided in subsection (2) of this section, the
31 juvenile courts in the several counties of this state((7)) shall have
32 exclusive original jurisdiction over all proceedings:

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

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

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

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

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

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

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

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

28 (iv) The alleged offense is a traffic or civil infraction, a
29 violation of compulsory school attendance provisions under chapter
30 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has
31 assumed concurrent jurisdiction over those offenses as provided in
32 section 8 of this act; or

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

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

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

12 (vi) The alleged offense is a violent offense and the juvenile has
13 previously been (A) committed to the department, or (B) adjudicated of
14 a felony sex offense; or

15 (vii) The alleged offense is a felony sex offense and the juvenile
16 has previously been (A) committed to the department, or (B) adjudicated
17 of a felony sex offense.

18 The adult criminal court shall have exclusive original jurisdiction
19 over offenses covered by subsection (1)(e)(v), (vi), and (vii) of this
20 section. The adult criminal court shall also have exclusive original
21 jurisdiction over any charges arising out of the same incident as an
22 offense covered by subsection (1)(e)(v), (vi), and (vii) of this
23 section. Any juvenile who becomes subject to adult criminal court
24 jurisdiction under subsection (1)(e)(v), (vi), and (vii) of this
25 section shall remain under adult criminal court jurisdiction for all
26 future offenses;

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

29 (g) Relating to termination of a diversion agreement under RCW
30 13.40.080, including a proceeding in which the divertee has attained
31 eighteen years of age;

32 (h) Relating to court validation of a voluntary consent to an out-
33 of-home placement under chapter 13.34 RCW, by the parent or Indian
34 custodian of an Indian child, except if the parent or Indian custodian
35 and child are residents of or domiciled within the boundaries of a
36 federally recognized Indian reservation over which the tribe exercises
37 exclusive jurisdiction; and

1 (i) Relating to petitions to compel disclosure of information filed
2 by the department of social and health services pursuant to RCW
3 74.13.042.

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

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

12 (4) A parent, guardian, or custodian who has custody of any
13 juvenile under juvenile court jurisdiction is subject to the
14 jurisdiction of the juvenile court for purposes of enforcing required
15 attendance at juvenile court hearings if the parent, guardian, or
16 custodian is served with a summons.

17 NEW SECTION. **Sec. 7.** The legislature finds that a swift and
18 certain response to a juvenile who begins engaging in acts of
19 delinquency may prevent the offender from becoming a chronic or more
20 serious offender. However, given pressing demands to address serious
21 offenders, the system does not always respond to minor offenders
22 expeditiously and effectively. Consequently, sections 8, 27, and 28 of
23 this act are adopted to implement an experiment to determine whether
24 granting courts of limited jurisdiction concurrent jurisdiction over
25 certain juvenile offenses will improve the system's effectiveness in
26 curbing delinquency. The legislature may ascertain whether this
27 approach might be successful on a larger scale by conducting an
28 experiment with local governments, which are the laboratories of
29 democracy.

30 NEW SECTION. **Sec. 8.** A new section is added to chapter 13.04 RCW
31 to read as follows:

32 (1) Any county with a population of at least one hundred seventy-
33 five thousand but less than two hundred fifty thousand that has a city
34 with a population of at least fifty-nine thousand may authorize a pilot
35 project to allow courts of limited jurisdiction within the county to
36 exercise concurrent jurisdiction with the juvenile court under certain
37 circumstances. District and municipal courts of limited jurisdiction

1 at the local option of the county or any city or town located within
2 the county may exercise concurrent original jurisdiction with the
3 juvenile court over traffic or civil infractions, violations of
4 compulsory school attendance provisions under chapter 28A.225 RCW, and
5 misdemeanors when those offenses are allegedly committed by juveniles
6 and:

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

9 (ii) The offender's standard range disposition does not include
10 confinement as defined in RCW 13.40.020;

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

15 (c) The county legislative authority of the county has authorized
16 creation of concurrent jurisdiction between the court of limited
17 jurisdiction and the juvenile court; and

18 (d) The court of limited jurisdiction has an agreement with
19 officials responsible for administering the county juvenile detention
20 facility pursuant to RCW 13.04.035 and 13.20.060 that the court may
21 order juveniles into the detention facility for an offense in cases in
22 which the court finds that a disposition without confinement would be
23 a manifest injustice.

24 (2) The juvenile court shall retain jurisdiction over the offense
25 if the juvenile is charged with another offense arising out of the same
26 incident and the juvenile court has jurisdiction over the other
27 offense.

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

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

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

35 (6) The provisions of this section shall be implemented as a pilot
36 project in the county.

37 **Sec. 9.** RCW 13.40.010 and 1992 c 205 s 101 are each amended to
38 read as follows:

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

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

12 (a) Protect the citizenry from criminal behavior;

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

15 (c) Make the juvenile offender accountable for his or her criminal
16 behavior;

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

19 (e) Provide due process for juveniles alleged to have committed an
20 offense;

21 (f) Provide necessary treatment, supervision, and custody for
22 juvenile offenders;

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

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

26 (i) Develop effective standards and goals for the operation,
27 funding, and evaluation of all components of the juvenile justice
28 system and related services at the state and local levels; ~~((and))~~

29 (j) Provide for a clear policy to determine what types of offenders
30 shall receive punishment, treatment, or both, and to determine the
31 jurisdictional limitations of the courts, institutions, and community
32 services; and

33 (k) Encourage the parents, guardian, or custodian of the juvenile
34 to actively participate in the juvenile justice process.

35 **Sec. 10.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are
36 each reenacted and amended to read as follows:

37 For the purposes of this chapter:

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

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

5 (b) Manslaughter in the first degree; or

6 (c) Assault in the second degree, extortion in the first degree,
7 child molestation in the second degree, kidnapping in the second
8 degree, robbery in the second degree, residential burglary, or burglary
9 in the second degree, where such offenses include the infliction of
10 bodily harm upon another or where during the commission of or immediate
11 withdrawal from such an offense the perpetrator is armed with a deadly
12 weapon;

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

18 (3) "Community supervision" means an order of disposition by the
19 court of an adjudicated youth not committed to the department or an
20 order granting a deferred adjudication pursuant to RCW 13.40.125. A
21 community supervision order for a single offense may be for a period of
22 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
23 one year for other offenses. As a mandatory condition of any term of
24 community supervision, the court shall order the juvenile to refrain
25 from committing new offenses. As a mandatory condition of community
26 supervision, the court shall order the juvenile to comply with the
27 mandatory school attendance provisions of chapter 28A.225 RCW and to
28 inform the school of the existence of this requirement. Community
29 supervision is an individualized program comprised of one or more of
30 the following:

31 (a) Community-based sanctions;

32 (b) Community-based rehabilitation;

33 (c) Monitoring and reporting requirements;

34 (d) Posting of a probation bond (~~imposed pursuant to RCW~~
35 ~~13.40.0357~~) as provided in RCW 13.40.054;

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

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

1 (b) Community service not to exceed one hundred fifty hours of
2 service;

3 (5) "Community-based rehabilitation" means one or more of the
4 following: Attendance of information classes; counseling, outpatient
5 substance abuse treatment programs, outpatient mental health programs,
6 anger management classes, education or outpatient treatment programs to
7 prevent animal cruelty, or other services; or attendance at school or
8 other educational programs appropriate for the juvenile as determined
9 by the school district. Placement in community-based rehabilitation
10 programs is subject to available funds;

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

19 (7) "Confinement" means physical custody by the department of
20 social and health services in a facility operated by or pursuant to a
21 contract with the state, or physical custody in a detention facility
22 operated by or pursuant to a contract with any county. The county may
23 operate or contract with vendors to operate county detention
24 facilities. The department may operate or contract to operate
25 detention facilities for juveniles committed to the department.
26 Pretrial confinement or confinement of less than thirty-one days
27 imposed as part of a disposition or modification order may be served
28 consecutively or intermittently, in the discretion of the court;

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

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

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

37 (b) The criminal complaint was diverted by a prosecutor pursuant to
38 the provisions of this chapter on agreement of the respondent and after
39 an advisement to the respondent that the criminal complaint would be

1 considered as part of the respondent's criminal history. A
2 successfully completed deferred adjudication shall not be considered
3 part of the respondent's criminal history;

4 (10) "Department" means the department of social and health
5 services;

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

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

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

31 (14) "Juvenile," "youth," and "child" mean any individual who is
32 under the chronological age of eighteen years and who has not been
33 previously transferred to adult court pursuant to RCW 13.40.110 or who
34 is otherwise under adult criminal court jurisdiction pursuant to RCW
35 13.04.030;

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

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

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

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

9 (a) Four misdemeanors;

10 (b) Two misdemeanors and one gross misdemeanor;

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

12 (d) Three gross misdemeanors.

13 For purposes of this definition, current violations shall be
14 counted as misdemeanors;

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

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

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

31 (22) "Secretary" means the secretary of the department of social
32 and health services. "Assistant secretary" means the assistant
33 secretary for juvenile rehabilitation for the department;

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

38 (24) "Sex offense" means an offense defined as a sex offense in RCW
39 9.94A.030;

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

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

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

10 (28) "Violent offense" means a violent offense as defined in RCW
11 9.94A.030;

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

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

23 **Sec. 11.** RCW 13.40.025 and 1995 c 269 s 302 are each amended to
24 read as follows:

25 (1) There is established a juvenile disposition standards
26 commission to propose disposition standards to the legislature in
27 accordance with RCW 13.40.030 and perform the other responsibilities
28 set forth in this chapter.

29 (2) The commission shall be composed of the secretary or the
30 secretary's designee and the following nine members appointed by the
31 governor, subject to confirmation by the senate: (a) A superior court
32 judge; (b) a prosecuting attorney or deputy prosecuting attorney; (c)
33 a law enforcement officer; (d) an administrator of juvenile court
34 services; (e) a public defender actively practicing in juvenile court;
35 (f) a county legislative official or county executive; and (g) three
36 other persons who have demonstrated significant interest in the
37 adjudication and disposition of juvenile offenders. In making the
38 appointments, the governor shall seek the recommendations of the

1 association of superior court judges in respect to the member who is a
2 superior court judge; of Washington prosecutors in respect to the
3 prosecuting attorney or deputy prosecuting attorney member; of the
4 Washington association of sheriffs and police chiefs in respect to the
5 member who is a law enforcement officer; of juvenile court
6 administrators in respect to the member who is a juvenile court
7 administrator; and of the state bar association in respect to the
8 public defender member; and of the Washington association of counties
9 in respect to the member who is either a county legislative official or
10 county executive.

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

13 (4) The secretary shall serve on the commission during the
14 secretary's tenure as secretary of the department. The term of the
15 remaining members of the commission shall be three years. The initial
16 terms shall be determined by lot conducted at the commission's first
17 meeting as follows: (a) Four members shall serve a two-year term; and
18 (b) four members shall serve a three-year term. In the event of a
19 vacancy, the appointing authority shall designate a new member to
20 complete the remainder of the unexpired term.

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

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

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

29 (1) It is the responsibility of the sentencing guidelines
30 commission to: (a)(i) Evaluate the effectiveness of existing
31 disposition standards and related statutes in implementing policies set
32 forth in RCW 13.40.010 generally, (ii) specifically review the
33 guidelines relating to the confinement of minor and first offenders as
34 well as the use of diversion, and (iii) review the application of
35 current and proposed juvenile sentencing standards and guidelines for
36 potential adverse impacts on the sentencing outcomes of racial and
37 ethnic minority youth; (b) solicit the comments and suggestions of the
38 juvenile justice community concerning disposition standards; and (c)

1 make recommendations to the legislature regarding revisions or
2 modifications of the disposition standards in accordance with RCW
3 13.40.030. The evaluations shall be submitted to the legislature on
4 December 1 of each even-numbered year (~~thereafter~~).

5 (2) It is the responsibility of the department to: (a) Provide the
6 commission with available data concerning the implementation of the
7 disposition standards and related statutes and their effect on the
8 performance of the department's responsibilities relating to juvenile
9 offenders; and (b) (~~at the request of the commission, provide~~
10 ~~technical and administrative assistance to the commission in the~~
11 ~~performance of its responsibilities; and (c)) provide the commission~~
12 and legislature with recommendations for modification of the
13 disposition standards.

14 **Sec. 13.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read
15 as follows:

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

1 ~~(b) The secretary shall submit guidelines pertaining to the nature~~
2 ~~of the security to be imposed on youth placed in his or her custody~~
3 ~~based on the age, offense(s), and criminal history of the juvenile~~
4 ~~offender. Such guidelines shall be submitted to the legislature for~~
5 ~~its review no later than November 1st of each year. At the same time~~
6 ~~the secretary shall submit a report on security at juvenile facilities~~
7 ~~during the preceding year. The report shall include the number of~~
8 ~~escapes from each juvenile facility, the most serious offense for which~~
9 ~~each escapee had been confined, the number and nature of offenses found~~
10 ~~to have been committed by juveniles while on escape status, the number~~
11 ~~of authorized leaves granted, the number of failures to comply with~~
12 ~~leave requirements, the number and nature of offenses committed while~~
13 ~~on leave, and the number and nature of offenses committed by juveniles~~
14 ~~while in the community on minimum security status; to the extent this~~
15 ~~information is available to the secretary. The department shall~~
16 ~~include security status definitions in the security guidelines it~~
17 ~~submits to the legislature pursuant to this section.))~~

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

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

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

27 ~~(c) Where the maximum term in the range is more than one year, the~~
28 ~~minimum term in the range may be no less than eighty percent of the~~
29 ~~maximum term in the range.))~~ The commission's recommendations for new
30 disposition standards shall result in a simplified disposition system.
31 In setting the new standards, the commission shall focus on the need to
32 protect public safety by emphasizing punishment, deterrence, and
33 confinement for violent and repeat offenders. The seriousness of the
34 offense shall be the most important factor in determining the length of
35 confinement, while the offender's age and criminal history shall count
36 as contributing factors. The commission shall increase judicial
37 flexibility and discretion by broadening standard ranges of
38 confinement. The commission shall provide for the use of basic
39 training camp programs. Alternatives to total confinement shall be

1 considered for nonviolent offenders. The commission shall take into
2 account, but not be limited by, the capacity of state juvenile
3 facilities, including the additional capacity that is being developed
4 or that can feasibly be developed in the near future.

5 In setting new standards, the commission must also recommend
6 disposition and institutional options for serious or chronic offenders
7 between the ages of fifteen and twenty-five who currently must either
8 be released from juvenile court jurisdiction at age twenty-one or who
9 are prosecuted as adults because the juvenile system is inadequate to
10 address their rehabilitation needs or protect the public. One option
11 must include development of a youthful offender disposition option that
12 combines adult criminal sentencing guidelines and juvenile disposition
13 standards and addresses: (a) Whether youthful offenders would be under
14 jurisdiction of the department of corrections or the department of
15 social and health services; (b) whether current age restrictions on
16 juvenile court jurisdiction would be modified; and (c) whether the
17 department of social and health services or the department of
18 corrections would provide institutional and community correctional
19 services. The option must also recommend an implementation timeline
20 and plan, identify funding and capital construction or improvement
21 options to provide separate facilities for youthful offenders, and
22 identify short and long-term fiscal impacts.

23 In developing the new standards, the commission must review
24 disposition options in other states and consult with interested parties
25 including superior court judges, prosecutors, defense attorneys,
26 juvenile court administrators, victims advocates, the department of
27 corrections and the department of social and health services, and
28 members of the legislature.

29 NEW SECTION. Sec. 14. A new section is added to chapter 13.40 RCW
30 to read as follows:

31 The secretary shall submit a report on security at juvenile
32 facilities during the preceding year. The report shall include the
33 number of escapes from each juvenile facility, the most serious offense
34 for which each escapee had been confined, the number and nature of
35 offenses found to have been committed by juveniles while on escape
36 status, the number of authorized leaves granted, the number of failures
37 to comply with leave requirements, the number and nature of offenses
38 committed while on leave, and the number and nature of offenses

1 committed by juveniles while in the community on minimum security
 2 status; to the extent this information is available to the secretary.
 3 The department shall include security status definitions in the report
 4 it submits to the legislature pursuant to this section. The report
 5 shall be submitted no later than December 15th of each year.

6 **Sec. 15.** RCW 13.40.0357 and 1995 c 395 s 3 are each amended to
 7 read as follows:

8 **SCHEDULE A**
 9 **DESCRIPTION AND OFFENSE CATEGORY**

10			JUVENILE
11	JUVENILE		DISPOSITION
12	DISPOSITION		CATEGORY FOR ATTEMPT,
13	OFFENSE		BAILJUMP, CONSPIRACY,
14	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
15		
16		Arson and Malicious Mischief	
17	A	Arson 1 (9A.48.020)	B+
18	B	Arson 2 (9A.48.030)	C
19	C	Reckless Burning 1 (9A.48.040)	D
20	D	Reckless Burning 2 (9A.48.050)	E
21	B	Malicious Mischief 1 (9A.48.070)	C
22	C	Malicious Mischief 2 (9A.48.080)	D
23	D	Malicious Mischief 3 (<\$50 is	
24		E class) (9A.48.090)	E
25	E	Tampering with Fire Alarm	
26		Apparatus (9.40.100)	E
27	A	Possession of Incendiary Device	
28		(9.40.120)	B+
29		Assault and Other Crimes	
30		Involving Physical Harm	
31	A	Assault 1 (9A.36.011)	B+
32	B+	Assault 2 (9A.36.021)	C+
33	C+	Assault 3 (9A.36.031)	D+
34	D+	Assault 4 (9A.36.041)	E
35	D+	Reckless Endangerment	
36		(9A.36.050)	E

1	C+	Promoting Suicide Attempt	
2		(9A.36.060)	D+
3	D+	Coercion (9A.36.070)	E
4	C+	Custodial Assault (9A.36.100)	D+
5		Burglary and Trespass	
6	B+	Burglary 1 (9A.52.020)	C+
7	<u>B</u>	<u>Residential Burglary (9A.52.025)</u>	<u>C</u>
8	B	Burglary 2 (9A.52.030)	C
9	D	Burglary Tools (Possession of)	
10		(9A.52.060)	E
11	D	Criminal Trespass 1 (9A.52.070)	E
12	E	Criminal Trespass 2 (9A.52.080)	E
13	D	Vehicle Prowling (9A.52.100)	E
14		Drugs	
15	E	Possession/Consumption of Alcohol	
16		(66.44.270)	E
17	C	Illegally Obtaining Legend Drug	
18		(69.41.020)	D
19	C+	Sale, Delivery, Possession of Legend	
20		Drug with Intent to Sell	
21		(69.41.030)	D+
22	E	Possession of Legend Drug	
23		(69.41.030)	E
24	B+	Violation of Uniform Controlled	
25		Substances Act - Narcotic Sale	
26		(69.50.401(a)(1)(i))	B+
27	C	Violation of Uniform Controlled	
28		Substances Act - Nonnarcotic Sale	
29		(69.50.401(a)(1)(ii))	C
30	E	Possession of Marihuana <40 grams	
31		(69.50.401(e))	E
32	C	Fraudulently Obtaining Controlled	
33		Substance (69.50.403)	C
34	C+	Sale of Controlled Substance	
35		for Profit (69.50.410)	C+
36	E	Unlawful Inhalation (9.47A.020)	E
37	B	Violation of Uniform Controlled	
38		Substances Act - Narcotic	

1		Counterfeit Substances	
2		(69.50.401(b)(1)(i))	B
3	C	Violation of Uniform Controlled	
4		Substances Act - Nonnarcotic	
5		Counterfeit Substances	
6		(69.50.401(b)(1) (ii), (iii), (iv))	C
7	C	Violation of Uniform Controlled	
8		Substances Act - Possession of a	
9		Controlled Substance	
10		(69.50.401(d))	C
11	C	Violation of Uniform Controlled	
12		Substances Act - Possession of a	
13		Controlled Substance	
14		(69.50.401(c))	C
15		Firearms and Weapons	
16	E	Carrying Loaded Pistol Without	
17		Permit (9.41.050)	E
18	C	Possession of Firearms by	
19		Minor (<18) (9.41.040(1)(e))(b)(iv))	C
20	D+	Possession of Dangerous Weapon	
21		(9.41.250)	E
22	D	Intimidating Another Person by use	
23		of Weapon (9.41.270)	E
24		Homicide	
25	A+	Murder 1 (9A.32.030)	A
26	A+	Murder 2 (9A.32.050)	B+
27	B+	Manslaughter 1 (9A.32.060)	C+
28	C+	Manslaughter 2 (9A.32.070)	D+
29	B+	Vehicular Homicide (46.61.520)	C+
30		Kidnapping	
31	A	Kidnap 1 (9A.40.020)	B+
32	B+	Kidnap 2 (9A.40.030)	C+
33	C+	Unlawful Imprisonment	
34		(9A.40.040)	D+
35		Obstructing Governmental Operation	
36	E	Obstructing a Law Enforcement Officer	
37		(9A.76.020)	E

1	E	Resisting Arrest (9A.76.040)	E
2	B	Introducing Contraband 1	
3		(9A.76.140)	C
4	C	Introducing Contraband 2	
5		(9A.76.150)	D
6	E	Introducing Contraband 3	
7		(9A.76.160)	E
8	B+	Intimidating a Public Servant	
9		(9A.76.180)	C+
10	B+	Intimidating a Witness	
11		(9A.72.110)	C+
12		Public Disturbance	
13	C+	Riot with Weapon (9A.84.010)	D+
14	D+	Riot Without Weapon	
15		(9A.84.010)	E
16	E	Failure to Disperse (9A.84.020)	E
17	E	Disorderly Conduct (9A.84.030)	E
18		Sex Crimes	
19	A	Rape 1 (9A.44.040)	B+
20	A-	Rape 2 (9A.44.050)	B+
21	C+	Rape 3 (9A.44.060)	D+
22	A-	Rape of a Child 1 (9A.44.073)	B+
23	B	Rape of a Child 2 (9A.44.076)	C+
24	B	Incest 1 (9A.64.020(1))	C
25	C	Incest 2 (9A.64.020(2))	D
26	D+	Indecent Exposure	
27		(Victim <14) (9A.88.010)	E
28	E	Indecent Exposure	
29		(Victim 14 or over) (9A.88.010)	E
30	B+	Promoting Prostitution 1	
31		(9A.88.070)	C+
32	C+	Promoting Prostitution 2	
33		(9A.88.080)	D+
34	E	O & A (Prostitution) (9A.88.030)	E
35	B+	Indecent Liberties (9A.44.100)	C+
36	B+	Child Molestation 1 (9A.44.083)	C+
37	C+	Child Molestation 2 (9A.44.086)	C

1		Theft, Robbery, Extortion, and Forgery	
2	B	Theft 1 (9A.56.030)	C
3	C	Theft 2 (9A.56.040)	D
4	D	Theft 3 (9A.56.050)	E
5	B	Theft of Livestock (9A.56.080)	C
6	C	Forgery (9A.60.020)	D
7	A	Robbery 1 (9A.56.200)	B+
8	B+	Robbery 2 (9A.56.210)	C+
9	B+	Extortion 1 (9A.56.120)	C+
10	C+	Extortion 2 (9A.56.130)	D+
11	B	Possession of Stolen Property 1	
12		(9A.56.150)	C
13	C	Possession of Stolen Property 2	
14		(9A.56.160)	D
15	D	Possession of Stolen Property 3	
16		(9A.56.170)	E
17	C	Taking Motor Vehicle Without	
18		Owner's Permission (9A.56.070)	D
19		Motor Vehicle Related Crimes	
20	E	Driving Without a License	
21		(46.20.021)	E
22	C	Hit and Run - Injury	
23		(46.52.020(4))	D
24	D	Hit and Run-Attended	
25		(46.52.020(5))	E
26	E	Hit and Run-Unattended	
27		(46.52.010)	E
28	C	Vehicular Assault (46.61.522)	D
29	C	Attempting to Elude Pursuing	
30		Police Vehicle (46.61.024)	D
31	E	Reckless Driving (46.61.500)	E
32	D	Driving While Under the Influence	
33		(46.61.502 and 46.61.504)	E
34	D	Vehicle Prowling (9A.52.100)	E
35	C	Taking Motor Vehicle Without	
36		Owner's Permission (9A.56.070)	D
37		Other	
38	B	Bomb Threat (9.61.160)	C

1	C	Escape 1 (9A.76.110)	C
2	C	Escape 2 (9A.76.120)	C
3	D	Escape 3 (9A.76.130)	E
4	E	Obscene, Harassing, Etc.,	
5		Phone Calls (9.61.230)	E
6	A	Other Offense Equivalent to an	
7		Adult Class A Felony	B+
8	B	Other Offense Equivalent to an	
9		Adult Class B Felony	C
10	C	Other Offense Equivalent to an	
11		Adult Class C Felony	D
12	D	Other Offense Equivalent to an	
13		Adult Gross Misdemeanor	E
14	E	Other Offense Equivalent to an	
15		Adult Misdemeanor	E
16	V	Violation of Order of Restitution,	
17		Community Supervision, or	
18		Confinement, (2)3.40.200) -	V

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

- 21 1st escape or attempted escape during 12-month period - 4 weeks
- 22 confinement
- 23 2nd escape or attempted escape during 12-month period - 8 weeks
- 24 confinement
- 25 3rd and subsequent escape or attempted escape during 12-month
- 26 period - 12 weeks confinement

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

29 SCHEDULE B
30 PRIOR OFFENSE INCREASE FACTOR

31 For use with all CURRENT OFFENSES occurring on or after July 1,
32 1989.

33 TIME SPAN

34	OFFENSE	0-12	13-24	25 Months
35	CATEGORY	Months	Months	or More

1			
2	A+	.9	.9	.9
3	A	.9	.8	.6
4	A-	.9	.8	.5
5	B+	.9	.7	.4
6	B	.9	.6	.3
7	C+	.6	.3	.2
8	C	.5	.2	.2
9	D+	.3	.2	.1
10	D	.2	.1	.1
11	E	.1	.1	.1

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

16 SCHEDULE C
17 CURRENT OFFENSE POINTS

18 For use with all CURRENT OFFENSES occurring on or after July 1,
19 1989.

20	AGE						
21 OFFENSE	12 &						
22 CATEGORY	Under	13	14	15	16	17	
23						
24	A+	STANDARD	RANGE	180-224	WEEKS		
25	A	250	300	350	375	375	375
26	A-	150	150	150	200	200	200
27	B+	110	110	120	130	140	150
28	B	45	45	50	50	57	57
29	C+	44	44	49	49	55	55
30	C	40	40	45	45	50	50
31	D+	16	18	20	22	24	26
32	D	14	16	18	20	22	24
33	E	4	4	4	6	8	10

JUVENILE SENTENCING STANDARDS

SCHEDULE D-1

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

MINOR/FIRST OFFENDER

OPTION A

STANDARD RANGE

((Community

~~Community Service~~

~~Points Supervision Hours Fine~~

~~1-9 0-3 months and/or 0-8 and/or 0-\$10~~

~~10-19 0-3 months and/or 0-8 and/or 0-\$10~~

~~20-29 0-3 months and/or 0-16 and/or 0-\$10~~

~~30-39 0-3 months and/or 8-24 and/or 0-\$25~~

~~40-49 3-6 months and/or 16-32 and/or 0-\$25~~

~~50-59 3-6 months and/or 24-40 and/or 0-\$25~~

~~60-69 6-9 months and/or 32-48 and/or 0-\$50~~

~~70-79 6-9 months and/or 40-56 and/or 0-\$50~~

~~80-89 9-12 months and/or 48-64 and/or 10-\$100~~

~~90-109 9-12 months and/or 56-72 and/or 10-\$100))~~

Community

Community Service

Points Supervision Hours Fine

1-9 0-12 months and/or 0-150 and/or 0-\$100

10-19 0-12 months and/or 0-150 and/or 0-\$100

20-29 0-12 months and/or 0-150 and/or 0-\$100

30-39 0-12 months and/or 8-150 and/or 0-\$100

40-49 3-12 months and/or 16-150 and/or 0-\$100

50-59 3-12 months and/or 24-150 and/or 0-\$100

60-69 6-12 months and/or 32-150 and/or 0-\$100

70-79 6-12 months and/or 40-150 and/or 0-\$100

80-89 9-12 months and/or 48-150 and/or 10-\$100

90-109 9-12 months and/or 56-150 and/or 10-\$100

OR

OPTION B

~~((STATUTORY OPTION~~

- ~~0-12 Months Community Supervision~~
- ~~0-150 Hours Community Service~~
- ~~0-100 Fine~~
- ~~Posting of a Probation Bond~~

~~A term of community supervision with a maximum of 150 hours, \$100.00 fine, and 12 months supervision.~~

OR

~~OPTION C))~~

MANIFEST INJUSTICE

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

JUVENILE SENTENCING STANDARDS

SCHEDULE D-2

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

MIDDLE OFFENDER

OPTION A

STANDARD RANGE

~~((Community~~

Points	Community Supervision	Service Hours	Fine	Confinement Days	Weeks
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 0	and/or 2-4

1 ~~40-49~~ ~~3-6 months~~ ~~and/or 16-32~~ ~~and/or 0-\$25~~ ~~and/or 2-4~~
 2 ~~50-59~~ ~~3-6 months~~ ~~and/or 24-40~~ ~~and/or 0-\$25~~ ~~and/or 5-10~~
 3 ~~60-69~~ ~~6-9 months~~ ~~and/or 32-48~~ ~~and/or 0-\$50~~ ~~and/or 5-10~~
 4 ~~70-79~~ ~~6-9 months~~ ~~and/or 40-56~~ ~~and/or 0-\$50~~ ~~and/or 10-20~~
 5 ~~80-89~~ ~~9-12 months~~ ~~and/or 48-64~~ ~~and/or 0-\$100~~ ~~and/or 10-20~~
 6 ~~90-109~~ ~~9-12 months~~ ~~and/or 56-72~~ ~~and/or 0-\$100~~ ~~and/or 15-30~~
 7 ~~110-129~~ ~~8-12~~
 8 ~~130-149~~ ~~13-16~~))

9 Community

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

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

34 All A+ offenses 180-224 weeks

35 OR

36 OPTION B

1 STATUTORY OPTION

2 OFFENDERS WITH 110 POINTS OR MORE

3 (~~0-12 Months Community Supervision~~
4 ~~0-150 Hours Community Service~~
5 ~~0-100 Fine~~
6 ~~Posting of a Probation Bond~~))

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

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

23 OR

24 OPTION C

25 MANIFEST INJUSTICE

26 ALL MIDDLE OFFENDERS

27 If the court determines that a disposition under A or B would
28 effectuate a manifest injustice, the court shall sentence the juvenile
29 to a maximum term and the provisions of (~~RCW 13.40.030(2)~~) section 24
30 of this act shall be used to determine the range.

31 JUVENILE SENTENCING STANDARDS

32 SCHEDULE D-3

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

1 SERIOUS OFFENDER

2 OPTION A

3 STANDARD RANGE

4	Points	Institution Time
5	((0-129 _____ 8-12 weeks	
6	130-149 _____ 13-16 weeks	
7	150-199 _____ 21-28 weeks	
8	200-249)) <u>0-249</u>	30-40 weeks
9	250-299	52-65 weeks
10	300-374	80-100 weeks
11	375+	103-129 weeks
12	All A+	
13	Offenses	180-224 weeks

14 OR

15 OPTION B

16 MANIFEST INJUSTICE

17 A disposition outside the standard range shall be determined and shall
 18 be comprised of confinement or community supervision including posting
 19 a probation bond or a combination thereof. When a judge finds a
 20 manifest injustice and imposes a sentence of confinement exceeding 30
 21 days, the court shall sentence the juvenile to a maximum term, and the
 22 provisions of ~~((RCW 13.40.030(2)))~~ section 24 of this act shall be used
 23 to determine the range.

24 **Sec. 16.** RCW 13.40.045 and 1994 sp.s. c 7 s 518 are each amended
 25 to read as follows:

26 The secretary, assistant secretary, or the secretary's designee
 27 shall issue arrest warrants for juveniles who escape from department
 28 residential custody or abscond from parole supervision or fail to meet
 29 conditions of parole. These arrest warrants shall authorize any law
 30 enforcement, probation and parole, or peace officer of this state, or
 31 any other state where the juvenile is located, to arrest the juvenile
 32 and to place the juvenile in physical custody pending the juvenile's
 33 return to confinement in a state juvenile rehabilitation facility.

34 **Sec. 17.** RCW 13.40.050 and 1995 c 395 s 5 are each amended to read
 35 as follows:

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

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

6 (b) A detention hearing, a community supervision modification or
7 termination of diversion petition, or a parole modification petition
8 shall be held within seventy-two hours, Saturdays, Sundays, and
9 holidays excluded, from the time of filing the information or petition,
10 to determine whether continued detention is necessary under RCW
11 13.40.040.

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

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

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

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

30 (6) If detention is not necessary under RCW 13.40.040, (~~as now or~~
31 ~~hereafter amended,~~) the court shall impose the most appropriate of the
32 following conditions or, if necessary, any combination of the following
33 conditions:

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

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

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

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

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

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

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

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

14 **Sec. 18.** RCW 13.40.060 and 1989 c 71 s 1 are each amended to read
15 as follows:

16 (1) All actions under this chapter shall be commenced and tried in
17 the county where any element of the offense was committed except as
18 otherwise specially provided by statute. In cases in which diversion
19 is provided by statute, venue is in the county in which the juvenile
20 resides or in the county in which any element of the offense was
21 committed.

22 (2) For juveniles whose standard range disposition would include
23 confinement in excess of thirty days, the case and copies of all legal
24 and social documents pertaining thereto may in the discretion of the
25 court be transferred to the county where the juvenile resides for a
26 disposition hearing. All costs and arrangements for care and
27 transportation of the juvenile in custody shall be the responsibility
28 of the receiving county as of the date of the transfer of the juvenile
29 to such county, unless the counties otherwise agree.

30 (3) The case and copies of all legal and social documents
31 pertaining thereto may in the discretion of the court be transferred to
32 the county in which the juvenile resides for supervision and
33 enforcement of the disposition order. The court of the receiving
34 county has jurisdiction to modify and enforce the disposition order.

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

1 **Sec. 19.** RCW 13.40.080 and 1994 sp.s. c 7 s 544 are each amended
2 to read as follows:

3 (1) A diversion agreement shall be a contract between a juvenile
4 accused of an offense and a diversionary unit whereby the juvenile
5 agrees to fulfill certain conditions in lieu of prosecution. Such
6 agreements may be entered into only after the prosecutor, or probation
7 counselor pursuant to this chapter, has determined that probable cause
8 exists to believe that a crime has been committed and that the juvenile
9 committed it. Such agreements shall be entered into as expeditiously
10 as possible.

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

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

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

18 (c) Attendance at (~~up to ten hours of~~) counseling and/or (~~up to~~
19 ~~twenty hours of~~) educational or informational sessions at a community
20 agency for a specified period of time as determined by the diversion
21 unit. The educational or informational sessions may include sessions
22 relating to respect for self, others, and authority; victim awareness;
23 accountability; self-worth; responsibility; work ethics; good
24 citizenship; and life skills. For purposes of this section, "community
25 agency" may also mean a community-based nonprofit organization, if
26 approved by the diversion unit. The state shall not be liable for
27 costs resulting from the diversionary unit exercising the option to
28 permit diversion agreements to mandate attendance at (~~up to ten hours~~
29 ~~of~~) counseling and/or (~~up to twenty hours of~~) educational or
30 informational sessions;

31 (d) A fine, not to exceed one hundred dollars. In determining the
32 amount of the fine, the diversion unit shall consider only the
33 juvenile's financial resources and whether the juvenile has the means
34 to pay the fine. The diversion unit shall not consider the financial
35 resources of the juvenile's parents, guardian, or custodian in
36 determining the fine to be imposed; and

37 (e) Requirements to remain during specified hours at home, school,
38 or work, and restrictions on leaving or entering specified geographical
39 areas.

1 (3) In assessing periods of community service to be performed and
2 restitution to be paid by a juvenile who has entered into a diversion
3 agreement, the court officer to whom this task is assigned shall
4 consult with the juvenile's custodial parent or parents or guardian and
5 victims who have contacted the diversionary unit and, to the extent
6 possible, involve members of the community. Such members of the
7 community shall meet with the juvenile and advise the court officer as
8 to the terms of the diversion agreement and shall supervise the
9 juvenile in carrying out its terms.

10 (4) A diversion agreement may not exceed a period of six months and
11 may include a period extending beyond the eighteenth birthday of the
12 diveree. Any restitution assessed during its term may not exceed an
13 amount which the juvenile could be reasonably expected to pay during
14 this period. If additional time is necessary for the juvenile to
15 complete restitution to the victim, the time period limitations of this
16 subsection may be extended by an additional six months.

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

19 (6) Diverees and potential diverees shall be afforded due process
20 in all contacts with a diversionary unit regardless of whether the
21 juveniles are accepted for diversion or whether the diversion program
22 is successfully completed. Such due process shall include, but not be
23 limited to, the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 The juvenile shall be advised that a diversion agreement shall
28 constitute a part of the juvenile's criminal history as defined by RCW
29 13.40.020(9). A signed acknowledgment of such advisement shall be
30 obtained from the juvenile, and the document shall be maintained by the
31 diversionary unit together with the diversion agreement, and a copy of
32 both documents shall be delivered to the prosecutor if requested by the
33 prosecutor. The supreme court shall promulgate rules setting forth the
34 content of such advisement in simple language.

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

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

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

- 1 (c) The juvenile's obligations under such agreement;
2 (d) Whether the alleged offender performed his or her obligations
3 under such agreement; and
4 (e) The facts of the alleged offense.

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

13 (13) A diversionary unit may, in instances where it determines that
14 the act or omission of an act for which a juvenile has been referred to
15 it involved no victim, or where it determines that the juvenile
16 referred to it has no prior criminal history and is alleged to have
17 committed an illegal act involving no threat of or instance of actual
18 physical harm and involving not more than fifty dollars in property
19 loss or damage and that there is no loss outstanding to the person or
20 firm suffering such damage or loss, counsel and release or release such
21 a juvenile without entering into a diversion agreement. A diversion
22 unit's authority to counsel and release a juvenile under this
23 subsection shall include the authority to refer the juvenile to
24 community-based counseling or treatment programs. Any juvenile
25 released under this subsection shall be advised that the act or
26 omission of any act for which he or she had been referred shall
27 constitute a part of the juvenile's criminal history as defined by RCW
28 13.40.020(9). A signed acknowledgment of such advisement shall be
29 obtained from the juvenile, and the document shall be maintained by the
30 unit, and a copy of the document shall be delivered to the prosecutor
31 if requested by the prosecutor. The supreme court shall promulgate
32 rules setting forth the content of such advisement in simple language.
33 A juvenile determined to be eligible by a diversionary unit for release
34 as provided in this subsection shall retain the same right to counsel
35 and right to have his or her case referred to the court for formal
36 action as any other juvenile referred to the unit.

37 (14) A diversion unit may supervise the fulfillment of a diversion
38 agreement entered into before the juvenile's eighteenth birthday and

1 which includes a period extending beyond the divertee's eighteenth
2 birthday.

3 (15) If a fine required by a diversion agreement cannot reasonably
4 be paid due to a change of circumstance, the diversion agreement may be
5 modified at the request of the divertee and with the concurrence of the
6 diversion unit to convert an unpaid fine into community service. The
7 modification of the diversion agreement shall be in writing and signed
8 by the divertee and the diversion unit. The number of hours of
9 community service in lieu of a monetary penalty shall be converted at
10 the rate of the prevailing state minimum wage per hour.

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

18 **Sec. 20.** RCW 13.40.110 and 1990 c 3 s 303 are each amended to read
19 as follows:

20 (1) The prosecutor, respondent, or the court on its own motion may,
21 before a hearing on the information on its merits, file a motion
22 requesting the court to transfer the respondent for adult criminal
23 prosecution and the matter shall be set for a hearing on the question
24 of declining jurisdiction. Unless waived by the court, the parties,
25 and their counsel, a decline hearing shall be held (~~where:~~

26 ~~(a) The respondent is fifteen, sixteen, or seventeen years of age~~
27 ~~and the information alleges a class A felony or an attempt,~~
28 ~~solicitation, or conspiracy to commit a class A felony; or~~

29 ~~(b) The respondent is seventeen years of age and the information~~
30 ~~alleges assault in the second degree, extortion in the first degree,~~
31 ~~indecent liberties, child molestation in the second degree, kidnapping~~
32 ~~in the second degree, or robbery in the second degree)) when the~~

33 respondent is fourteen or fifteen years of age, the information alleges
34 a violent or felony sex offense as defined in RCW 9.94A.030, and the
35 offender is not subject to automatic prosecution in adult criminal
36 court under RCW 13.04.030.

37 (2) The court after a decline hearing may order the case
38 transferred for adult criminal prosecution upon a finding that the

1 declination would be in the best interest of the juvenile or the
2 public. The court shall consider the relevant reports, facts,
3 opinions, and arguments presented by the parties and their counsel.

4 (3) When the respondent is transferred for criminal prosecution or
5 retained for prosecution in juvenile court, the court shall set forth
6 in writing its finding which shall be supported by relevant facts and
7 opinions produced at the hearing.

8 **Sec. 21.** RCW 13.40.130 and 1981 c 299 s 10 are each amended to
9 read as follows:

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

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

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

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

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

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

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

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

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

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

11 **Sec. 22.** RCW 13.40.150 and 1995 c 268 s 5 are each amended to read
12 as follows:

13 (1) In disposition hearings all relevant and material evidence,
14 including oral and written reports, may be received by the court and
15 may be relied upon to the extent of its probative value, even though
16 such evidence may not be admissible in a hearing on the information.
17 The youth or the youth's counsel and the prosecuting attorney shall be
18 afforded an opportunity to examine and controvert written reports so
19 received and to cross-examine individuals making reports when such
20 individuals are reasonably available, but sources of confidential
21 information need not be disclosed. The prosecutor and counsel for the
22 juvenile may submit recommendations for disposition.

23 (2) For purposes of disposition:

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

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

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

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

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

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

36 (c) Consider any predisposition reports;

37 (d) Consult with the respondent's parent, guardian, or custodian on
38 the appropriateness of dispositional options under consideration and

1 afford the respondent and the respondent's parent, guardian, or
2 custodian an opportunity to speak in the respondent's behalf;

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

5 (f) Determine the amount of restitution owing to the victim, if
6 any;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (a) The sex of the respondent;

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

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

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

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

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

21 **Sec. 23.** RCW 13.40.160 and 1995 c 395 s 7 are each amended to read
22 as follows:

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

28 If the court concludes, and enters reasons for its conclusion, that
29 disposition within the standard range would effectuate a manifest
30 injustice the court shall impose a disposition outside the standard
31 range, as indicated in option B of schedule D-3, RCW 13.40.0357. The
32 court's finding of manifest injustice shall be supported by clear and
33 convincing evidence.

34 A disposition outside the standard range shall be determinate and
35 shall be comprised of confinement or community supervision, or a
36 combination thereof. When a judge finds a manifest injustice and
37 imposes a sentence of confinement exceeding thirty days, the court
38 shall sentence the juvenile to a maximum term, and the provisions of

1 (~~RCW 13.40.030(2)~~) section 24 of this act shall be used to determine
2 the range. A disposition outside the standard range is appealable
3 under RCW 13.40.230 by the state or the respondent. A disposition
4 within the standard range is not appealable under RCW 13.40.230.

5 (2) Where the respondent is found to be a minor or first offender,
6 the court shall order that the respondent serve a term of community
7 supervision as indicated in option A (~~or option B~~) of schedule D-1,
8 RCW 13.40.0357 except as provided in subsections (5) and (6) of this
9 section. If the court determines that a disposition of community
10 supervision would effectuate a manifest injustice the court may impose
11 another disposition under option (~~C~~) (B) of schedule D-1, RCW
12 13.40.0357. Except as provided in subsection (5) of this section, a
13 disposition other than a community supervision may be imposed only
14 after the court enters reasons upon which it bases its conclusions that
15 imposition of community supervision would effectuate a manifest
16 injustice. When a judge finds a manifest injustice and imposes a
17 sentence of confinement exceeding thirty days, the court shall sentence
18 the juvenile to a maximum term, and the provisions of (~~RCW~~
19 ~~13.40.030(2)~~) section 24 of this act shall be used to determine the
20 range. The court's finding of manifest injustice shall be supported by
21 clear and convincing evidence.

22 Except for disposition of community supervision or a disposition
23 imposed pursuant to subsection (5) of this section, a disposition may
24 be appealed as provided in RCW 13.40.230 by the state or the
25 respondent. A disposition of community supervision or a disposition
26 imposed pursuant to subsection (5) of this section may not be appealed
27 under RCW 13.40.230.

28 (3) Where a respondent is found to have committed an offense for
29 which the respondent declined to enter into a diversion agreement, the
30 court shall impose a term of community supervision limited to the
31 conditions allowed in a diversion agreement as provided in RCW
32 13.40.080(2).

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

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

1 (b) (~~If the middle offender has less than 110 points, the court~~
2 ~~shall impose a determinate disposition of community supervision and/or~~
3 ~~up to thirty days confinement, as indicated in option B of schedule D-~~
4 ~~2, RCW 13.40.0357 in which case, if confinement has been imposed, the~~
5 ~~court shall state either aggravating or mitigating factors as set forth~~
6 ~~in RCW 13.40.150.)) (i) If the middle offender has 110 points or more,~~
7 the court may impose a disposition under option A and may suspend the
8 disposition and impose a determinate disposition of community
9 supervision for a period of up to one year or the maximum term allowed
10 by the standard range whichever is longer, on the condition that the
11 offender serve up to thirty days of confinement and follow all
12 conditions of community supervision. If confinement has been imposed,
13 the court shall state either aggravating or mitigating factors as set
14 forth in RCW 13.40.150. If the offender violates any condition of the
15 disposition including conditions of a probation bond, the court may
16 impose sanctions pursuant to RCW 13.40.200 or may revoke the suspension
17 and order execution of the disposition. The court shall give credit
18 for any confinement time previously served if that confinement was for
19 the offense for which the suspension is being revoked; or

20 (ii) If the respondent is a middle offender with 110 points or more
21 the court may impose the special disposition option under section 25 of
22 this act.

23 (c) Only if the court concludes, and enters reasons for its
24 conclusions, that disposition as provided in subsection (4)(a) or (b)
25 of this section would effectuate a manifest injustice, the court shall
26 sentence the juvenile to a maximum term, and the provisions of (~~RCW~~
27 ~~13.40.030(2)) section 24 of this act shall be used to determine the~~
28 range. The court's finding of manifest injustice shall be supported by
29 clear and convincing evidence.

30 (d) A disposition pursuant to subsection (4)(c) of this section is
31 appealable under RCW 13.40.230 by the state or the respondent. A
32 disposition pursuant to subsection (4) (a) or (b) of this section is
33 not appealable under RCW 13.40.230.

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

1 The report of the examination shall include at a minimum the
2 following: The respondent's version of the facts and the official
3 version of the facts, the respondent's offense history, an assessment
4 of problems in addition to alleged deviant behaviors, the respondent's
5 social, educational, and employment situation, and other evaluation
6 measures used. The report shall set forth the sources of the
7 evaluator's information.

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

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

12 ((~~a~~))(i) Frequency and type of contact between the offender and
13 therapist;

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

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

19 (iv) Anticipated length of treatment; and

20 (v) Recommended crime-related prohibitions.

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

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

1 For either a standard range disposition or a manifest injustice
2 disposition the court may suspend the execution of the disposition and
3 place the offender on community supervision for up to two years.

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

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

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

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

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

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

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

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

31 (viii) Comply with the conditions of any court-ordered probation
32 bond.

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

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

3 Except as provided in this subsection (5), after July 1, 1991,
4 examinations and treatment ordered pursuant to this subsection shall
5 only be conducted by sex offender treatment providers certified by the
6 department of health pursuant to chapter 18.155 RCW. A sex offender
7 therapist who examines or treats a juvenile sex offender pursuant to
8 this subsection does not have to be certified by the department of
9 health pursuant to chapter 18.155 RCW if the court finds that: (A) The
10 offender has already moved to another state or plans to move to another
11 state for reasons other than circumventing the certification
12 requirements; (B) no certified providers are available for treatment
13 within a reasonable geographical distance of the offender's home; and
14 (C) the evaluation and treatment plan comply with this subsection (5)
15 and the rules adopted by the department of health.

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

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

31 (6) RCW 13.40.193 shall govern the disposition of any juvenile
32 adjudicated of possessing a firearm in violation of RCW
33 9.41.040(1)((+e))(b)(iv) or any crime in which a special finding is
34 entered that the juvenile was armed with a firearm.

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

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

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

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

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

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

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

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

22 NEW SECTION. **Sec. 25.** A new section is added to chapter 13.40 RCW
23 to read as follows:

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

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

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

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

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

8 (b) Availability of appropriate treatment;

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

12 (d) Anticipated length of treatment;

13 (e) Recommended crime-related prohibitions; and

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

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

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

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

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

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

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

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

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

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

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

28 NEW SECTION. **Sec. 26.** A new section is added to chapter 28A.175
29 RCW to read as follows:

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

35 NEW SECTION. **Sec. 27.** A new section is added to chapter 28A.225
36 RCW to read as follows:

1 References to juvenile court in this chapter mean, in addition to
2 the juvenile court of the superior court, courts of limited
3 jurisdiction that have acquired jurisdiction pursuant to RCW
4 13.04.030(1)(e)(iv) and section 8 of this act over juveniles who
5 violate the provisions of this chapter. If a court of limited
6 jurisdiction has jurisdiction over juveniles who violate this chapter,
7 that court also has jurisdiction over parents charged with violations
8 of this chapter.

9 **Sec. 28.** RCW 35.20.030 and 1993 c 83 s 3 are each amended to read
10 as follows:

11 The municipal court shall have jurisdiction to try violations of
12 all city ordinances and all other actions brought to enforce or recover
13 license penalties or forfeitures declared or given by any such
14 ordinances. It is empowered to forfeit cash bail or bail bonds and
15 issue execution thereon, to hear and determine all causes, civil or
16 criminal, arising under such ordinances, and to pronounce judgment in
17 accordance therewith: PROVIDED, That for a violation of the criminal
18 provisions of an ordinance no greater punishment shall be imposed than
19 a fine of five thousand dollars or imprisonment in the city jail not to
20 exceed one year, or both such fine and imprisonment, but the punishment
21 for any criminal ordinance shall be the same as the punishment provided
22 in state law for the same crime. The municipal court shall also have
23 jurisdiction over juvenile offenses prosecuted pursuant to chapter
24 13.40 RCW if the court has acquired jurisdiction pursuant to RCW
25 13.04.030(1)(e)(iv) and section 8 of this act. All civil and criminal
26 proceedings in municipal court, and judgments rendered therein, shall
27 be subject to review in the superior court by writ of review or on
28 appeal: PROVIDED, That an appeal from the court's determination or
29 order in a traffic infraction proceeding may be taken only in
30 accordance with RCW 46.63.090(5). Costs in civil and criminal cases
31 may be taxed as provided in district courts.

32 **Sec. 29.** RCW 72.01.410 and 1994 c 220 s 1 are each amended to read
33 as follows:

34 (1) Whenever any child under the age of eighteen is convicted in
35 the courts of this state of a crime amounting to a felony, and is
36 committed for a term of confinement in a correctional institution
37 wherein adults are confined, the secretary of corrections, after making

1 an independent assessment and evaluation of the child and determining
2 that the needs and correctional goals for the child could better be met
3 by the programs and housing environment provided by the juvenile
4 correctional institution, with the consent of the secretary of social
5 and health services, may transfer such child to a juvenile correctional
6 institution, or to such other institution as is now, or may hereafter
7 be authorized by law to receive such child, until such time as the
8 child arrives at the age of twenty-one years, whereupon the child shall
9 be returned to the institution of original commitment. Retention
10 within a juvenile detention facility or return to an adult correctional
11 facility shall regularly be reviewed by the secretary of corrections
12 and the secretary of social and health services with a determination
13 made based on the level of maturity and sophistication of the
14 individual, the behavior and progress while within the juvenile
15 detention facility, security needs, and the program/treatment
16 alternatives which would best prepare the individual for a successful
17 return to the community. Notice of such transfers shall be given to
18 the clerk of the committing court and the parents, guardian, or next of
19 kin of such child, if known.

20 (2) Juveniles under age sixteen who are automatically prosecuted as
21 adults under RCW 13.04.030 and committed to the department of
22 corrections may be transferred to the department of social and health
23 services for housing without an independent assessment and evaluation.
24 Those juveniles must be transferred to the department of corrections
25 for housing at age eighteen unless the secretary of the department of
26 corrections and department of social and health services agree to
27 continue housing a juvenile in juvenile institutions pursuant to
28 subsection (1) of this section. Juvenile offenders under age sixteen
29 who are convicted as adults may be housed in department of corrections
30 facilities if housing them in juvenile institutions poses a security
31 risk for others or themselves. If the department of corrections has
32 the funding and beds available to house juvenile offenders under age
33 sixteen in adult corrections facilities separated from adult offenders
34 over age eighteen, then the younger offenders may be housed in the
35 department of corrections.

36 (3) Sixteen and seventeen year old juvenile offenders must be
37 housed in adult corrections facilities subject to subsection (1) of
38 this section. The department must make reasonable efforts to house
39 those juveniles in housing units separated from adult offenders who are

1 much older, more violent or predatory, or larger in stature, subject to
2 security problems posed by individual juvenile offenders.

3 NEW SECTION. **Sec. 30.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 31.** Sections 2 through 8, 10, 15, 19, 20, 22,
8 23, 25, 27, and 28 of this act apply only to offenses committed on or
9 after the effective date of this act.

10 NEW SECTION. **Sec. 32.** (1) Sections 12 and 13 of this act shall
11 take effect June 30, 1996.

12 (2) Sections 1 through 11 and 14 through 33 of this act shall take
13 effect July 1, 1996.

14 NEW SECTION. **Sec. 33.** Sections 8, 27, and 28 of this act shall
15 expire June 30, 1998.

--- END ---