

1 2906-S AMH .... H4293.2

2 **SHB 2906 - H AMD 1117 ADOPTED 02/21/94**  
3 By Representative Appelwick and others

4  
5 Strike everything after the enacting clause and insert the  
6 following:

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22 **PART I - FIREARMS AND DANGEROUS WEAPONS**

23 **Sec. 101.** RCW 9.41.010 and 1992 c 205 s 117 and 1992 c 145 s 5 are  
24 each reenacted and amended to read as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter.

3 (1) (~~("Short firearm" or~~) "Firearm" means a weapon or device from  
4 which a projectile may be fired by an explosive such as gunpowder.

5 (2) "Pistol" (~~(as used in this chapter)~~) means any firearm with a  
6 barrel less than twelve inches in length, and is designed to be held  
7 and fired by the use of a single hand.

8 (~~(+2+)~~) (3) "Rifle" means a weapon designed or redesigned, made or  
9 remade, and intended to be fired from the shoulder and designed or  
10 redesigned, made or remade, and intended to use the energy of the  
11 explosive in a fixed metallic cartridge to fire only a single  
12 projectile through a rifled bore for each single pull of the trigger.

13 (4) "Short-barreled rifle" means a rifle having one or more barrels  
14 less than sixteen inches in length and any weapon made from a rifle by  
15 any means of modification if such modified weapon has an overall length  
16 of less than twenty-six inches, but does not include such a rifle  
17 owned, possessed, or controlled in compliance with federal law.

18 (5) "Shotgun" means a weapon with one or more barrels, designed or  
19 redesigned, made or remade, and intended to be fired from the shoulder  
20 and designed or redesigned, made or remade, and intended to use the  
21 energy of the explosive in a fixed shotgun shell to fire through a  
22 smooth bore either a number of ball shot or a single projectile for  
23 each single pull of the trigger.

24 (6) "Short-barreled shotgun" means a shotgun having one or more  
25 barrels less than eighteen inches in length and any weapon made from a  
26 shotgun by any means of modification if such modified weapon has an  
27 overall length of less than twenty-six inches, but does not include  
28 such a shotgun owned, possessed, or controlled in compliance with  
29 federal law.

30 (7) "Machine gun" means any firearm known as a machine gun,  
31 mechanical rifle, submachine gun, or any other mechanism or instrument  
32 not requiring that the trigger be pressed for each shot and having a  
33 reservoir clip, disc, drum, belt, or other separable mechanical device  
34 for storing, carrying, or supplying ammunition which can be loaded into  
35 the firearm, mechanism, or instrument, and fired therefrom at the rate  
36 of five or more shots per second.

37 (8) "Antique firearm" means a firearm or replica of a firearm not  
38 designed or redesigned for using rim fire or conventional center fire  
39 ignition with fixed ammunition and manufactured in or before 1898,

1 including any matchlock, flintlock, percussion cap, or similar type of  
2 ignition system and also any firearm using fixed ammunition  
3 manufactured in or before 1898, for which ammunition is no longer  
4 manufactured in the United States and is not readily available in the  
5 ordinary channels of commercial trade.

6 (9) "Loaded" means:

7 (a) There is a cartridge in the chamber of the firearm;

8 (b) Bullets are in a clip that is locked in place in the firearm;  
9 or

10 (c) There is a cartridge in the cylinder of the firearm, if the  
11 firearm is a revolver.

12 (10) "Dealer" means a person engaged in the business of selling  
13 firearms at wholesale or retail who has, or is required to have, a  
14 federal firearms license under 18 U.S.C. Sec. 923(1). A person who  
15 does not have, and is not required to have, a federal firearms license  
16 under 18 U.S.C. Sec. 923(1), is not a dealer if that person makes only  
17 occasional sales, exchanges, or purchases of firearms for the  
18 enhancement of a personal collection or for a hobby, or sells all or  
19 part of his or her personal collection of firearms.

20 (11) "Crime of violence" ((as used in this chapter)) means:

21 (a) Any of the following felonies, as now existing or hereafter  
22 amended: Any felony defined under any law as a class A felony or an  
23 attempt to commit a class A felony, criminal solicitation of or  
24 criminal conspiracy to commit a class A felony, manslaughter in the  
25 first degree, manslaughter in the second degree, indecent liberties if  
26 committed by forcible compulsion, rape in the second degree, kidnapping  
27 in the second degree, arson in the second degree, assault in the second  
28 degree, assault of a child in the second degree, extortion in the first  
29 degree, burglary in the second degree, and robbery in the second  
30 degree;

31 (b) Any conviction or adjudication for a felony offense in effect  
32 at any time prior to July 1, 1976, which is comparable to a felony  
33 classified as a crime of violence in ((subsection-(2)))(a) of this  
34 ((section)) subsection; and

35 (c) Any federal or out-of-state conviction or adjudication for an  
36 offense comparable to a felony classified as a crime of violence under  
37 ((subsection-(2))) (a) or (b) of this ((section).

38 (3) "Firearm" as used in this chapter means a weapon or device from  
39 which a projectile may be fired by an explosive such as gunpowder.

1       ~~(4) "Commercial seller" as used in this chapter means a person who~~  
2 ~~has a federal firearms license)) subsection.~~

3       **Sec. 102.** RCW 9.41.040 and 1992 c 205 s 118 and 1992 c 168 s 2 are  
4 each reenacted and amended to read as follows:

5       (1) A person is guilty of the crime of unlawful possession of a  
6 ~~((short)) firearm ((or pistol,)) if((, having previously been convicted~~  
7 ~~or, as a juvenile, adjudicated in this state or elsewhere of a crime of~~  
8 ~~violence or of a felony in which a firearm was used or displayed,)) the~~  
9 person owns ~~((or)),~~ has in his or her possession, or has in his or her  
10 control any ((short)) firearm ((or pistol)):

11       (a) After having previously been convicted or, as a juvenile,  
12 adjudicated delinquent in this state or elsewhere of a crime of  
13 violence or of a felony in which a firearm was used or displayed,  
14 except as otherwise provided in subsection (4) of this section;

15       (b) After having previously been convicted of or adjudicated  
16 delinquent for any felony violation of the uniform controlled  
17 substances act, chapter 69.50 RCW, or equivalent statutes of another  
18 jurisdiction, except as otherwise provided in subsection (4) of this  
19 section;

20       (c) After having previously been convicted on three occasions of  
21 driving a motor vehicle or operating a vessel while under the influence  
22 of intoxicating liquor or any drug, unless his or her right to own,  
23 possess, or control a firearm has been restored as provided in section  
24 104 of this act;

25       (d) After having previously been committed for mental health  
26 treatment, either voluntarily for a period exceeding fourteen  
27 continuous days, or involuntarily under RCW 71.05.320, chapter 10.77  
28 RCW, or equivalent statutes of another jurisdiction, unless his or her  
29 right to own, possess, or control a firearm has been restored as  
30 provided in section 104 of this act; or

31       (e) If the person is under eighteen years of age, except as  
32 provided in section 103 of this act.

33       (2) Unlawful possession of a ~~((short)) firearm ((or pistol shall be~~  
34 ~~punished as))~~ is a class C felony, punishable under chapter 9A.20 RCW.

35       (3) As used in this section, a person has been "convicted or  
36 adjudicated" at such time as a plea of guilty has been accepted or a  
37 verdict of guilty has been filed, notwithstanding the pendency of any  
38 future proceedings including but not limited to sentencing or

1 disposition, post-trial or post-factfinding motions, and appeals. A  
2 person shall not be precluded from ownership, possession, or control of  
3 a firearm if the conviction or adjudication has been the subject of a  
4 pardon, annulment, certificate of rehabilitation, or other equivalent  
5 procedure based on a finding of the rehabilitation of the person  
6 convicted or adjudicated or the conviction or disposition has been the  
7 subject of a pardon, annulment, or other equivalent procedure based on  
8 a finding of innocence.

9 ~~(4) ((Except as provided in subsection (5) of this section, a  
10 person is guilty of the crime of unlawful possession of a short firearm  
11 or pistol if, after having been convicted or adjudicated of any felony  
12 violation of the uniform controlled substances act, chapter 69.50 RCW,  
13 or equivalent statutes of another jurisdiction, the person owns or has  
14 in his or her possession or under his or her control any short firearm  
15 or pistol.~~

16 ~~(5))~~ Notwithstanding subsection (1) of this section, a person  
17 convicted of an offense other than murder, manslaughter, robbery, rape,  
18 indecent liberties, arson, assault, kidnapping, extortion, burglary, or  
19 violations with respect to controlled substances under RCW 69.50.401(a)  
20 and 69.50.410, who received a probationary sentence under RCW 9.95.200,  
21 and who received a dismissal of the charge under RCW 9.95.240, shall  
22 not be precluded from ownership, possession, or control of a firearm as  
23 a result of the conviction.

24 ~~((6)(a) A person who has been committed by court order for  
25 treatment of mental illness under RCW 71.05.320 or chapter 10.77 RCW,  
26 or equivalent statutes of another jurisdiction, may not possess, in any  
27 manner, a firearm as defined in RCW 9.41.010.~~

28 ~~(b) At the time of commitment, the court shall specifically state  
29 to the person under (a) of this subsection and give the person notice  
30 in writing that the person is barred from possession of firearms.~~

31 ~~(c) The secretary of social and health services shall develop  
32 appropriate rules to create an approval process under this subsection.  
33 The rules must provide for the immediate restoration of the right to  
34 possess a firearm upon a showing in a court of competent jurisdiction  
35 that a person no longer is required to participate in an inpatient or  
36 outpatient treatment program, and is no longer required to take  
37 medication to treat any condition related to the commitment. Unlawful  
38 possession of a firearm under this subsection shall be punished as a  
39 class C felony under chapter 9A.20 RCW.)~~

1       (5) In addition to any other penalty provided for by law, if a  
2 person under the age of eighteen years is found by a court to have  
3 possessed a firearm in a vehicle in violation of subsection (1) of this  
4 section or to have committed an offense while armed with a firearm  
5 during which offense a motor vehicle served an integral function, the  
6 court shall notify the department of licensing within twenty-four hours  
7 and the person's privilege to drive shall be revoked under RCW  
8 46.20.265.

9       **NEW SECTION. Sec. 103.** A new section is added to chapter 9.41 RCW  
10 to read as follows:

11       RCW 9.41.040(1)(e) shall not apply to any person under the age of  
12 eighteen years who is:

13       (1) In attendance at a hunter's safety course or a firearms safety  
14 course;

15       (2) Engaging in practice in the use of a firearm or target shooting  
16 at an established range authorized by the governing body of the  
17 jurisdiction in which such range is located or any other area where the  
18 discharge of a firearm is not prohibited;

19       (3) Engaging in an organized competition involving the use of a  
20 firearm, or participating in or practicing for a performance by an  
21 organized group that uses firearms as a part of the performance;

22       (4) Hunting or trapping under a valid license issued to the person  
23 under Title 77 RCW;

24       (5) In an area where the discharge of a firearm is permitted, is  
25 not trespassing, and the person either: (a) Is at least fifteen years  
26 of age, has been issued a hunter safety certificate, and is using a  
27 lawful firearm other than a pistol; or (b) is under the supervision of  
28 a parent, guardian, or other adult approved for the purpose by the  
29 parent or guardian;

30       (6) Traveling with any unloaded firearm in the person's possession  
31 to or from any activity described in subsection (1), (2), (3), (4), or  
32 (5) of this section;

33       (7) On real property under the control of his or her parent, other  
34 relative, or legal guardian and who has the permission of the parent or  
35 legal guardian to possess a firearm;

36       (8) At his or her residence and who, with the permission of his or  
37 her parent or legal guardian, possesses a firearm for the purpose of  
38 exercising the rights specified in RCW 9A.16.020(3); or

1 (9) Is a member of the armed forces of the United States, national  
2 guard, or organized reserves, when on duty.

3 NEW SECTION. **Sec. 104.** A new section is added to chapter 9.41 RCW  
4 to read as follows:

5 (1)(a) At the time a person is convicted of, or adjudicated  
6 delinquent for, an offense making the person ineligible to own,  
7 possess, or control a firearm, or at the time a person is committed by  
8 court order under RCW 71.05.320 or chapter 10.77 RCW for mental health  
9 treatment, the convicting or committing court shall notify the person,  
10 orally and in writing, that the person may not own, possess, or control  
11 a firearm unless his or her right to do so is restored by a court of  
12 record.

13 The convicting or committing court also shall forward a copy of the  
14 person's driver's license or identicard, or comparable information, to  
15 the department of licensing, along with the date of conviction or  
16 commitment.

17 (b) Upon the expiration of fourteen days of treatment of a person  
18 voluntarily committed, if the period of voluntary commitment is to  
19 continue, the institution, hospital, or sanitarium shall notify the  
20 person, orally and in writing, that the person may not own, possess, or  
21 control a firearm unless his or her right to do so is restored by a  
22 court of record.

23 Following fourteen continuous days of treatment, the institution,  
24 hospital, or sanitarium also shall forward a copy of the person's  
25 driver's license or identicard, or comparable information, to the  
26 department of licensing, along with the date of voluntary commitment.

27 (2) Upon receipt of the information provided for by subsection (1)  
28 of this section, the department of licensing shall determine if the  
29 convicted or committed person has a concealed pistol license. If the  
30 person does have a concealed pistol license, the department of  
31 licensing shall immediately notify the license-issuing authority.

32 (3) A person who is prohibited from owning, possessing, or having  
33 in his or her control a firearm by reason of having previously been  
34 convicted on three occasions of driving a motor vehicle or operating a  
35 vessel while under the influence of intoxicating liquor or any drug  
36 may, after five continuous years without further conviction for any  
37 alcohol-related offense, petition a court record to have his or her  
38 right to own, possess, or control a firearm restored.

1 (4)(a) A person who is prohibited from owning, possessing, or  
2 having in his or her control a firearm, by reason of having been  
3 either:

4 (i) Voluntarily committed for mental health treatment for a period  
5 exceeding fourteen continuous days; or

6 (ii) Involuntarily committed for mental health treatment under RCW  
7 71.05.320, chapter 10.77 RCW, or equivalent statutes of another  
8 jurisdiction,  
9 may, upon discharge, petition a court of record to have his or her  
10 right to own, possess, or control a firearm restored.

11 (b) At a minimum, a petition under this subsection (4) shall  
12 include the following:

13 (i) The fact, date, and place of commitment;

14 (ii) The place of treatment;

15 (iii) The fact and date of release from commitment;

16 (iv) A certified copy of the most recent order, if one exists, of  
17 commitment, with the findings of fact and conclusions of law; and

18 (v) A statement by the person that he or she is no longer required  
19 to participate in an inpatient or outpatient treatment program, is no  
20 longer required to take medication to treat any condition related to  
21 the commitment, and does not present a substantial danger to himself or  
22 herself, to others, or to the public safety.

23 (c) A person petitioning the court under this subsection (4) shall  
24 bear the burden of proving by a preponderance of the evidence that the  
25 circumstances resulting in the commitment no longer exist and are not  
26 reasonably likely to recur.

27 NEW SECTION. **Sec. 105.** A new section is added to chapter 9.41 RCW  
28 to read as follows:

29 Except as provided in section 104(4)(b)(iii) of this act, the  
30 department of licensing and the license-issuing authority shall hold  
31 the information provided for by section 104(1) of this act  
32 confidential, and shall use the information solely to determine the  
33 person's eligibility to own, possess, control, or purchase a firearm,  
34 or eligibility for a concealed pistol license.

35 **Sec. 106.** RCW 9.41.045 and 1991 c 221 s 1 are each amended to read  
36 as follows:

1 As a sentence condition and requirement, offenders under the  
2 supervision of the department of corrections pursuant to chapter 9.94A  
3 RCW shall not own, use, or possess firearms ((~~or ammunition~~)). In  
4 addition to any penalty imposed pursuant to RCW 9.41.040 when  
5 applicable, offenders found to be in actual or constructive possession  
6 of firearms ((~~or ammunition~~)) shall be subject to the appropriate  
7 violation process and sanctions as provided for in RCW 9.94A.200.  
8 Firearms ((~~or ammunition~~)) owned, used, or possessed by offenders may  
9 be confiscated by community corrections officers and turned over to the  
10 Washington state patrol for disposal as provided in RCW 9.41.098.

11 **Sec. 107.** RCW 9.41.050 and 1982 1st ex.s. c 47 s 3 are each  
12 amended to read as follows:

13 (1) Except in the person's place of abode or fixed place of  
14 business, a person shall not carry a pistol concealed on his or her  
15 person without a license to carry a concealed weapon.

16 (2) A person who is in possession of an unloaded pistol shall not  
17 leave the unloaded pistol in a vehicle unless the unloaded pistol is  
18 locked within the vehicle and concealed from view from outside the  
19 vehicle.

20 (3) A person shall not carry or place a loaded pistol in any  
21 vehicle unless the person has a license to carry a concealed weapon  
22 and: (a) The pistol is on the licensee's person, (b) the licensee is  
23 within the vehicle at all times that the pistol is there, or (c) the  
24 licensee is away from the vehicle and the pistol is locked within the  
25 vehicle and concealed from view from outside the vehicle.

26 (4) Except as otherwise provided in this section, no person at  
27 least twenty-one years of age may carry a firearm unless it is unloaded  
28 and enclosed in an opaque case or secure wrapper and the person is:

29 (a) Licensed under RCW 9.41.070 to carry a concealed pistol and the  
30 firearm is a pistol;

31 (b) In attendance at a hunter's safety course or a firearms safety  
32 course;

33 (c) Engaging in practice in the use of a firearm or target shooting  
34 at an established range authorized by the governing body of the  
35 jurisdiction in which such range is located or any other area where the  
36 discharge of a firearm is not prohibited;

1 (d) Engaging in an organized competition involving the use of a  
2 firearm, or participating in or practicing for a performance by an  
3 organized group that uses firearms as a part of the performance;

4 (e) Hunting or trapping under a valid license issued to the person  
5 under Title 77 RCW;

6 (f) In an area where the discharge of a firearm is permitted, and  
7 is not trespassing;

8 (g) Travelling with any firearm in the person's possession to or  
9 from any activity described in (b), (c), (d), (e), or (f) of this  
10 subsection, except as provided in (h) of this subsection;

11 (h) Travelling in a motor vehicle with a firearm, other than a  
12 pistol, that is unloaded and locked in the trunk or other compartment  
13 of the vehicle, secured in a gun rack, or otherwise secured in place in  
14 a vehicle;

15 (i) On real property under the control of the person or a relative  
16 of the person;

17 (j) At his or her residence;

18 (k) Is a member of the armed forces of the United States, national  
19 guard, or organized reserves, when on duty; or

20 (l) Is a law enforcement officer, when on duty.

21 (5) Unless an exception under section 103 of this act applies, a  
22 person at least eighteen years of age, but less than twenty-one years  
23 of age, may possess a pistol only:

24 (a) In the person's place of abode;

25 (b) At the person's fixed place of business; or

26 (c) On real property under his or her control.

27 (6) Nothing in this section permits the possession of firearms  
28 illegal to possess under state or federal law.

29 **Sec. 108.** RCW 9.41.060 and 1961 c 124 s 5 are each amended to read  
30 as follows:

31 The provisions of RCW 9.41.050 shall not apply to:

32 (1) Marshals, sheriffs, prison or jail wardens or their deputies,  
33 ((policemen)) or other law enforcement officers((, or to));

34 (2) Law enforcement officers retired for service or retired for  
35 physical disability;

36 (3) Members of the ((army, navy or marine corps)) armed forces of  
37 the United States or of the national guard or organized reserves, when  
38 on duty((, or to));

1       (4) Officers or employees of the United States duly authorized to  
2 carry a concealed pistol;

3       (5) Any person engaged in the business of manufacturing, repairing,  
4 or dealing in firearms, or the agent or representative of the person,  
5 if possessing, using, or carrying a pistol in the usual or ordinary  
6 course of the business;

7       (6) Regularly enrolled members of any organization duly authorized  
8 to purchase or receive (~~such weapons~~) pistols from the United States  
9 or from this state(~~, or to~~);

10       (7) Regularly enrolled members of clubs organized for the purpose  
11 of target shooting (~~or~~), when those members are at or are going to or  
12 from their places of target practice;

13       (8) Regularly enrolled members of clubs organized for the purpose  
14 of modern and antique firearm collecting (~~or to~~), when those members  
15 are at or are going to or from their collector's gun shows and  
16 exhibits;

17       (9) Individual hunters(~~:- PROVIDED, Such members are at, or are~~  
18 going to or from their places of target practice, or their collector's  
19 gun shows and exhibits, or are on a hunting, camping or fishing trip,  
20 or to officers or employees of the United States duly authorized to  
21 carry a concealed pistol, or to any person engaged in the business of  
22 manufacturing, repairing, or dealing in firearms or the agent or  
23 representative of any such person having in his possession, using, or  
24 carrying a pistol in the usual or ordinary course of such business, or  
25 to) when on a hunting, camping, or fishing trip; or

26       (10) Any person while carrying a pistol unloaded and in a closed  
27 opaque case or secure wrapper (~~from the place of purchase to his home~~  
28 or place of business or to a place of repair or back to his home or  
29 place of business or in moving from one place of abode or business to  
30 another)).

31       **Sec. 109.** RCW 9.41.070 and 1992 c 168 s 1 are each amended to read  
32 as follows:

33       (1) The judge of a court of record, the chief of police of a  
34 municipality, or the sheriff of a county, shall within thirty days  
35 after the filing of an application of any person issue a license to  
36 such person to carry a pistol concealed on his or her person within  
37 this state for four years from date of issue, for the purposes of  
38 protection or while engaged in business, sport, or while traveling.

1 However, if the applicant does not have a valid permanent Washington  
2 driver's license or Washington state identification card or has not  
3 been a resident of the state for the previous consecutive ninety days,  
4 the issuing authority shall have up to sixty days after the filing of  
5 the application to issue a license. The issuing authority shall accept  
6 applications for concealed pistol licenses during normal business  
7 hours.

8 ((Such)) The applicant's constitutional right to bear arms shall  
9 not be denied, unless he or she:

10 (a) Is ineligible to own a ((pistol)) firearm under the provisions  
11 of RCW 9.41.040; ((or))

12 (b) Is under twenty-one years of age; ((or))

13 (c) Has failed to present evidence of competence with a pistol.  
14 Any of the following items shall suffice as evidence of competence with  
15 a pistol:

16 (i) Evidence of completion of a hunter education or hunter safety  
17 course approved by the department of fish and wildlife or a similar  
18 agency of another state if pistol safety was a component of the course;

19 (ii) Evidence of completion of a national rifle association firearm  
20 safety training course if pistol safety was a component of the course;

21 (iii) Evidence of completion of a firearm safety training course  
22 conducted by a firearm instructor certified by a law enforcement agency  
23 or the national rifle association if pistol safety was a component of  
24 the course;

25 (iv) Evidence of completion of a firearm safety training course  
26 offered by the criminal justice training commission for security  
27 guards, investigators, or law enforcement officers, if pistol safety  
28 was a component of the course;

29 (v) Evidence of equivalent experience with a pistol through  
30 participation in organized shooting competition or military experience.  
31 A determination by the issuing authority whether an applicant has had  
32 equivalent experience shall be conclusive; or

33 (vi) Evidence of a satisfactory score on a written test, approved  
34 by the department of fish and wildlife and administered by a local law  
35 enforcement agency, taken in lieu of a firearm safety training course.  
36 The test shall cover the safe storage, handling, and use of pistols,  
37 and laws concerning firearms, including the legal use of deadly force.  
38 A law enforcement agency may charge a fee sufficient to defray the  
39 costs of administering the test.

1 This subsection (1)(c) does not apply to applicants for license  
2 renewals;

3 (d) Is subject to a court order or injunction regarding firearms  
4 pursuant to RCW 10.99.040, 10.99.045, ~~((or)) 26.09.060, or 26.10.115;~~  
5 ~~((or~~

6 ~~(d)) (e) Is free on bond or personal recognizance pending trial,~~  
7 ~~appeal, or sentencing for a crime of violence; ~~((or~~~~

8 ~~(e)) (f) Has an outstanding warrant for his or her arrest from any~~  
9 ~~court of competent jurisdiction for a felony or misdemeanor; ~~((or~~~~

10 ~~(f)) (g) Has been ordered to forfeit a firearm under RCW~~  
11 ~~9.41.098(1)(d) within one year before filing an application to carry a~~  
12 ~~pistol concealed on his or her person; or~~

13 ~~((g)) (h)(i) Has been convicted or as a juvenile adjudicated~~  
14 ~~delinquent of any ~~((of the following offenses: Assault in the third~~~~  
15 ~~degree, indecent liberties, malicious mischief in the first degree,~~  
16 ~~possession of stolen property in the first or second degree, or theft~~  
17 ~~in the first or second degree. Any)) crime against a child or other~~  
18 ~~person listed in RCW 43.43.830(5).~~

19 (ii) Except as provided in (h)(iii) of this subsection, any person  
20 who becomes ineligible for a concealed pistol permit as a result of a  
21 conviction for a crime listed in ~~((this subsection (1)(g)) (h)(i) of~~  
22 ~~this subsection~~ and then successfully completes all terms of his or her  
23 sentence, as evidenced by a certificate of discharge issued under RCW  
24 9.94A.220 in the case of a sentence under chapter 9.94A RCW, and has  
25 not again been convicted of any crime and is not under indictment for  
26 any crime, may, one year or longer after such successful sentence  
27 completion, petition ~~((the district)) a court of record for a~~  
28 declaration that the person is no longer ineligible for a concealed  
29 pistol permit under ~~((this subsection (1)(g)) (h)(i) of this~~  
30 subsection.

31 (iii) No person convicted of a crime of violence as defined in RCW  
32 9.41.010 may have his or her right to own, possess, or control firearms  
33 restored, unless the person has been granted relief from disabilities  
34 by the secretary of the treasury under 18 U.S.C. Sec. 925(c), or RCW  
35 9.41.040(4) applies.

36 (2) The issuing authority shall check with the Washington state  
37 patrol electronic data base, the department of social and health  
38 services electronic data base, and with other agencies or resources as  
39 appropriate, to determine whether the applicant is ineligible under RCW

1 9.41.040 to own, possess, or control a pistol and therefore ineligible  
2 for a concealed pistol license. This subsection applies whether the  
3 applicant is applying for a new concealed pistol license or to renew a  
4 concealed pistol license.

5 (3) Any person whose firearms rights have been restricted and who  
6 has been granted relief from disabilities by the secretary of the  
7 treasury under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C.  
8 Sec. 921(a)(20)(A) shall have his or her right to acquire, receive,  
9 transfer, ship, transport, carry, and possess firearms in accordance  
10 with Washington state law restored except as otherwise prohibited by  
11 this chapter.

12 ~~((3) The license shall be revoked by the issuing authority~~  
13 ~~immediately upon conviction of a crime which makes such a person~~  
14 ~~ineligible to own a pistol or upon the third conviction for a violation~~  
15 ~~of this chapter within five calendar years.~~

16 (4) Upon an order to forfeit a firearm under RCW 9.41.098(1)(d) the  
17 issuing authority shall:

18 (a) On the first forfeiture, revoke the license for one year;

19 (b) On the second forfeiture, revoke the license for two years;

20 (c) On the third or subsequent forfeiture, revoke the license for  
21 five years.

22 Any person whose license is revoked as a result of a forfeiture of a  
23 firearm under RCW 9.41.098(1)(d) may not reapply for a new license  
24 until the end of the revocation period. The issuing authority shall  
25 notify, in writing, the department of licensing upon revocation of a  
26 license. The department of licensing shall record the revocation.

27 ~~(5))~~ (4) The license shall be in triplicate, in form to be  
28 prescribed by the department of licensing, and shall bear the name,  
29 address, and description, fingerprints, and signature of the licensee,  
30 and the licensee's driver's license number or state identification card  
31 number if used for identification in applying for the license. A  
32 signed application for a concealed pistol license shall constitute a  
33 waiver of confidentiality and written request that the department of  
34 social and health services, mental health institutions, and other  
35 health care facilities release information relevant to the applicant's  
36 eligibility for a concealed pistol license to an inquiring court or law  
37 enforcement agency.

38 The license application shall contain a warning substantially as  
39 follows:

1 CAUTION: Although state and local laws do not differ, federal  
2 law and state law on the possession of firearms differ. If you  
3 are prohibited by federal law from possessing a firearm, you  
4 may be prosecuted in federal court. A state license is not a  
5 defense to a federal prosecution.

6 The license application shall contain a description of the major  
7 differences between state and federal law and an explanation of the  
8 fact that local laws and ordinances on firearms are preempted by state  
9 law and must be consistent with state law. The application shall  
10 contain questions about the applicant's eligibility under RCW 9.41.040  
11 to own, possess, or control a pistol, the applicant's place of birth,  
12 whether the applicant is a United States citizen, and if not a citizen  
13 whether the applicant has declared the intent to become a citizen and  
14 whether he or she has been required to register with the state or  
15 federal government and any identification or registration number, if  
16 applicable. The applicant shall not be required to produce a birth  
17 certificate or other evidence of citizenship. An applicant who is not  
18 a citizen shall provide documentation showing resident alien status and  
19 the applicant's intent to become a citizen. (~~(A person who makes a~~  
20 ~~false statement regarding citizenship on the application is guilty of~~  
21 ~~a misdemeanor.)) A person who is not a citizen of the United States,~~  
22 or has not declared his or her intention to become a citizen shall meet  
23 the additional requirements of RCW 9.41.170.

24 The original thereof shall be delivered to the licensee, the  
25 duplicate shall within seven days be sent by registered mail to the  
26 director of licensing and the triplicate shall be preserved for six  
27 years, by the authority issuing said license.

28 (~~((6))~~) (5) The fee for the original issuance of a four-year  
29 license shall be (~~(twenty-three))~~ sixty-five dollars(~~(:—PROVIDED,~~  
30 ~~That)).~~ No other (~~(additional charges by any))~~ branch or unit of  
31 government (~~(shall be borne by))~~ may impose any additional charges on  
32 the applicant for the issuance of the license(~~(:—PROVIDED FURTHER,~~  
33 ~~That)).~~ The fee shall be distributed as follows:

34 (a) (~~(Four))~~ Twenty-five dollars shall be paid to the state general  
35 fund;

36 (b) (~~(Four))~~ Ten dollars shall be paid to the agency taking the  
37 fingerprints of the person licensed;

38 (c) (~~(Twelve))~~ Twenty dollars shall be paid to the issuing  
39 authority for the purpose of enforcing this chapter; and

1 (d) (~~Three~~) Ten dollars to the firearms range account in the  
2 general fund.

3 (~~(+7)~~) (6) The fee for the renewal of such license shall be  
4 (~~fifteen~~) fifty-five dollars(~~(:—PROVIDED, That)~~). No other  
5 (~~additional charges by any~~) branch or unit of government (~~shall be~~  
6 ~~borne by~~) may impose any additional charges on the applicant for the  
7 renewal of the license(~~(:—PROVIDED FURTHER, That)~~). The renewal fee  
8 shall be distributed as follows:

9 (a) (~~Four~~) Twenty-five dollars shall be paid to the state general  
10 fund;

11 (b) (~~Eight~~) Twenty dollars shall be paid to the issuing authority  
12 for the purpose of enforcing this chapter; and

13 (c) (~~Three~~) Ten dollars to the firearms range account in the  
14 general fund.

15 (~~(+8)~~) (7) Payment shall be by cash, check, or money order at the  
16 option of the applicant. Additional methods of payment may be allowed  
17 at the option of the issuing authority.

18 (~~(+9)~~) (8) A licensee may renew a license if the licensee applies  
19 for renewal within ninety days before or after the expiration date of  
20 the license. A license so renewed shall take effect on the expiration  
21 date of the prior license. A licensee renewing after the expiration  
22 date of the license must pay a late renewal penalty of (~~ten~~) twenty  
23 dollars in addition to the renewal fee specified in subsection (~~(+7)~~)  
24 (6) of this section. The fee shall be distributed as follows:

25 (a) (~~Three~~) Ten dollars shall be deposited in the state wildlife  
26 fund and used exclusively for the printing and distribution of a  
27 pamphlet on the legal limits of the use of firearms, firearms safety,  
28 and the preemptive nature of state law. The pamphlet shall be given to  
29 each applicant for a license; and

30 (b) (~~Seven~~) Ten dollars shall be paid to the issuing authority  
31 for the purpose of enforcing this chapter.

32 (~~(+10)~~) (9) Notwithstanding the requirements of subsections (1)  
33 through (~~(+9)~~) (8) of this section, the chief of police of the  
34 municipality or the sheriff of the county of the applicant's residence  
35 may issue a temporary emergency license for good cause pending review  
36 under subsection (1) of this section.

37 (~~(+11)~~) (10) A political subdivision of the state shall not modify  
38 the requirements of this section or chapter, nor may a political  
39 subdivision ask the applicant to voluntarily submit any information not

1 required by this section. (~~(A civil suit may be brought to enjoin a~~  
2 ~~wrongful refusal to issue a license or a wrongful modification of the~~  
3 ~~requirements of this section or chapter. The civil suit may be brought~~  
4 ~~in the county in which the application was made or in Thurston county~~  
5 ~~at the discretion of the petitioner. Any person who prevails against~~  
6 ~~a public agency in any action in the courts for a violation of this~~  
7 ~~chapter shall be awarded costs, including reasonable attorneys' fees,~~  
8 ~~incurred in connection with such legal action.))~~

9 (11) A person who knowingly makes a false statement regarding  
10 citizenship or identity on an application for a concealed pistol  
11 license is guilty of false swearing under RCW 9A.72.040. In addition  
12 to any other penalty provided for by law, the concealed pistol license  
13 of a person who knowingly makes a false statement shall be revoked, and  
14 the person shall be permanently ineligible for a concealed pistol  
15 license.

16 NEW SECTION. Sec. 110. A new section is added to chapter 9.41 RCW  
17 to read as follows:

18 (1) The license shall be revoked by the license-issuing authority  
19 immediately upon:

20 (a) Discovery by the issuing authority that the person was  
21 ineligible under RCW 9.41.070 for a concealed pistol license when  
22 applying for the license or license renewal;

23 (b) Conviction of the licensee of an offense, or commitment of the  
24 licensee for mental health treatment, that makes a person ineligible  
25 under RCW 9.41.040 to own, possess, or control a firearm;

26 (c) Conviction of the licensee for a third violation of this  
27 chapter within five calendar years; or

28 (d) An order that the licensee forfeit a firearm under RCW  
29 9.41.098(1)(d).

30 (2)(a) Unless the person may lawfully possess a pistol without a  
31 concealed pistol license, an ineligible person to whom a concealed  
32 pistol license was issued shall, within fourteen days of license  
33 revocation, lawfully transfer ownership of any pistol acquired while  
34 the person was in possession of the license.

35 (b) Upon discovering a person issued a concealed pistol license was  
36 ineligible for the license, the issuing authority shall contact the  
37 department of licensing to determine whether the person purchased a  
38 pistol while in possession of the license. If the person did purchase

1 a pistol while in possession of the concealed pistol license, if the  
2 person may not lawfully possess a pistol without a concealed pistol  
3 license, the issuing authority shall require the person to present  
4 satisfactory evidence of having lawfully transferred ownership of the  
5 pistol. The issuing authority shall require the person to produce the  
6 evidence within fifteen days of the revocation of the license.

7 (3) When a licensee is ordered to forfeit a firearm under RCW  
8 9.41.098(1)(d), the issuing authority shall:

9 (a) On the first forfeiture, revoke the license for one year;

10 (b) On the second forfeiture, revoke the license for two years; or

11 (c) On the third or subsequent forfeiture, revoke the license for  
12 five years.

13 Any person whose license is revoked as a result of a forfeiture of  
14 a firearm under RCW 9.41.098(1)(d) may not reapply for a new license  
15 until the end of the revocation period.

16 (4) The issuing authority shall notify, in writing, the department  
17 of licensing of the revocation of a license. The department of  
18 licensing shall record the revocation.

19 **Sec. 111.** RCW 9.41.080 and 1935 c 172 s 8 are each amended to read  
20 as follows:

21 No person shall deliver a (~~pistol~~) firearm to any person (~~under~~  
22 ~~the age of twenty one or to one~~) who he or she has reasonable cause to  
23 believe (~~has been convicted of a crime of violence, or is a drug~~  
24 ~~addict, an habitual drunkard, or of unsound mind~~) is ineligible under  
25 RCW 9.41.040 to own, possess, or control a firearm. Any person  
26 violating this section is guilty of a class C felony, punishable under  
27 chapter 9A.20 RCW.

28 **Sec. 112.** RCW 9.41.090 and 1988 c 36 s 2 are each amended to read  
29 as follows:

30 (1) In addition to the other requirements of this chapter, no  
31 (~~commercial seller shall~~) dealer may deliver a pistol to the  
32 purchaser thereof until:

33 (a) The purchaser produces a valid concealed pistol license and the  
34 (~~commercial seller~~) dealer has recorded the purchaser's name, license  
35 number, and issuing agency, such record to be made in triplicate and  
36 processed as provided in subsection (~~(4)~~) (5) of this section; (~~or~~)

1 (b) The (~~seller~~) dealer is notified in writing by the chief of  
2 police of the municipality or the sheriff of the county that the  
3 purchaser (~~meets the requirements of~~) is eligible to possess a pistol  
4 under RCW 9.41.040 and that the application to purchase is granted.  
5 However, if the purchaser is under twenty-one years of age, the dealer  
6 shall deliver the pistol to the purchaser unloaded and securely  
7 wrapped; or

8 (c) Five (~~consecutive~~) business days (~~(including Saturday, Sunday~~  
9 ~~and holidays)~~), meaning days on which state offices are open, have  
10 elapsed from the time of receipt of the application for the purchase  
11 thereof as provided herein by the chief of police or sheriff designated  
12 in subsection (~~(+4)~~) (5) of this section, and, when delivered, said  
13 pistol shall be securely wrapped and shall be unloaded. However, if  
14 the purchaser does not have a valid permanent Washington driver's  
15 license or state identification card or has not been a resident of the  
16 state for the previous consecutive ninety days, the waiting period  
17 under this subsection (1)(c) shall be up to sixty days.

18 (2)(a) Except as provided in (b) of this subsection, in determining  
19 whether the purchaser meets the requirements of RCW 9.41.040, the chief  
20 of police or sheriff, or the designee of either, shall check with the  
21 Washington state patrol electronic data base, the department of social  
22 and health services electronic data base, and with other agencies or  
23 resources as appropriate, to determine whether the applicant is  
24 ineligible under RCW 9.41.040 to own, possess, or control a pistol.

25 (b) Once the system is established, a dealer shall use the national  
26 instant criminal background check system, provided for by the Brady  
27 Handgun Control Act (H.R. 1025, 103rd Cong., 1st Sess. (1993)), to make  
28 criminal background checks of applicants to purchase pistols. However,  
29 a chief of police or sheriff, or a designee of either, shall continue  
30 to check the department of social and health services' electronic data  
31 base and with other agencies or resources as appropriate, to determine  
32 whether applicants are ineligible under RCW 9.41.040 to own, possess,  
33 or control a pistol.

34 (c) Information obtained under this subsection (2) shall be used  
35 exclusively to determine the eligibility of a person to own, possess,  
36 or control a pistol, and shall not be made available for public  
37 inspection except by the person who is the subject of the information.

38 (3) In any case under subsection (1)(c) of this section where the  
39 applicant has an outstanding warrant for his or her arrest from any

1 court of competent jurisdiction for a felony or misdemeanor, the  
2 ((seller)) dealer shall hold the delivery of the pistol until the  
3 warrant for arrest is served and satisfied by appropriate court  
4 appearance. The local jurisdiction for purposes of the sale shall  
5 confirm the existence of outstanding warrants within seventy-two hours  
6 after notification of the application to purchase a pistol is received.  
7 The local jurisdiction shall also immediately confirm the satisfaction  
8 of the warrant on request of the ((seller)) dealer so that the hold may  
9 be released if the warrant was for ((a crime other than a crime of  
10 violence)) an offense other than an offense making a person ineligible  
11 under RCW 9.41.040 to possess a pistol.

12 ((+3)) (4) In any case where the chief or sheriff of the local  
13 jurisdiction has reasonable grounds based on the following  
14 circumstances: (a) Open criminal charges, (b) pending criminal  
15 proceedings, (c) pending commitment proceedings, (d) an outstanding  
16 warrant for ((a crime of violence, or (e) an arrest for a crime of  
17 violence)) an offense making a person ineligible under RCW 9.41.040 to  
18 possess a pistol, or (e) an arrest for an offense making a person  
19 ineligible under RCW 9.41.040 to possess a pistol, if the records of  
20 disposition have not yet been reported or entered sufficiently to  
21 determine eligibility to purchase a pistol, the local jurisdiction may  
22 hold the sale and delivery of the pistol beyond five days up to thirty  
23 days in order to confirm existing records in this state or elsewhere.  
24 After thirty days, the hold will be lifted unless an extension of the  
25 thirty days is approved by a local district court or municipal court  
26 for good cause shown. An applicant shall be notified of each hold  
27 placed on the sale by local law enforcement and of any application to  
28 the court for additional hold period to confirm records or confirm the  
29 identity of the applicant.

30 ((+4)) (5) At the time of applying for the purchase of a pistol,  
31 the purchaser shall sign in triplicate and deliver to the ((seller))  
32 dealer an application containing his or her full name, address, place  
33 of birth, and the date and hour of the application; the applicant's  
34 driver's license number or state identification card number; and a  
35 description of the weapon including, the make, model, caliber and  
36 manufacturer's number; and a statement that the purchaser is eligible  
37 to own a pistol under RCW 9.41.040.

38 The application shall contain a warning substantially as follows:

1 CAUTION: Although state and local laws do not differ, federal  
2 law and state law on the possession of firearms differ. If you  
3 are prohibited by federal law from possessing a firearm, you  
4 may be prosecuted in federal court. State permission to  
5 purchase a firearm is not a defense to a federal prosecution.

6 The purchaser shall be given a copy of the department of fish and  
7 wildlife pamphlet on the legal limits of the use of firearms, firearms  
8 safety, and the fact that local laws and ordinances on firearms are  
9 preempted by state law and must be consistent with state law.

10 The ((seller)) dealer shall, by the end of the business day, sign  
11 and attach his or her address and deliver the original of the  
12 application and such other documentation as required under subsection  
13 (1) of this section to the chief of police of the municipality or the  
14 sheriff of the county of which the ((seller)) dealer is a resident.  
15 The ((seller)) dealer shall deliver the pistol to the purchaser  
16 following the period of time specified in this section unless the  
17 ((seller)) dealer is notified in writing by the chief of police of the  
18 municipality or the sheriff of the county, whichever is applicable,  
19 denying the purchaser's application to purchase and the grounds  
20 thereof. The application shall not be denied unless the purchaser  
21 fails to meet the requirements specified in RCW 9.41.040. ((The chief  
22 of police of the municipality or the county sheriff shall maintain a  
23 file containing the original of the application to purchase a pistol.))

24 The chief of police of the municipality or the sheriff of the  
25 county shall retain or destroy applications to purchase a pistol in  
26 accordance with the requirements of 18 U.S.C. Sec. 922.

27 (6) A person who knowingly makes a false statement regarding  
28 identity or eligibility requirements on the application to purchase a  
29 pistol is guilty of false swearing under RCW 9A.72.040.

30 (7) This section does not apply to sales to licensed dealers for  
31 resale or to the sale of antique firearms.

32 NEW SECTION. Sec. 113. A new section is added to chapter 9.41 RCW  
33 to read as follows:

34 A signed application to purchase a pistol shall constitute a waiver  
35 of confidentiality and written request that the department of social  
36 and health services, mental health institutions, and other health care  
37 facilities release, to an inquiring court or law enforcement agency,

1 information relevant to the applicant's eligibility to purchase a  
2 pistol to an inquiring court or law enforcement agency.

3 NEW SECTION. **Sec. 114.** A new section is added to chapter 9.41 RCW  
4 to follow RCW 9.41.097 to read as follows:

5 (1) The state, local governmental entities, any public or private  
6 agency, and the employees of any state or local governmental entity or  
7 public or private agency, acting in good faith, are immune from  
8 liability:

9 (a) For failure to prevent the sale or transfer of a firearm to a  
10 person whose receipt or possession of the firearm is unlawful;

11 (b) For preventing the sale or transfer of a firearm to a person  
12 who may lawfully receive or possess a firearm;

13 (c) For issuing a concealed pistol license to a person ineligible  
14 for such a license;

15 (d) For failing to issue a concealed pistol license to a person  
16 eligible for such a license;

17 (e) For revoking or failing to revoke an issued concealed pistol  
18 license; or

19 (f) For errors in preparing or transmitting information as part of  
20 determining a person's eligibility to receive or possess a firearm, or  
21 eligibility for a concealed pistol license.

22 (2) A suit may be brought for a writ of mandamus:

23 (a) Directing an issuing agency to issue a concealed pistol license  
24 wrongfully refused; or

25 (b) Directing that erroneous information resulting either in the  
26 wrongful refusal to issue a concealed pistol license or in the wrongful  
27 denial of a purchase application be corrected.

28 The suit may be brought in the county in which the application for  
29 a concealed pistol license or to purchase a pistol was made, or in  
30 Thurston county, at the discretion of the petitioner. A person who  
31 prevails against a public agency in a suit brought under this  
32 subsection (2) shall be awarded reasonable attorneys' fees and costs.

33 **Sec. 115.** RCW 9.41.098 and 1993 c 243 s 1 are each amended to read  
34 as follows:

35 (1) The superior courts and the courts of limited jurisdiction of  
36 the state may order forfeiture of a firearm which is proven to be:

1 (a) Found concealed on a person not authorized by RCW 9.41.060 or  
2 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute  
3 defense to forfeiture if the person possessed a valid Washington  
4 concealed pistol license within the preceding two years and has not  
5 become ineligible for a concealed pistol license in the interim.  
6 Before the firearm may be returned, the person must pay the past due  
7 renewal fee and the current renewal fee;

8 (b) Commercially sold to any person without an application as  
9 required by RCW 9.41.090;

10 (c) Found in the possession of a person prohibited from possessing  
11 the firearm under RCW 9.41.040;

12 (d) Found in the possession or under the control of a person at the  
13 time the person committed or was arrested for committing a crime of  
14 violence or a crime in which a firearm was used or displayed or a  
15 felony violation of the Uniform Controlled Substances Act, chapter  
16 69.50 RCW;

17 ~~((d))~~ (e) Found concealed on a person who is in any place in  
18 which a concealed pistol license is required, and who is under the  
19 influence of any drug or under the influence of intoxicating liquor,  
20 ~~((having 0.10 grams or more of alcohol per two hundred ten liters of~~  
21 ~~breath or 0.10 percent or more by weight of alcohol in the person's~~  
22 ~~blood, as shown by analysis of the person's breath, blood, or other~~  
23 ~~bodily substance))~~ as defined in chapter 46.61 RCW;

24 ~~((e) Found in the possession of a person prohibited from~~  
25 ~~possessing the firearm under RCW 9.41.040;))~~

26 (f) Found in the possession of a person free on bail or personal  
27 recognizance pending trial, appeal, or sentencing for a crime of  
28 violence or a crime in which a firearm was used or displayed, except  
29 that violations of Title 77 RCW shall not result in forfeiture under  
30 this section;

31 (g) Found in the possession of a person found to have been mentally  
32 incompetent while in possession of a firearm when apprehended or who is  
33 thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

34 (h) Known to have been used or displayed by a person in the  
35 violation of a proper written order of a court of general jurisdiction;  
36 or

37 (i) Known to have been used in the commission of a crime of  
38 violence or a crime in which a firearm was used or displayed or a

1 felony violation of the (~~Uniformed~~[Uniform]) Uniform Controlled  
2 Substances Act, chapter 69.50 RCW.

3 (2) Upon order of forfeiture, the court in its discretion shall  
4 order destruction of any firearm that is illegal for any person to  
5 possess. A court may temporarily retain forfeited firearms needed for  
6 evidence.

7 (a) Except as provided in (b), (c), and (d) of this subsection,  
8 firearms that are: (i) Judicially forfeited and no longer needed for  
9 evidence; or (ii) forfeited due to a failure to make a claim under RCW  
10 63.32.010 or 63.40.010; may be disposed of in any manner determined by  
11 the local legislative authority. Any proceeds of an auction or trade  
12 may be retained by the legislative authority. This subsection (2)(a)  
13 applies only to firearms that come into the possession of the law  
14 enforcement agency after June 30, 1993, and applies only if the law  
15 enforcement agency has complied with (b) of this subsection.

16 By midnight, June 30, 1993, every law enforcement agency shall  
17 prepare an inventory, under oath, of every firearm that has been  
18 judicially forfeited, has been seized and may be subject to judicial  
19 forfeiture, or that has been, or may be, forfeited due to a failure to  
20 make a claim under RCW 63.32.010 or 63.40.010.

21 (b) Except as provided in (c) of this subsection, of the  
22 inventoried firearms a law enforcement agency shall destroy illegal  
23 firearms, may retain a maximum of ten percent of legal forfeited  
24 firearms for agency use, and shall either:

25 (i) Comply with the provisions for the auction of firearms in RCW  
26 9.41.098 that were in effect immediately preceding May 7, 1993; or

27 (ii) Trade, auction, or arrange for the auction of, rifles and  
28 shotguns. In addition, the law enforcement agency shall either trade,  
29 auction, or arrange for the auction of, short firearms, or shall pay a  
30 fee of twenty-five dollars to the state treasurer for every short  
31 firearm neither auctioned nor traded, to a maximum of fifty thousand  
32 dollars. The fees shall be accompanied by an inventory, under oath, of  
33 every short firearm listed in the inventory required by (a) of this  
34 subsection, that has been neither traded nor auctioned. The state  
35 treasurer shall credit the fees to the firearms range account  
36 established in RCW 77.12.720. All trades or auctions of firearms under  
37 this subsection shall be to (~~commercial sellers~~) licensed dealers.  
38 Proceeds of any auction less costs, including actual costs of storage

1 and sale, shall be forwarded to the firearms range account established  
2 in RCW 77.12.720.

3 (c) Antique firearms (~~as defined by RCW 9.41.150~~) and firearms  
4 recognized as curios, relics, and firearms of particular historical  
5 significance by the United States treasury department bureau of  
6 alcohol, tobacco, and firearms are exempt from destruction and shall be  
7 disposed of by auction or trade to (~~commercial sellers~~) licensed  
8 dealers.

9 (d) Firearms in the possession of the Washington state patrol on or  
10 after May 7, 1993, that are judicially forfeited and no longer needed  
11 for evidence, or forfeited due to a failure to make a claim under RCW  
12 63.35.020, must be disposed of as follows: (i) Firearms illegal for  
13 any person to possess must be destroyed; (ii) the Washington state  
14 patrol may retain a maximum of ten percent of legal firearms for agency  
15 use; and (iii) all other legal firearms must be auctioned or traded to  
16 (~~commercial sellers~~) licensed dealers. The Washington state patrol  
17 may retain any proceeds of an auction or trade.

18 (3) The court shall order the firearm returned to the owner upon a  
19 showing that there is no probable cause to believe a violation of  
20 subsection (1) of this section existed or the firearm was stolen from  
21 the owner or the owner neither had knowledge of nor consented to the  
22 act or omission involving the firearm which resulted in its forfeiture.

23 (4) A law enforcement officer of the state or of any county or  
24 municipality may confiscate a firearm found to be in the possession of  
25 a person under circumstances specified in subsection (1) of this  
26 section. After confiscation, the firearm shall not be surrendered  
27 except: (a) To the prosecuting attorney for use in subsequent legal  
28 proceedings; (b) for disposition according to an order of a court  
29 having jurisdiction as provided in subsection (1) of this section; or  
30 (c) to the owner if the proceedings are dismissed or as directed in  
31 subsection (3) of this section.

32 **Sec. 116.** RCW 9.41.100 and 1935 c 172 s 10 are each amended to  
33 read as follows:

34 (~~No retail~~) Every dealer shall (~~sell or otherwise transfer, or~~  
35 ~~expose for sale or transfer, or have in his possession with intent to~~  
36 ~~sell, or otherwise transfer, any pistol without being~~) be licensed as  
37 (~~hereinafter~~) provided in RCW 9.41.110 and shall register with the  
38 department of revenue as provided in chapters 82.04 and 82.32 RCW.

1       **Sec. 117.** RCW 9.41.110 and 1979 c 158 s 2 are each amended to read  
2 as follows:

3       The duly constituted licensing authorities of any city, town, or  
4 political subdivision of this state shall grant licenses in forms  
5 prescribed by the director of licensing effective for not more than one  
6 year from the date of issue permitting the licensee to sell (~~((pistols))~~)  
7 firearms within this state subject to the following conditions, for  
8 breach of any of which the license shall be forfeited and the licensee  
9 subject to punishment as provided in RCW 9.41.010 through 9.41.160 (as  
10 recodified by this act). A licensing authority shall forward a copy of  
11 each license granted to the department of licensing. The department of  
12 licensing shall notify the department of revenue of the name and  
13 address of each dealer licensed under this section.

14       (1)(a) A licensing authority shall, within thirty days after the  
15 filing of an application of any person for a dealer's license,  
16 determine whether to grant the license. However, if the applicant does  
17 not have a valid permanent Washington driver's license or Washington  
18 state identification card, or has not been a resident of the state for  
19 the previous consecutive ninety days, the licensing authority shall  
20 have up to sixty days to determine whether to issue a license. No  
21 person shall qualify for a license under this section without first  
22 receiving a federal firearms license and undergoing fingerprinting and  
23 a background check. In addition, no person ineligible to possess a  
24 firearm under RCW 9.41.040 or ineligible for a concealed pistol license  
25 under RCW 9.41.070 shall qualify for a dealer's license.

26       (b) A dealer shall require every employee who may sell a firearm in  
27 the course of his or her employment to undergo fingerprinting and a  
28 background check. An employee must be eligible to own, possess, or  
29 control a firearm, and eligible for a concealed pistol license, before  
30 being permitted to sell a firearm. Every employee shall comply with  
31 requirements concerning purchase applications and restrictions on  
32 delivery of pistols that are applicable to dealers.

33       (2)(a) Except as otherwise provided in (b) of this subsection, the  
34 business shall be carried on only in the building designated in the  
35 license. For the purpose of this section, advertising firearms for  
36 sale shall not be considered the carrying on of business.

37       ~~((+2+))~~ (b) A dealer may conduct business temporarily at a location  
38 other than the building designated in the license, if the temporary  
39 location is within Washington state and is the location of a gun show

1 sponsored by a national, state, or local organization, or an affiliate  
2 of any such organization, devoted to the collection, competitive use,  
3 or other sporting use of firearms in the community. Nothing in this  
4 subsection (2)(b) authorizes a dealer to conduct business in or from a  
5 motorized or towed vehicle.

6 In conducting business temporarily at a location other than the  
7 building designated in the license, the dealer shall comply with all  
8 other requirements imposed on dealers by RCW 9.41.090, 9.41.100, and  
9 9.41.110. The license of a dealer who fails to comply with the  
10 requirements of RCW 9.41.080, 9.41.090, and 9.41.110(4) while  
11 conducting business at a temporary location shall be revoked, and the  
12 dealer shall be permanently ineligible for a dealer's license.

13 (3) The license or a copy thereof, certified by the issuing  
14 authority, shall be displayed on the premises in the area where  
15 firearms are sold, or at the temporary location, where it can easily be  
16 read.

17 ~~((3))~~ (4)(a) No pistol shall be sold ~~((a))~~: (i) In violation  
18 of any provisions of RCW 9.41.010 through 9.41.160~~((7))~~ (as recodified  
19 by this act); nor ~~((b))~~ (ii) shall a pistol be sold under any  
20 circumstances unless the purchaser is personally known to the  
21 ~~((seller))~~ dealer or shall present clear evidence of his or her  
22 identity.

23 ~~((4))~~ (b) A dealer who knowingly sells or delivers any firearm in  
24 violation of RCW 9.41.080 is guilty of a class C felony. In addition  
25 to any other penalty provided for by law, the dealer is subject to  
26 mandatory permanent revocation of his or her dealer's license and  
27 permanent ineligibility for a dealer's license.

28 (5)(a) A true record in triplicate shall be made of every pistol  
29 sold, in a book kept for the purpose, the form of which may be  
30 prescribed by the director of licensing and shall be personally signed  
31 by the purchaser and by the person effecting the sale, each in the  
32 presence of the other, and shall contain the date of sale, the caliber,  
33 make, model and manufacturer's number of the weapon, the name, address,  
34 occupation, ~~((color))~~ and place of birth of the purchaser and a  
35 statement signed by the purchaser that he ~~((has never been convicted in~~  
36 this state or elsewhere of a crime of violence)) or she is not  
37 ineligible under RCW 9.41.040 to possess a firearm.

38 (b) One copy shall within six hours be sent by ~~((registered))~~  
39 certified mail to the chief of police of the municipality or the

1 sheriff of the county of which the dealer is a resident; the duplicate  
2 the dealer shall within seven days send to the director of licensing;  
3 the triplicate the dealer shall retain for six years.

4 ~~((+5))~~ (6) Subsections (2) through (5) of this section shall not  
5 apply to sales at wholesale.

6 ~~((+6))~~ (7) The dealer's licenses authorized to be issued by this  
7 section are general licenses covering all sales by the licensee within  
8 the effective period of the licenses.

9 ~~((+7))~~ (8) Except as provided in RCW 9.41.090 (~~as now or~~  
10 ~~hereinafter amended~~), every city, town and political subdivision of  
11 this state is prohibited from requiring the purchaser to secure a  
12 permit to purchase or from requiring the dealer to secure an individual  
13 permit for each sale.

14 The fee paid for issuing said license shall be ~~((five))~~ twenty-five  
15 dollars which fee shall be paid into the state treasury.

16 NEW SECTION. Sec. 118. A new section is added to chapter 9.41 RCW  
17 to read as follows:

18 The department of licensing may keep copies of purchasing  
19 applications or records of pistol transfers. The applications or  
20 records shall be exempt from public disclosure except as provided in  
21 RCW 42.17.318.

22 NEW SECTION. Sec. 119. A new section is added to chapter 9.41 RCW  
23 to read as follows:

24 (1) At least once every twelve months, the department of licensing  
25 shall obtain a list of federally licensed dealers with business  
26 premises in the state of Washington from the United States bureau of  
27 alcohol, tobacco, and firearms. The department of licensing shall  
28 verify that all dealers on the list provided by the bureau of alcohol,  
29 tobacco, and firearms are licensed and registered as required by RCW  
30 9.41.100.

31 (2) At least once every twelve months, the department of licensing  
32 shall obtain from the department of revenue a list of dealers  
33 registered with the department of revenue whose gross proceeds of sales  
34 are below the reporting threshold provided in RCW 82.04.300, and a list  
35 of dealers whose names and addresses were forwarded to the department  
36 of revenue by the department of licensing under RCW 9.41.110, who

1 failed to register with the department of revenue as required by RCW  
2 9.41.100.

3 (3) At least once every twelve months, the department of licensing  
4 shall notify the bureau of alcohol, tobacco, and firearms of all  
5 federally licensed dealers with business premises in the state of  
6 Washington who have not complied with the licensing or registration  
7 requirements of RCW 9.41.100, or whose gross proceeds of sales are  
8 below the reporting threshold provided in RCW 82.04.300. In notifying  
9 the bureau of alcohol, tobacco, and firearms, the department of  
10 licensing shall not specify whether a particular dealer has failed to  
11 comply with licensing requirements, has failed to comply with  
12 registration requirements, or has gross proceeds of sales below the  
13 reporting threshold.

14 **Sec. 120.** RCW 9.41.140 and 1961 c 124 s 10 are each amended to  
15 read as follows:

16 No person shall change, alter, remove, or obliterate the name of  
17 the maker, model, manufacturer's number, or other mark of  
18 identification on any ~~((pistol))~~ firearm. Possession of any ~~((pistol))~~  
19 firearm upon which any such mark shall have been changed, altered,  
20 removed, or obliterated, shall be prima facie evidence that the  
21 possessor has changed, altered, removed, or obliterated the same. This  
22 section shall not apply to replacement barrels in old ~~((revolvers))~~  
23 firearms, which barrels are produced by current manufacturers and  
24 therefor do not have the markings on the barrels of the original  
25 manufacturers who are no longer in business.

26 **Sec. 121.** RCW 9.41.170 and 1979 c 158 s 3 are each amended to read  
27 as follows:

28 (1) It shall be unlawful for any person who is not a citizen of the  
29 United States, or who has not declared his or her intention to become  
30 a citizen of the United States, to carry or have in his or her  
31 possession at any time any shotgun, rifle, or other firearm, without  
32 first having obtained a license from the director of licensing, and  
33 such license is not to be issued by the director of licensing except  
34 upon the certificate of the consul domiciled in the state and  
35 representing the country of such alien, that ~~((he))~~ the alien is a  
36 responsible person ~~((and upon the payment for the license of the sum of  
37 fifteen dollars:— PROVIDED, That))~~. The fee for the license shall be

1 twenty-five dollars, and the license shall be valid for four years from  
2 the date of issue.

3 (2) This section shall not apply to Canadian citizens resident in  
4 a province which has an enactment or public policy providing  
5 substantially similar privilege to residents of the state of Washington  
6 and who are carrying or possessing weapons for the purpose of using  
7 them in the hunting of game while such persons are in the act of  
8 hunting, or while on a hunting trip, or while such persons are  
9 competing in a bona fide trap or skeet shoot or any other organized  
10 contest where rifles, pistols, or shotguns are used as ~~((to))~~ weapons  
11 ~~((used))~~ in such contest.

12 (3) Nothing in this section shall be construed to allow aliens to  
13 hunt or fish in this state without first having obtained a regular  
14 hunting or fishing license.

15 (4) Any person violating the provisions of this section shall be  
16 guilty of a misdemeanor.

17 **Sec. 122.** RCW 9.41.190 and 1982 1st ex.s. c 47 s 2 are each  
18 amended to read as follows:

19 (1) It is unlawful for any person to manufacture, own, buy, sell,  
20 loan, furnish, transport, or have in possession or under control, any  
21 machine gun, short-barreled shotgun, or short-barreled rifle, or any  
22 part thereof capable of use; or assembling or repairing any machine  
23 gun(~~(:—PROVIDED, HOWEVER, That such limitation))~~, short-barreled  
24 shotgun, or short-barreled rifle.

25 (2) This section shall not apply to:

26 (a) Any peace officer in the discharge of official duty, or to any  
27 officer or member of the armed forces of the United States or the state  
28 of Washington(~~(:—PROVIDED FURTHER, That this section does not apply~~  
29 ~~to))~~ in the discharge of official duty; or

30 (b) A person, including an employee of such person, who or which is  
31 exempt from or licensed under the National Firearms Act (26 U.S.C.  
32 section 5801 et seq.), and engaged in the production, manufacture,  
33 repair, or testing of weapons or equipment (~~(to be used or purchased by~~  
34 ~~the armed forces of the United States, and having a United States~~  
35 ~~government industrial security clearance)):~~

36 (i) To be used or purchased by the armed forces of the United  
37 States;

1 (ii) To be used or purchased by federal, state, county, or  
2 municipal law enforcement agencies; or

3 (iii) For exportation in compliance with all applicable federal  
4 laws and regulations.

5 (3) Nothing in subsection (2) of this section shall be construed as  
6 permitting the possession, use, or control of a machine gun, short-  
7 barreled rifle, or short-barreled shotgun by a person or entity not  
8 otherwise authorized by law to do so.

9 (4) Any person violating this section is guilty of a class C  
10 felony.

11 **Sec. 123.** RCW 9.41.220 and 1933 c 64 s 4 are each amended to read  
12 as follows:

13 All machine guns, short-barreled shotguns, or short-barreled  
14 rifles, or parts thereof, illegally held or illegally possessed are  
15 hereby declared to be contraband, and it shall be the duty of all peace  
16 officers, and/or any officer or member of the armed forces of the  
17 United States or the state of Washington, to seize said machine gun,  
18 short-barreled shotgun, or short-barreled rifle, or parts thereof,  
19 wherever and whenever found.

20 **Sec. 124.** RCW 9.41.230 and 1909 c 249 s 307 are each amended to  
21 read as follows:

22 ((Every)) (1) For conduct not amounting to a violation of chapter  
23 9A.36 RCW, any person who ((shall)):

24 (a) Aims any ((gun, pistol, revolver or other)) firearm, whether  
25 loaded or not, at or towards any human being((, or who shall));

26 (b) Willfully discharges any firearm, air gun, or other weapon, or  
27 throws any deadly missile in a public place, or in any place where any  
28 person might be endangered thereby((, although no injury result, shall  
29 be)); or

30 (c) Except as provided in RCW 9.41.185, sets a so-called trap,  
31 spring pistol, rifle, or other dangerous weapon,  
32 although no injury results, is guilty of a gross misdemeanor punishable  
33 under chapter 9A.20 RCW.

34 (2) If an injury results from a violation of subsection (1) of this  
35 section, the person violating subsection (1) of this section shall be  
36 subject to the applicable provisions of chapters 9A.32 and 9A.36 RCW.

1       **Sec. 125.** RCW 9.41.250 and 1959 c 143 s 1 are each amended to read  
2 as follows:

3       Every person who ~~((shall))~~:

4       (1) Manufactures, sells, or disposes of or ~~((have in his~~  
5 ~~possession))~~ possesses any instrument or weapon of the kind usually  
6 known as slung shot, sand club, or metal knuckles, or spring blade  
7 knife, or any knife the blade of which is automatically released by a  
8 spring mechanism or other mechanical device, or any knife having a  
9 blade which opens, or falls, or is ejected into position by the force  
10 of gravity, or by an outward, downward, or centrifugal thrust or  
11 movement; ~~((who shall))~~

12       (2) Furtively ~~((carry))~~ carries with intent to conceal any dagger,  
13 dirk, pistol, or other dangerous weapon; or ~~((who shall))~~

14       (3) Uses any contrivance or device for suppressing the noise of any  
15 firearm, ~~((shall be))~~

16 is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

17       **Sec. 126.** RCW 9.41.260 and 1909 c 249 s 283 are each amended to  
18 read as follows:

19       Every proprietor, lessee, or occupant of any place of amusement, or  
20 any plat of ground or building, who ~~((shall))~~ allows it to be used for  
21 the exhibition of skill in throwing any sharp instrument or in shooting  
22 any bow gun~~((, pistol))~~ or firearm of any description, at or toward any  
23 human being, ~~((shall be))~~ is guilty of a misdemeanor punishable under  
24 chapter 9A.20 RCW.

25       **Sec. 127.** RCW 9.41.270 and 1969 c 8 s 1 are each amended to read  
26 as follows:

27       (1) It shall be unlawful for ~~((anyone))~~ any person to carry,  
28 exhibit, display, or draw any firearm, dagger, sword, knife or other  
29 cutting or stabbing instrument, club, or any other weapon apparently  
30 capable of producing bodily harm, in a manner, under circumstances, and  
31 at a time and place that either manifests an intent to intimidate  
32 another or that warrants alarm for the safety of other persons.

33       (2) Any person violating the provisions of subsection (1) above  
34 shall be guilty of a gross misdemeanor.

35       (3) Subsection (1) of this section shall not apply to or affect the  
36 following:

1 (a) Any act committed by a person while in his or her place of  
2 abode or fixed place of business;

3 (b) Any person who by virtue of his or her office or public  
4 employment is vested by law with a duty to preserve public safety,  
5 maintain public order, or to make arrests for offenses, while in the  
6 performance of such duty;

7 (c) Any person acting for the purpose of protecting himself or  
8 herself against the use of presently threatened unlawful force by  
9 another, or for the purpose of protecting another against the use of  
10 such unlawful force by a third person;

11 (d) Any person making or assisting in making a lawful arrest for  
12 the commission of a felony; or

13 (e) Any person engaged in military activities sponsored by the  
14 federal or state governments.

15 **Sec. 128.** RCW 9.41.280 and 1993 c 347 s 1 are each amended to read  
16 as follows:

17 (1) It is unlawful for a person to carry onto, or to possess on,  
18 public or private elementary or secondary school premises, school-  
19 provided transportation, or areas of facilities while being used  
20 exclusively by public or private schools:

21 (a) Any firearm; ~~((or))~~

22 (b) Any other dangerous weapon as defined in RCW 9.41.250; ~~((or))~~

23 (c) Any device commonly known as "nun-chu-ka sticks", consisting of  
24 two or more lengths of wood, metal, plastic, or similar substance  
25 connected with wire, rope, or other means; ~~((or))~~

26 (d) Any device, commonly known as "throwing stars", which are  
27 multi-pointed, metal objects designed to embed upon impact from any  
28 aspect; or

29 (e) Any air gun, including any air pistol or air rifle, designed to  
30 propel a BB, pellet, or other projectile by the discharge of compressed  
31 air, carbon dioxide, or other gas.

32 (2) Any such person violating subsection (1) of this section is  
33 guilty of a gross misdemeanor.

34 Any violation of subsection (1) of this section by elementary or  
35 secondary school students constitutes grounds for expulsion from the  
36 state's public schools in accordance with RCW 28A.600.010. However,  
37 any violation of subsection (1)(a) of this section by an elementary or  
38 secondary school student shall result in expulsion for an indefinite

1 period of time in accordance with RCW 28A.600.010. An appropriate  
2 school authority shall promptly notify law enforcement and the  
3 student's parent or guardian regarding any allegation or indication of  
4 such violation.

5 (3) Subsection (1) of this section does not apply to:

6 (a) Any student or employee of a private military academy when on  
7 the property of the academy;

8 (b) Any person engaged in military, law enforcement, or school  
9 district security activities;

10 (c) Any person who is involved in a convention, showing,  
11 demonstration, lecture, or firearms safety course authorized by school  
12 authorities in which the firearms of collectors or instructors are  
13 handled or displayed;

14 ~~((Any person who possesses nun-chu-ka sticks, throwing stars,  
15 or other dangerous weapons to be used in martial arts classes  
16 authorized to be conducted on the school premises;~~

17 ~~(e))~~ Any person while the person is participating in a firearms or  
18 air gun competition approved by the school or school district;

19 ~~((f))~~ (e) Any person in possession of a pistol who has been  
20 issued a license under RCW 9.41.070, or is exempt from the licensing  
21 requirement by RCW 9.41.060,, while picking up or dropping off a  
22 student;

23 ~~((g))~~ (f) Any ((person)) nonstudent at least eighteen years of  
24 age legally in possession of a firearm or dangerous weapon that is  
25 secured within an attended vehicle or concealed from view within a  
26 locked unattended vehicle while conducting legitimate business at the  
27 school;

28 ~~((h))~~ (g) Any ((person)) nonstudent at least eighteen years of  
29 age who is in lawful possession of an unloaded firearm, secured in a  
30 vehicle while conducting legitimate business at the school; or

31 ~~((i))~~ (h) Any law enforcement officer of the federal, state, or  
32 local government agency.

33 (4) Subsections (1) (c) and (d) of this section do not apply to any  
34 person who possesses nun-chu-ka sticks, throwing stars, or other  
35 dangerous weapons to be used in martial arts classes authorized to be  
36 conducted on the school premises.

37 (5) Except as provided in subsection (3)(b), (c), ~~((e))~~ (f), and  
38 ~~((i))~~ (h) of this section, firearms are not permitted in a public or  
39 private school building.

1       (~~(5)~~) (6) "GUN-FREE ZONE" signs shall be posted around school  
2 facilities giving warning of the prohibition of the possession of  
3 firearms on school grounds.

4       **Sec. 129.** RCW 9.41.290 and 1985 c 428 s 1 are each amended to read  
5 as follows:

6       The state of Washington hereby fully occupies and preempts the  
7 entire field of firearms regulation within the boundaries of the state,  
8 including the registration, licensing, possession, purchase, sale,  
9 acquisition, transfer, discharge, and transportation of firearms, or  
10 any other element relating to firearms or parts thereof, including  
11 ammunition and reloader components. Cities, towns, and counties or  
12 other municipalities may enact only those laws and ordinances relating  
13 to firearms that are specifically authorized by state law, as in RCW  
14 9.41.300, and are consistent with this chapter. Such local ordinances  
15 shall have the same (~~or lesser~~) penalty as provided for by state law.  
16 Local laws and ordinances that are inconsistent with, more restrictive  
17 than, or exceed the requirements of state law shall not be enacted and  
18 are preempted and repealed, regardless of the nature of the code,  
19 charter, or home rule status of such city, town, county, or  
20 municipality.

21       **Sec. 130.** RCW 9.41.300 and 1993 c 396 s 1 are each amended to read  
22 as follows:

23       (1) It is unlawful for any person to enter the following places  
24 when he or she knowingly possesses or knowingly has under his or her  
25 control a weapon:

26       (a) The restricted access areas of a jail, or of a law enforcement  
27 facility, or any place used for the confinement of a person (i)  
28 arrested for, charged with, or convicted of an offense, (ii) charged  
29 with being or adjudicated to be a juvenile offender as defined in RCW  
30 13.40.020, (iii) held for extradition or as a material witness, or (iv)  
31 otherwise confined pursuant to an order of a court, except an order  
32 under chapter 13.32A or 13.34 RCW. Restricted access areas do not  
33 include common areas of egress or ingress open to the general public;

34       (b) Those areas in any building which are used in connection with  
35 court proceedings, including courtrooms, jury rooms, judge's chambers,  
36 offices and areas used to conduct court business, waiting areas, and  
37 corridors adjacent to areas used in connection with court proceedings.

1 The restricted areas do not include common areas of ingress and egress  
2 to the building that is used in connection with court proceedings, when  
3 it is possible to protect court areas without restricting ingress and  
4 egress to the building. The restricted areas shall be the minimum  
5 necessary to fulfill the objective of this subsection (1)(b).

6 In addition, the local legislative authority shall provide either  
7 a stationary locked box sufficient in size for (~~short firearms~~)  
8 pistols and key to a weapon owner for weapon storage, or shall  
9 designate an official to receive weapons for safekeeping, during the  
10 owner's visit to restricted areas of the building. The locked box or  
11 designated official shall be located within the same building used in  
12 connection with court proceedings. The local legislative authority  
13 shall be liable for any negligence causing damage to or loss of a  
14 weapon either placed in a locked box or left with an official during  
15 the owner's visit to restricted areas of the building.

16 The local judicial authority shall designate and clearly mark those  
17 areas where weapons are prohibited, and shall post notices at each  
18 entrance to the building of the prohibition against weapons in the  
19 restricted areas;

20 (c) The restricted access areas of a public mental health facility  
21 certified by the department of social and health services for inpatient  
22 hospital care and state institutions for the care of the mentally ill,  
23 excluding those facilities solely for evaluation and treatment.  
24 Restricted access areas do not include common areas of egress and  
25 ingress open to the general public; or

26 (d) That portion of an establishment classified by the state liquor  
27 control board as off-limits to persons under twenty-one years of age.

28 (2) (~~Notwithstanding RCW 9.41.290,~~) Cities, towns, counties, and  
29 other municipalities may enact laws and ordinances:

30 (a) Restricting the discharge of firearms in any portion of their  
31 respective jurisdictions where there is a reasonable likelihood that  
32 humans, domestic animals, or property will be jeopardized. Such laws  
33 and ordinances shall not abridge the right of the individual guaranteed  
34 by Article I, section 24 of the state Constitution to bear arms in  
35 defense of self or others; and

36 (b) Restricting the possession of firearms in any stadium or  
37 convention center, operated by a city, town, county, or other  
38 municipality, except that such restrictions shall not apply to:

1 (i) Any (~~(firearm)~~) pistol in the possession of a person licensed  
2 under RCW 9.41.070 or exempt from the licensing requirement by RCW  
3 9.41.060; or

4 (ii) Any showing, demonstration, or lecture involving the  
5 exhibition of firearms.

6 (3)(a) Cities, towns, and counties may enact ordinances restricting  
7 the areas in their respective jurisdictions in which firearms may be  
8 sold, but, except as provided in (b) of this subsection, a business  
9 selling firearms may not be treated more restrictively than other  
10 businesses located within the same zone. An ordinance requiring the  
11 cessation of business within a zone shall not have a shorter  
12 grandfather period for businesses selling firearms than for any other  
13 businesses within the zone.

14 (b) Cities, towns, and counties may restrict the location of a  
15 business selling firearms to not less than five hundred feet from  
16 primary or secondary school grounds, if the business has a storefront,  
17 has hours during which it is open for business, and posts  
18 advertisements or signs observable to passersby that firearms are  
19 available for sale.

20 (4) Violations of local ordinances adopted under subsection (2) or  
21 (3) of this section must have the same penalty as provided for by state  
22 law.

23 (5) The perimeter of the premises of any specific location covered  
24 by subsection (1) of this section shall be posted at reasonable  
25 intervals to alert the public as to the existence of any law  
26 restricting the possession of firearms on the premises.

27 (~~((4))~~) (6) Subsection (1) of this section does not apply to:

28 (a) A person engaged in military activities sponsored by the  
29 federal or state governments, while engaged in official duties;

30 (b) Law enforcement personnel; or

31 (c) Security personnel while engaged in official duties.

32 (~~((5))~~) (7) Subsection (1)(a) of this section does not apply to a  
33 person licensed pursuant to RCW 9.41.070 who, upon entering the place  
34 or facility, directly and promptly proceeds to the administrator of the  
35 facility or the administrator's designee and obtains written permission  
36 to possess the firearm while on the premises or checks his or her  
37 firearm. The person may reclaim the firearms upon leaving but must  
38 immediately and directly depart from the place or facility.

1       (~~(6)~~) (8) Subsection (1)(c) of this section does not apply to any  
2 administrator or employee of the facility or to any person who, upon  
3 entering the place or facility, directly and promptly proceeds to the  
4 administrator of the facility or the administrator's designee and  
5 obtains written permission to possess the firearm while on the  
6 premises.

7       (~~(7)~~) (9) Subsection (1)(d) of this section does not apply to the  
8 proprietor of the premises or his or her employees while engaged in  
9 their employment.

10       (~~(8)~~) (10) Any person violating subsection (1) of this section is  
11 guilty of a gross misdemeanor.

12       (~~(9)~~) (11) "Weapon" as used in this section means any firearm,  
13 explosive as defined in RCW 70.74.010, or instrument or weapon listed  
14 in RCW 9.41.250.

15       **Sec. 131.** RCW 9.41.310 and 1988 c 36 s 4 are each amended to read  
16 as follows:

17       (1) After a public hearing, the department of fish and wildlife  
18 shall publish a pamphlet on firearms safety and the legal limits of the  
19 use of firearms. The pamphlet shall include current information on  
20 firearms laws and regulations and state preemption of local firearms  
21 laws. This pamphlet may be used in the department's hunter safety  
22 education program and shall be provided to the department of licensing  
23 for distribution to firearms dealers and persons authorized to issue  
24 concealed pistol licenses. The department of fish and wildlife shall  
25 reimburse the department of licensing for costs associated with  
26 distribution of the pamphlet.

27       (2) The department of fish and wildlife shall approve a written  
28 test an applicant for a concealed pistol license may take, at the  
29 applicant's option, in lieu of a safety training course. In addition  
30 to matters regarding the safe storage, handling, and use of pistols,  
31 the test shall cover laws concerning firearms, including the legal use  
32 of deadly force. The test shall be administered by local law  
33 enforcement agencies.

34       NEW SECTION. **Sec. 132.** A new section is added to chapter 9.41 RCW  
35 to read as follows:

36       (1) The Washington advisory panel on firearms is established.

1 (2) The panel shall advise the governor and the legislature on  
2 current technology, information, and data related to firearms and the  
3 use of firearms in crime and shall make recommendations to the  
4 legislature regarding proposed changes to current law in the area of  
5 licensing, sales, or restrictions on the use or possession of any  
6 firearms in accordance with Article I, section 24 of the state  
7 Constitution.

8 (3) The panel shall consist of thirteen members appointed by the  
9 governor.

10 (4) The members of the panel shall include:

11 (a) A representative of the Washington association of sheriffs and  
12 police chiefs, who will serve as the nonvoting chair;

13 (b) A representative of the Washington state council of police  
14 officers;

15 (c) A representative of the national rifle association or its  
16 affiliated state organization, or of a similar group, who resides in  
17 Washington state;

18 (d) A representative of Washington cease fire, or of a similar  
19 group, who resides in Washington state;

20 (e) A representative of handgun dealers, manufacturers, or  
21 gunsmiths;

22 (f) Two state representatives appointed by the speaker of the house  
23 of representatives, representing the two largest caucuses, one of whom  
24 is an advocate of firearms' control and one of whom is an advocate of  
25 the right to bear firearms;

26 (g) Two state senators appointed by the president of the senate,  
27 representing the two largest caucuses, one of whom is an advocate of  
28 firearms' control and one of whom is an advocate of the right to bear  
29 firearms;

30 (h) A representative of the governor; and

31 (i) Three citizens, representing different geographical regions of  
32 the state, who shall have no known affiliation with advocacy of  
33 firearms control or with advocacy of the right to bear firearms and no  
34 known strong sentiment on the firearms issue, and who shall be chosen  
35 from an agreed upon list developed by Washington cease fire and the  
36 national rifle association or its affiliated state organization.

37 (5) The panel shall meet at least twice annually at the request of  
38 the chair or by request of a majority of the members.

1 (6) The panel shall consider need and desirability for change in  
2 firearm laws consistent with Article I, section 24 of the state  
3 Constitution and public health and safety.

4 (7) Nothing in this section shall be construed as requiring the  
5 panel to test any firearm or have any firearm tested at the panel's  
6 expense.

7 **Sec. 133.** RCW 13.40.265 and 1989 c 271 s 116 are each amended to  
8 read as follows:

9 (1)(a) If a juvenile thirteen years of age or older is found by  
10 juvenile court to have committed an offense while armed with a firearm  
11 or an offense that is a violation of RCW 9.41.040(1)(e) or chapter  
12 66.44, 69.41, 69.50, or 69.52 RCW, the court shall notify the  
13 department of licensing within twenty-four hours after entry of the  
14 judgment.

15 (b) Except as otherwise provided in (c) of this subsection, upon  
16 petition of a juvenile who has been found by the court to have  
17 committed an offense that is a violation of chapter 66.44, 69.41,  
18 69.50, or 69.52 RCW, the court may at any time the court deems  
19 appropriate notify the department of licensing that the juvenile's  
20 driving privileges should be reinstated.

21 (c) If the offense is the juvenile's first violation of chapter  
22 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the  
23 court for reinstatement of the juvenile's privilege to drive revoked  
24 pursuant to RCW 46.20.265 until ninety days after the date the juvenile  
25 turns sixteen or ninety days after the judgment was entered, whichever  
26 is later. If the offense is the juvenile's second or subsequent  
27 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile  
28 may not petition the court for reinstatement of the juvenile's  
29 privilege to drive revoked pursuant to RCW 46.20.265 until the date the  
30 juvenile turns seventeen or one year after the date judgment was  
31 entered, whichever is later.

32 (2)(a) If a juvenile enters into a diversion agreement with a  
33 diversion unit pursuant to RCW 13.40.080 concerning an offense that is  
34 a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the diversion  
35 unit shall notify the department of licensing within twenty-four hours  
36 after the diversion agreement is signed.

1 (b) If a diversion unit has notified the department pursuant to (a)  
2 of this subsection, the diversion unit shall notify the department of  
3 licensing when the juvenile has completed the agreement.

4 **Sec. 134.** RCW 13.64.060 and 1993 c 294 s 6 are each amended to  
5 read as follows:

6 (1) An emancipated minor shall be considered to have the power and  
7 capacity of an adult, except as provided in subsection (2) of this  
8 section. A minor shall be considered emancipated for the purposes of,  
9 but not limited to:

10 (a) The termination of parental obligations of financial support,  
11 care, supervision, and any other obligation the parent may have by  
12 virtue of the parent-child relationship, including obligations imposed  
13 because of marital dissolution;

14 (b) The right to sue or be sued in his or her own name;

15 (c) The right to retain his or her own earnings;

16 (d) The right to establish a separate residence or domicile;

17 (e) The right to enter into nonvoidable contracts;

18 (f) The right to act autonomously, and with the power and capacity  
19 of an adult, in all business relationships, including but not limited  
20 to property transactions;

21 (g) The right to work, and earn a living, subject only to the  
22 health and safety regulations designed to protect those under age of  
23 majority regardless of their legal status; and

24 (h) The right to give informed consent for receiving health care  
25 services.

26 (2) An emancipated minor shall not be considered an adult for: (a)  
27 The purposes of the adult criminal laws of the state unless the decline  
28 of jurisdiction procedures contained in RCW 13.40.110 are used or the  
29 minor is tried in criminal court pursuant to RCW 13.04.030(1)(e)(iv);

30 (b) the criminal laws of the state when the emancipated minor is a  
31 victim and the age of the victim is an element of the offense; or (c)  
32 those specific constitutional and statutory age requirements regarding  
33 voting, use of alcoholic beverages, ownership, possession, or control  
34 of firearms, and other health and safety regulations relevant to the  
35 minor because of the minor's age.

36 **Sec. 135.** RCW 26.28.080 and 1987 c 250 s 2 and 1987 c 204 s 1 are  
37 each reenacted and amended to read as follows:

1 Every person who:

2 (1) Shall admit to or allow to remain in any concert saloon, or in  
3 any place owned, kept, or managed by him or her where intoxicating  
4 liquors are sold, given away or disposed of--except a restaurant or  
5 dining room, any person under the age of eighteen years; ((or))

6 (2) Shall admit to, or allow to remain in any public pool or  
7 billiard hall, or in any place of entertainment injurious to health or  
8 morals, owned, kept or managed by him or her, any person under the age  
9 of eighteen years; ((or))

10 (3) Shall suffer or permit any such person to play any game of  
11 skill or chance, in any such place, or in any place adjacent thereto,  
12 or to be or remain therein, or admit or allow to remain in any reputed  
13 house of prostitution or assignation, or in any place where opium or  
14 any preparation thereof, is smoked, or where any narcotic drug is used,  
15 any persons under the age of eighteen years; or(( ))

16 (4) Shall sell or give, or permit to be sold or given to any person  
17 under the age of eighteen years any cigar, cigarette, cigarette paper  
18 or wrapper, or tobacco in any form; ((or

19 ~~(5) Shall sell, or give, or permit to be sold or given to any~~  
20 ~~person under the age of eighteen years, any revolver or pistol;))~~  
21 shall be guilty of a gross misdemeanor.

22 It shall be no defense to a prosecution for a violation of this  
23 section that the person acted, or was believed by the defendant to act,  
24 as agent or representative of another.

25 **Sec. 136.** RCW 42.17.318 and 1988 c 219 s 2 are each amended to  
26 read as follows:

27 (1) The license applications under RCW 9.41.070, and the purchase  
28 applications or records of pistol sales under RCW 9.41.090, are exempt  
29 from the disclosure requirements of this chapter. Copies of license or  
30 purchase applications, or information on the applications, may be  
31 released to law enforcement or corrections agencies.

32 (2) Information concerning commitments for mental health treatment  
33 received by: (a) The department of licensing, or an authority that  
34 issues concealed pistol licenses, under section 104 of this act or RCW  
35 9.41.070; or (b) a law enforcement agency, under RCW 9.41.090, is  
36 exempt from the disclosure requirements of this chapter. The  
37 information may be released to law enforcement or corrections agencies.

1       **Sec. 137.** RCW 46.20.265 and 1991 c 260 s 1 are each amended to  
2 read as follows:

3       (1) In addition to any other authority to revoke driving privileges  
4 under this chapter, the department shall revoke all driving privileges  
5 of a juvenile when the department receives notice from a court pursuant  
6 to RCW 9.41.040(5), 13.40.265, 66.44.365, 69.41.065, 69.50.420,  
7 69.52.070, or a substantially similar municipal ordinance adopted by a  
8 local legislative authority, or from a diversion unit pursuant to RCW  
9 13.40.265. The revocation shall be imposed without hearing.

10       (2) The driving privileges of the juvenile revoked under subsection  
11 (1) of this section shall be revoked in the following manner:

12       (a) Upon receipt of the first notice, the department shall impose  
13 a revocation for one year, or until the juvenile reaches seventeen  
14 years of age, whichever is longer.

15       (b) Upon receipt of a second or subsequent notice, the department  
16 shall impose a revocation for two years or until the juvenile reaches  
17 eighteen years of age, whichever is longer.

18       (c) Each offense for which the department receives notice shall  
19 result in a separate period of revocation. All periods of revocation  
20 imposed under this section that could otherwise overlap shall run  
21 consecutively and no period of revocation imposed under this section  
22 shall begin before the expiration of all other periods of revocation  
23 imposed under this section or other law.

24       (3) If the department receives notice from a court that the  
25 juvenile's privilege to drive should be reinstated, the department  
26 shall immediately reinstate any driving privileges that have been  
27 revoked under this section.

28       (4)(a) If the department receives notice pursuant to RCW  
29 13.40.265(2)(b) from a diversion unit that a juvenile has completed a  
30 diversion agreement for which the juvenile's driving privileges were  
31 revoked, the department shall reinstate any driving privileges revoked  
32 under this section as provided in (b) of this subsection.

33       (b) If the diversion agreement was for the juvenile's first  
34 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department  
35 shall not reinstate the juvenile's privilege to drive until the later  
36 of ninety days after the date the juvenile turns sixteen or ninety days  
37 after the juvenile entered into a diversion agreement for the offense.  
38 If the diversion agreement was for the juvenile's second or subsequent  
39 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department

1 shall not reinstate the juvenile's privilege to drive until the later  
2 of the date the juvenile turns seventeen or one year after the juvenile  
3 entered into the second or subsequent diversion agreement.

4 **Sec. 138.** RCW 71.05.450 and 1973 1st ex.s. c 142 s 50 are each  
5 amended to read as follows:

6 Competency shall not be determined or withdrawn by operation of, or  
7 under the provisions of this chapter. Except as chapter 9.41 RCW may  
8 limit the right of a person to purchase or possess a firearm or to  
9 qualify for a concealed pistol license, no person shall be presumed  
10 incompetent or lose any civil rights as a consequence of receiving  
11 evaluation or treatment for mental disorder, either voluntarily or  
12 involuntarily, or certification or commitment pursuant to this chapter  
13 or any prior laws of this state dealing with mental illness. Any  
14 person who leaves a public or private agency following evaluation or  
15 treatment for mental disorder shall be given a written statement  
16 setting forth the substance of this section.

17 **Sec. 139.** RCW 71.12.560 and 1974 ex.s. c 145 s 1 are each amended  
18 to read as follows:

19 The person in charge of any private institution, hospital, or  
20 sanitarium which is conducted for, or includes a department or ward  
21 conducted for, the care and treatment of persons who are mentally ill  
22 or deranged may receive therein as a voluntary patient any person  
23 suffering from mental illness or derangement who is a suitable person  
24 for care and treatment in the institution, hospital, or sanitarium, who  
25 voluntarily makes a written application to the person in charge for  
26 admission into the institution, hospital or sanitarium. ~~((After six~~  
27 ~~months of continuous inpatient treatment as a voluntary))~~ At the  
28 expiration of fourteen continuous days of treatment of a patient  
29 voluntarily committed in a private institution, hospital, or  
30 sanitarium, if the period of voluntary commitment is to continue, the  
31 person in charge shall forward to the office of the department of  
32 social and health services a record of the voluntary patient showing  
33 the name, residence, ~~((age))~~ date of birth, sex, place of birth,  
34 occupation, social security number, marital status, date of admission  
35 to the institution, hospital, or sanitarium, and such other information  
36 as may be required by rule of the department of social and health  
37 services.

1       **Sec. 140.** RCW 72.23.080 and 1959 c 28 s 72.23.080 are each amended  
2 to read as follows:

3       Any person received and detained in a state hospital (~~(pursuant to~~  
4 ~~RCW 72.23.070 shall be)~~) under chapter 71.34 RCW is deemed a voluntary  
5 patient and, except as chapter 9.41 RCW may limit the right of a person  
6 to purchase or possess a firearm or to qualify for a concealed pistol  
7 license, shall not suffer a loss of legal competency by reason of his  
8 or her application and admission. Upon the admission of a voluntary  
9 patient to a state hospital the superintendent shall immediately  
10 forward to the department the record of such patient showing the name,  
11 address, sex, ((age)) date of birth, place of birth, occupation, social  
12 security number, date of admission, name of nearest relative, and such  
13 other information as the department may from time to time require.

14       **Sec. 141.** RCW 82.04.300 and 1993 sp.s. c 25 s 205 are each amended  
15 to read as follows:

16       This chapter shall apply to any person engaging in any business  
17 activity taxable under RCW 82.04.230, 82.04.240, 82.04.250, 82.04.255,  
18 82.04.260, 82.04.270, 82.04.280, and 82.04.290 other than those whose  
19 value of products, gross proceeds of sales, or gross income of the  
20 business is less than one thousand dollars per month: PROVIDED, That  
21 where one person engages in more than one business activity and the  
22 combined measures of the tax applicable to such businesses equal or  
23 exceed one thousand dollars per month, no exemption or deduction from  
24 the amount of tax is allowed by this section.

25       A person who is a dealer as defined by RCW 9.41.010 is required to  
26 file returns even though no tax may be due. Any other person claiming  
27 exemption under the provisions of this section may be required,  
28 according to rules adopted by the department, to file returns even  
29 though no tax may be due. The department of revenue may allow  
30 exemptions, by general rule or regulation, in those instances in which  
31 quarterly, semiannual, or annual returns are permitted. Exemptions for  
32 such periods shall be equivalent in amount to the total of exemptions  
33 for each month of a reporting period.

34       **Sec. 142.** RCW 82.32.030 and 1992 c 206 s 8 are each amended to  
35 read as follows:

36       (1) Except as provided in subsection (2) of this section, if any  
37 person engages in any business or performs any act upon which a tax is

1 imposed by the preceding chapters, he or she shall, under such rules as  
2 the department of revenue shall prescribe, apply for and obtain from  
3 the department a registration certificate upon payment of fifteen  
4 dollars. Such registration certificate shall be personal and  
5 nontransferable and shall be valid as long as the taxpayer continues in  
6 business and pays the tax accrued to the state. In case business is  
7 transacted at two or more separate places by one taxpayer, a separate  
8 registration certificate for each place at which business is transacted  
9 with the public shall be required, but, for such additional  
10 certificates no additional payment shall be required. Each certificate  
11 shall be numbered and shall show the name, residence, and place and  
12 character of business of the taxpayer and such other information as the  
13 department of revenue deems necessary and shall be posted in a  
14 conspicuous place at the place of business for which it is issued.  
15 Where a place of business of the taxpayer is changed, the taxpayer must  
16 return to the department the existing certificate, and a new  
17 certificate will be issued for the new place of business free of  
18 charge. No person required to be registered under this section shall  
19 engage in any business taxable hereunder without first being so  
20 registered. The department, by rule, may provide for the issuance of  
21 certificates of registration, without requiring payment, to temporary  
22 places of business or to persons who are exempt from tax under RCW  
23 82.04.300.

24 (2) Unless the person is a dealer as defined in RCW 9.41.010,  
25 registration under this section is not required if the following  
26 conditions are met:

27 (a) A person's value of products, gross proceeds of sales, or gross  
28 income of the business is below the tax reporting threshold provided in  
29 RCW 82.04.300;

30 (b) The person is not required to collect or pay to the department  
31 of revenue any other tax which the department is authorized to collect;  
32 and

33 (c) The person is not otherwise required to obtain a license  
34 subject to the master application procedure provided in chapter 19.02  
35 RCW.

36 NEW SECTION. Sec. 143. (1) RCW 19.70.010 and 19.70.020 are each  
37 recodified as sections in chapter 9.41 RCW.

1 (2) RCW 9.41.160 is recodified in chapter 9.41 RCW to follow RCW  
2 9.41.310.

3 NEW SECTION. **Sec. 144.** The following acts or parts of acts are  
4 each repealed:

5 (1) RCW 9.41.030 and 1935 c 172 s 3;

6 (2) RCW 9.41.093 and 1969 ex.s. c 227 s 2;

7 (3) RCW 9.41.130 and 1935 c 172 s 13;

8 (4) RCW 9.41.150 and 1989 c 132 s 1, 1961 c 124 s 11, & 1935 c 172  
9 s 15;

10 (5) RCW 9.41.180 and 1992 c 7 s 8 & 1909 c 249 s 266;

11 (6) RCW 9.41.200 and 1982 c 231 s 2 & 1933 c 64 s 2;

12 (7) RCW 9.41.210 and 1933 c 64 s 3; and

13 (8) RCW 9.41.240 and 1971 c 34 s 1, 1909 c 249 s 308, & 1883 p 67  
14 s 1.

15 **PART II - SUPERIOR AND JUVENILE COURT JURISDICTION**

16 **Sec. 201.** RCW 13.04.030 and 1988 c 14 s 1 are each amended to read  
17 as follows:

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

21 ~~((1))~~ (a) Under the interstate compact on placement of children  
22 as provided in chapter 26.34 RCW;

23 ~~((2))~~ (b) Relating to children alleged or found to be dependent  
24 as provided in chapter 26.44 RCW and in RCW 13.34.030 through  
25 13.34.170~~((, as now or hereafter amended))~~;

26 ~~((3))~~ (c) Relating to the termination of a parent and child  
27 relationship as provided in RCW 13.34.180 through 13.34.210~~((, as now~~  
28 ~~or hereafter amended))~~;

29 ~~((4))~~ (d) To approve or disapprove alternative residential  
30 placement as provided in RCW 13.32A.170;

31 ~~((5))~~ (e) Relating to juveniles alleged or found to have  
32 committed offenses, traffic infractions, or violations as provided in  
33 RCW 13.40.020 through 13.40.230, ~~((as now or hereafter amended,))~~  
34 unless:

1       ~~((a))~~ (i) The juvenile court transfers jurisdiction of a  
2 particular juvenile to adult criminal court pursuant to RCW  
3 13.40.110(~~(, as now or hereafter amended)~~); or

4       ~~((b))~~ (ii) The statute of limitations applicable to adult  
5 prosecution for the offense, traffic infraction, or violation has  
6 expired; or

7       ~~((c))~~ (iii) The alleged offense or infraction is a traffic, fish,  
8 boating, or game offense or traffic infraction committed by a juvenile  
9 sixteen years of age or older and would, if committed by an adult, be  
10 tried or heard in a court of limited jurisdiction, in which instance  
11 the appropriate court of limited jurisdiction shall have jurisdiction  
12 over the alleged offense or infraction: PROVIDED, That if such an  
13 alleged offense or infraction and an alleged offense or infraction  
14 subject to juvenile court jurisdiction arise out of the same event or  
15 incident, the juvenile court may have jurisdiction of both matters:  
16 PROVIDED FURTHER, That the jurisdiction under this subsection does not  
17 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)  
18 or (e)(i) of this subsection (~~((5)(a) of this section)~~): PROVIDED  
19 FURTHER, That courts of limited jurisdiction which confine juveniles  
20 for an alleged offense or infraction may place juveniles in juvenile  
21 detention facilities under an agreement with the officials responsible  
22 for the administration of the juvenile detention facility in RCW  
23 13.04.035 and 13.20.060; or

24       ~~((d))~~ (iv) The juvenile is sixteen or seventeen years old and the  
25 alleged offense is: (A) A serious violent offense as defined in RCW  
26 9.94A.030 committed on or after the effective date of this section; or  
27 (B) a violent offense as defined in RCW 9.94A.030 committed on or after  
28 the effective date of this section and the juvenile has a criminal  
29 history consisting of: (I) One or more prior serious violent offenses;  
30 or (II) two or more prior violent offenses. In such a case the adult  
31 criminal court shall have exclusive original jurisdiction.

32       If the juvenile challenges the state's determination of the  
33 juvenile's criminal history, the state may establish the offender's  
34 criminal history by a preponderance of the evidence. If the criminal  
35 history consists of adjudications entered upon a plea of guilty, the  
36 state shall not bear a burden of establishing the knowing and  
37 voluntariness of the plea;

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

1       (~~(7)~~) (g) Relating to termination of a diversion agreement under  
2 RCW 13.40.080 (~~(as now or hereafter amended)~~), including a proceeding  
3 in which the divertee has attained eighteen years of age; and

4       (~~(8)~~) (h) Relating to court validation of a voluntary consent to  
5 foster care placement under chapter 13.34 RCW, by the parent or Indian  
6 custodian of an Indian child, except if the parent or Indian custodian  
7 and child are residents of or domiciled within the boundaries of a  
8 federally recognized Indian reservation over which the tribe exercises  
9 exclusive jurisdiction.

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

14       **Sec. 202.** RCW 9.94A.030 and 1994 c 1 s 3 (Initiative Measure No.  
15 593), 1993 c 338 s 2, 1993 c 251 s 4, and 1993 c 164 s 1 are each  
16 reenacted and amended to read as follows:

17       Unless the context clearly requires otherwise, the definitions in  
18 this section apply throughout this chapter.

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

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

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

31       (4) "Community custody" means that portion of an inmate's sentence  
32 of confinement in lieu of earned early release time served in the  
33 community subject to controls placed on the inmate's movement and  
34 activities by the department of corrections.

35       (5) "Community placement" means that period during which the  
36 offender is subject to the conditions of community custody and/or  
37 postrelease supervision, which begins either upon completion of the  
38 term of confinement (postrelease supervision) or at such time as the

1 offender is transferred to community custody in lieu of earned early  
2 release. Community placement may consist of entirely community  
3 custody, entirely postrelease supervision, or a combination of the two.

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

7 (7) "Community supervision" means a period of time during which a  
8 convicted offender is subject to crime-related prohibitions and other  
9 sentence conditions imposed by a court pursuant to this chapter or RCW  
10 46.61.524. For first-time offenders, the supervision may include  
11 crime-related prohibitions and other conditions imposed pursuant to RCW  
12 9.94A.120(5). For purposes of the interstate compact for out-of-state  
13 supervision of parolees and probationers, RCW 9.95.270, community  
14 supervision is the functional equivalent of probation and should be  
15 considered the same as probation by other states.

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

18 (9) "Conviction" means an adjudication of guilt pursuant to Titles  
19 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
20 acceptance of a plea of guilty.

21 (10) "Court-ordered legal financial obligation" means a sum of  
22 money that is ordered by a superior court of the state of Washington  
23 for legal financial obligations which may include restitution to the  
24 victim, statutorily imposed crime victims' compensation fees as  
25 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
26 drug funds, court-appointed attorneys' fees, and costs of defense,  
27 fines, and any other financial obligation that is assessed to the  
28 offender as a result of a felony conviction. Upon conviction for  
29 vehicular assault while under the influence of intoxicating liquor or  
30 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the  
31 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
32 legal financial obligations may also include payment to a public agency  
33 of the expense of an emergency response to the incident resulting in  
34 the conviction, subject to the provisions in RCW 38.52.430.

35 (11) "Crime-related prohibition" means an order of a court  
36 prohibiting conduct that directly relates to the circumstances of the  
37 crime for which the offender has been convicted, and shall not be  
38 construed to mean orders directing an offender affirmatively to

1 participate in rehabilitative programs or to otherwise perform  
2 affirmative conduct.

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

9 (b) "Criminal history" shall always include juvenile convictions  
10 for sex offenses and shall also include a defendant's other prior  
11 convictions in juvenile court if: (i) The conviction was for an  
12 offense which is a felony or a serious traffic offense and is criminal  
13 history as defined in RCW 13.40.020(~~(+6)~~)(9)(a); (ii) the defendant  
14 was fifteen years of age or older at the time the offense was  
15 committed; and (iii) with respect to prior juvenile class B and C  
16 felonies or serious traffic offenses, the defendant was less than  
17 twenty-three years of age at the time the offense for which he or she  
18 is being sentenced was committed.

19 (13) "Department" means the department of corrections.

20 (14) "Determinate sentence" means a sentence that states with  
21 exactitude the number of actual years, months, or days of total  
22 confinement, of partial confinement, of community supervision, the  
23 number of actual hours or days of community service work, or dollars or  
24 terms of a legal financial obligation. The fact that an offender  
25 through "earned early release" can reduce the actual period of  
26 confinement shall not affect the classification of the sentence as a  
27 determinate sentence.

28 (15) "Disposable earnings" means that part of the earnings of an  
29 individual remaining after the deduction from those earnings of any  
30 amount required by law to be withheld. For the purposes of this  
31 definition, "earnings" means compensation paid or payable for personal  
32 services, whether denominated as wages, salary, commission, bonuses, or  
33 otherwise, and, notwithstanding any other provision of law making the  
34 payments exempt from garnishment, attachment, or other process to  
35 satisfy a court-ordered legal financial obligation, specifically  
36 includes periodic payments pursuant to pension or retirement programs,  
37 or insurance policies of any type, but does not include payments made  
38 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
39 or Title 74 RCW.

1 (16) "Drug offense" means:  
2 (a) Any felony violation of chapter 69.50 RCW except possession of  
3 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
4 controlled substance (RCW 69.50.403);  
5 (b) Any offense defined as a felony under federal law that relates  
6 to the possession, manufacture, distribution, or transportation of a  
7 controlled substance; or  
8 (c) Any out-of-state conviction for an offense that under the laws  
9 of this state would be a felony classified as a drug offense under (a)  
10 of this subsection.  
11 (17) "Escape" means:  
12 (a) Escape in the first degree (RCW 9A.76.110), escape in the  
13 second degree (RCW 9A.76.120), willful failure to return from furlough  
14 (RCW 72.66.060), willful failure to return from work release (RCW  
15 72.65.070), or willful failure to be available for supervision by the  
16 department while in community custody (RCW 72.09.310); or  
17 (b) Any federal or out-of-state conviction for an offense that  
18 under the laws of this state would be a felony classified as an escape  
19 under (a) of this subsection.  
20 (18) "Felony traffic offense" means:  
21 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
22 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
23 and-run injury-accident (RCW 46.52.020(4)); or  
24 (b) Any federal or out-of-state conviction for an offense that  
25 under the laws of this state would be a felony classified as a felony  
26 traffic offense under (a) of this subsection.  
27 (19) "Fines" means the requirement that the offender pay a specific  
28 sum of money over a specific period of time to the court.  
29 (20)(a) "First-time offender" means any person who is convicted of  
30 a felony (i) not classified as a violent offense or a sex offense under  
31 this chapter, or (ii) that is not the manufacture, delivery, or  
32 possession with intent to manufacture or deliver a controlled substance  
33 classified in schedule I or II that is a narcotic drug or the selling  
34 for profit of any controlled substance or counterfeit substance  
35 classified in schedule I, RCW 69.50.204, except leaves and flowering  
36 tops of marihuana, and except as provided in (b) of this subsection,  
37 who previously has never been convicted of a felony in this state,  
38 federal court, or another state, and who has never participated in a  
39 program of deferred prosecution for a felony offense.

1 (b) For purposes of (a) of this subsection, a juvenile adjudication  
2 for an offense committed before the age of fifteen years is not a  
3 previous felony conviction except for adjudications of sex offenses.

4 (21) "Most serious offense" means any of the following felonies or  
5 a felony attempt to commit any of the following felonies, as now  
6 existing or hereafter amended:

7 (a) Any felony defined under any law as a class A felony or  
8 criminal solicitation of or criminal conspiracy to commit a class A  
9 felony;

10 (b) Assault in the second degree;

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

12 (d) Child molestation in the second degree;

13 (e) Controlled substance homicide;

14 (f) Extortion in the first degree;

15 (g) Incest when committed against a child under age fourteen;

16 (h) Indecent liberties;

17 (i) Kidnapping in the second degree;

18 (j) Leading organized crime;

19 (k) Manslaughter in the first degree;

20 (l) Manslaughter in the second degree;

21 (m) Promoting prostitution in the first degree;

22 (n) Rape in the third degree;

23 (o) Robbery in the second degree;

24 (p) Sexual exploitation;

25 (q) Vehicular assault;

26 (r) Vehicular homicide, when proximately caused by the driving of  
27 any vehicle by any person while under the influence of intoxicating  
28 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
29 any vehicle in a reckless manner;

30 (s) Any other class B felony offense with a finding of sexual  
31 motivation, as "sexual motivation" is defined under this section;

32 (t) Any other felony with a deadly weapon verdict under RCW  
33 9.94A.125;

34 (u) Any felony offense in effect at any time prior to December 2,  
35 1993, that is comparable to a most serious offense under this  
36 subsection, or any federal or out-of-state conviction for an offense  
37 that under the laws of this state would be a felony classified as a  
38 most serious offense under this subsection.

1 (22) "Nonviolent offense" means an offense which is not a violent  
2 offense.

3 (23) "Offender" means a person who has committed a felony  
4 established by state law and is eighteen years of age or older or is  
5 less than eighteen years of age but whose case has been transferred by  
6 the appropriate juvenile court to a criminal court pursuant to RCW  
7 13.40.110 or has been tried in a criminal court pursuant to RCW  
8 13.04.030(1)(e)(iv). Throughout this chapter, the terms "offender" and  
9 "defendant" are used interchangeably.

10 (24) "Partial confinement" means confinement for no more than one  
11 year in a facility or institution operated or utilized under contract  
12 by the state or any other unit of government, or, if home detention or  
13 work crew has been ordered by the court, in an approved residence, for  
14 a substantial portion of each day with the balance of the day spent in  
15 the community. Partial confinement includes work release, home  
16 detention, work crew, and a combination of work crew and home detention  
17 as defined in this section.

18 (25) "Persistent offender" is an offender who:

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

21 (b) Has, before the commission of the offense under (a) of this  
22 subsection, been convicted as an offender on at least two separate  
23 occasions, whether in this state or elsewhere, of felonies that under  
24 the laws of this state would be considered most serious offenses and  
25 would be included in the offender score under RCW 9.94A.360; provided  
26 that of the two or more previous convictions, at least one conviction  
27 must have occurred before the commission of any of the other most  
28 serious offenses for which the offender was previously convicted.

29 (26) "Postrelease supervision" is that portion of an offender's  
30 community placement that is not community custody.

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

35 (28) "Serious traffic offense" means:

36 (a) Driving while under the influence of intoxicating liquor or any  
37 drug (RCW 46.61.502), actual physical control while under the influence  
38 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving

1 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
2 or

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

6 (29) "Serious violent offense" is a subcategory of violent offense  
7 and means:

8 (a) Murder in the first degree, homicide by abuse, murder in the  
9 second degree, assault in the first degree, kidnapping in the first  
10 degree, or rape in the first degree, assault of a child in the first  
11 degree, or an attempt, criminal solicitation, or criminal conspiracy to  
12 commit one of these felonies; or

13 (b) 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 serious  
15 violent offense under (a) of this subsection.

16 (30) "Sentence range" means the sentencing court's discretionary  
17 range in imposing a nonappealable sentence.

18 (31) "Sex offense" means:

19 (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
20 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal  
21 attempt, criminal solicitation, or criminal conspiracy to commit such  
22 crimes;

23 (b) A felony with a finding of sexual motivation under RCW  
24 9.94A.127; or

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

28 (32) "Sexual motivation" means that one of the purposes for which  
29 the defendant committed the crime was for the purpose of his or her  
30 sexual gratification.

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

35 (34) "Transition training" means written and verbal instructions  
36 and assistance provided by the department to the offender during the  
37 two weeks prior to the offender's successful completion of the work  
38 ethic camp program. The transition training shall include instructions

1 in the offender's requirements and obligations during the offender's  
2 period of community custody.

3 (35) "Victim" means any person who has sustained emotional,  
4 psychological, physical, or financial injury to person or property as  
5 a direct result of the crime charged.

6 (36) "Violent offense" means:

7 (a) Any of the following felonies, as now existing or hereafter  
8 amended: Any felony defined under any law as a class A felony or an  
9 attempt to commit a class A felony, criminal solicitation of or  
10 criminal conspiracy to commit a class A felony, manslaughter in the  
11 first degree, manslaughter in the second degree, indecent liberties if  
12 committed by forcible compulsion, kidnapping in the second degree,  
13 arson in the second degree, assault in the second degree, assault of a  
14 child in the second degree, extortion in the first degree, robbery in  
15 the second degree, vehicular assault, and vehicular homicide, when  
16 proximately caused by the driving of any vehicle by any person while  
17 under the influence of intoxicating liquor or any drug as defined by  
18 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

25 (37) "Work crew" means a program of partial confinement consisting  
26 of civic improvement tasks for the benefit of the community of not less  
27 than thirty-five hours per week that complies with RCW 9.94A.135. The  
28 civic improvement tasks shall have minimal negative impact on existing  
29 private industries or the labor force in the county where the service  
30 or labor is performed. The civic improvement tasks shall not affect  
31 employment opportunities for people with developmental disabilities  
32 contracted through sheltered workshops as defined in RCW 82.04.385.  
33 Only those offenders sentenced to a facility operated or utilized under  
34 contract by a county or the state are eligible to participate on a work  
35 crew. Offenders sentenced for a sex offense as defined in subsection  
36 (31) of this section are not eligible for the work crew program.

37 (38) "Work ethic camp" means an alternative incarceration program  
38 designed to reduce recidivism and lower the cost of corrections by  
39 requiring offenders to complete a comprehensive array of real-world job

1 and vocational experiences, character-building work ethics training,  
2 life management skills development, substance abuse rehabilitation,  
3 counseling, literacy training, and basic adult education.

4 (39) "Work release" means a program of partial confinement  
5 available to offenders who are employed or engaged as a student in a  
6 regular course of study at school. Participation in work release shall  
7 be conditioned upon the offender attending work or school at regularly  
8 defined hours and abiding by the rules of the work release facility.

9 (40) "Home detention" means a program of partial confinement  
10 available to offenders wherein the offender is confined in a private  
11 residence subject to electronic surveillance. Home detention may not  
12 be imposed for offenders convicted of a violent offense, any sex  
13 offense, any drug offense, reckless burning in the first or second  
14 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third  
15 degree as defined in RCW 9A.36.031, assault of a child in the third  
16 degree, unlawful imprisonment as defined in RCW 9A.40.040, or  
17 harassment as defined in RCW 9A.46.020. Home detention may be imposed  
18 for offenders convicted of possession of a controlled substance (RCW  
19 69.50.401(d)) or forged prescription for a controlled substance (RCW  
20 69.50.403) if the offender fulfills the participation conditions set  
21 forth in this subsection and is monitored for drug use by treatment  
22 alternatives to street crime (TASC) or a comparable court or agency-  
23 referred program.

24 (a) Home detention may be imposed for offenders convicted of  
25 burglary in the second degree as defined in RCW 9A.52.030 or  
26 residential burglary conditioned upon the offender: (i) Successfully  
27 completing twenty-one days in a work release program, (ii) having no  
28 convictions for burglary in the second degree or residential burglary  
29 during the preceding two years and not more than two prior convictions  
30 for burglary or residential burglary, (iii) having no convictions for  
31 a violent felony offense during the preceding two years and not more  
32 than two prior convictions for a violent felony offense, (iv) having no  
33 prior charges of escape, and (v) fulfilling the other conditions of the  
34 home detention program.

35 (b) Participation in a home detention program shall be conditioned  
36 upon: (i) The offender obtaining or maintaining current employment or  
37 attending a regular course of school study at regularly defined hours,  
38 or the offender performing parental duties to offspring or minors  
39 normally in the custody of the offender, (ii) abiding by the rules of

1 the home detention program, and (iii) compliance with court-ordered  
2 legal financial obligations. The home detention program may also be  
3 made available to offenders whose charges and convictions do not  
4 otherwise disqualify them if medical or health-related conditions,  
5 concerns or treatment would be better addressed under the home  
6 detention program, or where the health and welfare of the offender,  
7 other inmates, or staff would be jeopardized by the offender's  
8 incarceration. Participation in the home detention program for medical  
9 or health-related reasons is conditioned on the offender abiding by the  
10 rules of the home detention program and complying with court-ordered  
11 restitution.

12 **Sec. 203.** RCW 26.12.010 and 1991 c 367 s 11 are each amended to  
13 read as follows:

14 (1) Each superior court shall exercise the jurisdiction conferred  
15 by this chapter and while sitting in the exercise of such jurisdiction  
16 shall be known and referred to as the "family court." A family law  
17 proceeding under this chapter is any proceeding under this title or any  
18 proceeding in which the family court is requested to adjudicate or  
19 enforce the rights of the parties or their children regarding the  
20 determination or modification of parenting plans, child custody,  
21 visitation, or support, or the distribution of property or obligations.

22 (2) Superior court judges of a county may by majority vote, grant  
23 to the family court the power, authority, and jurisdiction, concurrent  
24 with the juvenile court, to hear and decide cases under Title 13 RCW.

25 **Sec. 204.** RCW 13.04.021 and 1988 c 232 s 3 are each amended to  
26 read as follows:

27 (1) The juvenile court shall be a division of the superior court.  
28 In judicial districts having more than one judge of the superior court,  
29 the judges of such court shall annually assign one or more of their  
30 number to the juvenile court division. In any judicial district having  
31 a court commissioner, the court commissioner shall have the power,  
32 authority, and jurisdiction, concurrent with a juvenile court judge, to  
33 hear all cases under this chapter and to enter judgment and make orders  
34 with the same power, force, and effect as any judge of the juvenile  
35 court, subject to motion or demand by any party within ten days from  
36 the entry of the order or judgment by the court commissioner as  
37 provided in RCW 2.24.050. In any judicial district having a family law

1 commissioner appointed pursuant to chapter 26.12 RCW, the family law  
2 commissioner shall have the power, authority, and jurisdiction,  
3 concurrent with a juvenile court judge, to hear cases under chapter  
4 13.34 RCW or any other case under Title 13 RCW as provided in RCW  
5 26.12.010, and to enter judgment and make orders with the same power,  
6 force, and effect as any judge of the juvenile court, subject to motion  
7 or demand by any party within ten days from the entry of the order or  
8 judgment by the court commissioner as provided in RCW 2.24.050.

9 (2) Cases in the juvenile court shall be tried without a jury.

10 **Sec. 205.** RCW 72.76.010 and 1989 c 177 s 3 are each amended to  
11 read as follows:

12 The Washington intrastate corrections compact is enacted and  
13 entered into on behalf of this state by the department with any and all  
14 counties of this state legally joining in a form substantially as  
15 follows:

16 WASHINGTON INTRASTATE CORRECTIONS  
17 COMPACT

18 A compact is entered into by and among the contracting counties and the  
19 department of corrections, signatories hereto, for the purpose of  
20 maximizing the use of existing resources and to provide adequate  
21 facilities and programs for the confinement, care, treatment, and  
22 employment of offenders.

23 The contracting counties and the department do solemnly agree that:

24 (1) As used in this compact, unless the context clearly requires  
25 otherwise:

26 (a) "Department" means the Washington state department of  
27 corrections.

28 (b) "Secretary" means the secretary of the department of  
29 corrections or designee.

30 (c) "Compact jurisdiction" means the department of corrections or  
31 any county of the state of Washington which has executed this compact.

32 (d) "Sending jurisdiction" means a county party to this agreement  
33 or the department of corrections to whom the courts have committed  
34 custody of the offender.

35 (e) "Receiving jurisdiction" means the department of corrections or  
36 a county party to this agreement to which an offender is sent for  
37 confinement.

1 (f) "Offender" means a person who has been charged with and/or  
2 convicted of an offense established by applicable statute or ordinance.

3 (g) "Convicted felony offender" means a person who has been  
4 convicted of a felony established by state law and is eighteen years of  
5 age or older, or who is less than eighteen years of age, but whose case  
6 has been transferred by the appropriate juvenile court to a criminal  
7 court pursuant to RCW 13.40.110 or has been tried in a criminal court  
8 pursuant to RCW 13.04.030(1)(e)(iv).

9 (h) An "offender day" includes the first day an offender is  
10 delivered to the receiving jurisdiction, but ends at midnight of the  
11 day immediately preceding the day of the offender's release or return  
12 to the custody of the sending jurisdiction.

13 (i) "Facility" means any state correctional institution, camp, or  
14 other unit established or authorized by law under the jurisdiction of  
15 the department of corrections; any jail, holding, detention, special  
16 detention, or correctional facility operated by the county for the  
17 housing of adult offenders; or any contract facility, operated on  
18 behalf of either the county or the state for the housing of adult  
19 offenders.

20 (j) "Extraordinary medical expense" means any medical expense  
21 beyond that which is normally provided by contract or other health care  
22 providers at the facility of the receiving jurisdiction.

23 (k) "Compact" means the Washington intrastate corrections compact.

24 (2)(a) Any county may make one or more contracts with one or more  
25 counties, the department, or both for the exchange or transfer of  
26 offenders pursuant to this compact. Appropriate action by ordinance,  
27 resolution, or otherwise in accordance with the law of the governing  
28 bodies of the participating counties shall be necessary before the  
29 contract may take effect. The secretary is authorized and requested to  
30 execute the contracts on behalf of the department. Any such contract  
31 shall provide for:

32 (i) Its duration;

33 (ii) Payments to be made to the receiving jurisdiction by the  
34 sending jurisdiction for offender maintenance, extraordinary medical  
35 and dental expenses, and any participation in or receipt by offenders  
36 of rehabilitative or correctional services, facilities, programs, or  
37 treatment not reasonably included as part of normal maintenance;

38 (iii) Participation in programs of offender employment, if any; the  
39 disposition or crediting of any payments received by offenders on their

1 accounts; and the crediting of proceeds from or the disposal of any  
2 products resulting from the employment;

3 (iv) Delivery and retaking of offenders;

4 (v) Such other matters as may be necessary and appropriate to fix  
5 the obligations, responsibilities and rights of the sending and  
6 receiving jurisdictions.

7 (b) The terms and provisions of this compact shall be a part of any  
8 contract entered into by the authority of or pursuant to the contract.  
9 Nothing in any contract may be inconsistent with the compact.

10 (3)(a) Whenever the duly constituted authorities of any compact  
11 jurisdiction decide that confinement in, or transfer of an offender to  
12 a facility of another compact jurisdiction is necessary or desirable in  
13 order to provide adequate housing and care or an appropriate program of  
14 rehabilitation or treatment, the officials may direct that the  
15 confinement be within a facility of the other compact jurisdiction, the  
16 receiving jurisdiction to act in that regard solely as agent for the  
17 sending jurisdiction.

18 (b) The receiving jurisdiction shall be responsible for the  
19 supervision of all offenders which it accepts into its custody.

20 (c) The receiving jurisdiction shall be responsible to establish  
21 screening criteria for offenders it will accept for transfer. The  
22 sending jurisdiction shall be responsible for ensuring that all  
23 transferred offenders meet the screening criteria of the receiving  
24 jurisdiction.

25 (d) The sending jurisdiction shall notify the sentencing courts of  
26 the name, charges, cause numbers, date, and place of transfer of any  
27 offender, prior to the transfer, on a form to be provided by the  
28 department. A copy of this form shall accompany the offender at the  
29 time of transfer.

30 (e) The receiving jurisdiction shall be responsible for providing  
31 an orientation to each offender who is transferred. The orientation  
32 shall be provided to offenders upon arrival and shall address the  
33 following conditions at the facility of the receiving jurisdiction:

34 (i) Requirements to work;

35 (ii) Facility rules and disciplinary procedures;

36 (iii) Medical care availability; and

37 (iv) Visiting.

38 (f) Delivery and retaking of inmates shall be the responsibility of  
39 the sending jurisdiction. The sending jurisdiction shall deliver

1 offenders to the facility of the receiving jurisdiction where the  
2 offender will be housed, at the dates and times specified by the  
3 receiving jurisdiction. The receiving jurisdiction retains the right  
4 to refuse or return any offender. The sending jurisdiction shall be  
5 responsible to retake any transferred offender who does not meet the  
6 screening criteria of the receiving jurisdiction, or who is refused by  
7 the receiving jurisdiction. If the receiving jurisdiction has notified  
8 the sending jurisdiction to retake an offender, but the sending  
9 jurisdiction does not do so within a seven-day period, the receiving  
10 jurisdiction may return the offender to the sending jurisdiction at the  
11 expense of the sending jurisdiction.

12 (g) Offenders confined in a facility under the terms of this  
13 compact shall at all times be subject to the jurisdiction of the  
14 sending jurisdiction and may at any time be removed from the facility  
15 for transfer to another facility within the sending jurisdiction, for  
16 transfer to another facility in which the sending jurisdiction may have  
17 a contractual or other right to confine offenders, for release or  
18 discharge, or for any other purpose permitted by the laws of the state  
19 of Washington.

20 (h) Unless otherwise agreed, the sending jurisdiction shall provide  
21 at least one set of the offender's personal clothing at the time of  
22 transfer. The sending jurisdiction shall be responsible for searching  
23 the clothing to ensure that it is free of contraband. The receiving  
24 jurisdiction shall be responsible for providing work clothing and  
25 equipment appropriate to the offender's assignment.

26 (i) The sending jurisdiction shall remain responsible for the  
27 storage of the offender's personal property, unless prior arrangements  
28 are made with the receiving jurisdiction. The receiving jurisdiction  
29 shall provide a list of allowable items which may be transferred with  
30 the offender.

31 (j) Copies or summaries of records relating to medical needs,  
32 behavior, and classification of the offender shall be transferred by  
33 the sending jurisdiction to the receiving jurisdiction at the time of  
34 transfer. At a minimum, such records shall include:

35 (i) A copy of the commitment order or orders legally authorizing  
36 the confinement of the offender;

37 (ii) A copy of the form for the notification of the sentencing  
38 courts required by subsection (3)(d) of this section;

1 (iii) A brief summary of any known criminal history, medical needs,  
2 behavioral problems, and other information which may be relevant to the  
3 classification of the offender; and

4 (iv) A standard identification card which includes the fingerprints  
5 and at least one photograph of the offender.

6 Disclosure of public records shall be the responsibility of the sending  
7 jurisdiction, except for those documents generated by the receiving  
8 jurisdiction.

9 (k) The receiving jurisdiction shall be responsible for providing  
10 regular medical care, including prescription medication, but  
11 extraordinary medical expenses shall be the responsibility of the  
12 sending jurisdiction. The costs of extraordinary medical care incurred  
13 by the receiving jurisdiction for transferred offenders shall be  
14 reimbursed by the sending jurisdiction. The receiving jurisdiction  
15 shall notify the sending jurisdiction as far in advance as practicable  
16 prior to incurring such costs. In the event emergency medical care is  
17 needed, the sending jurisdiction shall be advised as soon as  
18 practicable after the offender is treated. Offenders who are required  
19 by the medical authority of the sending jurisdiction to take  
20 prescription medication at the time of the transfer shall have at least  
21 a three-day supply of the medication transferred to the receiving  
22 jurisdiction with the offender, and at the expense of the sending  
23 jurisdiction. Costs of prescription medication incurred after the use  
24 of the supply shall be borne by the receiving jurisdiction.

25 (l) Convicted offenders transferred under this agreement may be  
26 required by the receiving jurisdiction to work. Transferred offenders  
27 participating in programs of offender employment shall receive the same  
28 reimbursement, if any, as other offenders performing similar work. The  
29 receiving jurisdiction shall be responsible for the disposition or  
30 crediting of any payments received by offenders, and for crediting the  
31 proceeds from or disposal of any products resulting from the  
32 employment. Other programs normally provided to offenders by the  
33 receiving jurisdiction such as education, mental health, or substance  
34 abuse treatment shall also be available to transferred offenders,  
35 provided that usual program screening criteria are met. No special or  
36 additional programs will be provided except by mutual agreement of the  
37 sending and receiving jurisdiction, with additional expenses, if any,  
38 to be borne by the sending jurisdiction.

1 (m) The receiving jurisdiction shall notify offenders upon arrival  
2 of the rules of the jurisdiction and the specific rules of the  
3 facility. Offenders will be required to follow all rules of the  
4 receiving jurisdiction. Disciplinary detention, if necessary, shall be  
5 provided at the discretion of the receiving jurisdiction. The  
6 receiving jurisdiction may require the sending jurisdiction to retake  
7 any offender found guilty of a serious infraction; similarly, the  
8 receiving jurisdiction may require the sending jurisdiction to retake  
9 any offender whose behavior requires segregated or protective housing.

10 (n) Good-time calculations and notification of each offender's  
11 release date shall be the responsibility of the sending jurisdiction.  
12 The sending jurisdiction shall provide the receiving jurisdiction with  
13 a formal notice of the date upon which each offender is to be released  
14 from custody. If the receiving jurisdiction finds an offender guilty  
15 of a violation of its disciplinary rules, it shall notify the sending  
16 jurisdiction of the date and nature of the violation. If the sending  
17 jurisdiction resets the release date according to its good-time  
18 policies, it shall provide the receiving jurisdiction with notice of  
19 the new release date.

20 (o) The sending jurisdiction shall retake the offender at the  
21 receiving jurisdiction's facility on or before his or her release date,  
22 unless the sending and receiving jurisdictions shall agree upon release  
23 in some other place. The sending jurisdiction shall bear the  
24 transportation costs of the return.

25 (p) Each receiving jurisdiction shall provide monthly reports to  
26 each sending jurisdiction on the number of offenders of that sending  
27 jurisdiction in its facilities pursuant to this compact.

28 (q) Each party jurisdiction shall notify the others of its  
29 coordinator who is responsible for administrating the jurisdiction's  
30 responsibilities under the compact. The coordinators shall arrange for  
31 alternate contact persons in the event of an extended absence of the  
32 coordinator.

33 (r) Upon reasonable notice, representatives of any party to this  
34 compact shall be allowed to visit any facility in which another party  
35 has agreed to house its offenders, for the purpose of inspecting the  
36 facilities and visiting its offenders that may be confined in the  
37 institution.

38 (4) This compact shall enter into force and become effective and  
39 binding upon the participating parties when it has been executed by two

1 or more parties. Upon request, each party county shall provide any  
2 other compact jurisdiction with a copy of a duly enacted resolution or  
3 ordinance authorizing entry into this compact.

4 (5) A party participating may withdraw from the compact by formal  
5 resolution and by written notice to all other parties then  
6 participating. The withdrawal shall become effective, as it pertains  
7 to the party wishing to withdraw, thirty days after written notice to  
8 the other parties. However, such withdrawal shall not relieve the  
9 withdrawing party from its obligations assumed prior to the effective  
10 date of withdrawal. Before the effective date of withdrawal, a  
11 withdrawing participant shall notify the other parties to retake the  
12 offenders it has housed in its facilities and shall remove to its  
13 facilities, at its own expense, offenders it has confined under the  
14 provisions of this compact.

15 (6) Legal costs relating to defending actions brought by an  
16 offender challenging his or her transfer to another jurisdiction under  
17 this compact shall be borne by the sending jurisdiction. Legal costs  
18 relating to defending actions arising from events which occur while the  
19 offender is in the custody of a receiving jurisdiction shall be borne  
20 by the receiving jurisdiction.

21 (7) The receiving jurisdiction shall not be responsible to provide  
22 legal services to offenders placed under this agreement. Requests for  
23 legal services shall be referred to the sending jurisdiction.

24 (8) The provisions of this compact shall be liberally construed and  
25 shall be severable. If any phrase, clause, sentence, or provision of  
26 this compact is declared to be contrary to the Constitution or laws of  
27 the state of Washington or is held invalid, the validity of the  
28 remainder of this compact and its applicability to any county or the  
29 department shall not be affected.

30 (9) Nothing contained in this compact shall be construed to  
31 abrogate or impair any agreement or other arrangement which a county or  
32 the department may have with each other or with a nonparty county for  
33 the confinement, rehabilitation, or treatment of offenders.

34 NEW SECTION. **Sec. 206.** Provisions governing exceptions to  
35 juvenile court jurisdiction in the amendments to RCW 13.04.030  
36 contained in section 201 of this act shall apply to serious violent and  
37 violent offenses committed on or after the effective date of section  
38 201 of this act. The criminal history which may result in loss of

1 juvenile court jurisdiction upon the alleged commission of a serious  
2 violent or violent offense may have been acquired on, before, or after  
3 the effective date of section 201 of this act.

4 NEW SECTION. **Sec. 207.** A new section is added to chapter 13.40  
5 RCW to read as follows:

6 To reduce the likelihood that implementation of this chapter will  
7 differentially and unjustifiably affect the outcomes of cases involving  
8 youth of color accused of crimes, all youth prosecuted for offenses  
9 under this chapter must be charged and prosecuted in accordance with  
10 the prosecutorial guidelines developed in accordance with section 8,  
11 chapter 415, Laws of 1993 as amended by section 208, chapter . . . ,  
12 Laws of 1994 (section 208 of this act). Prosecutors shall also apply  
13 those guidelines when filing charges which will result in a juvenile  
14 under eighteen being prosecuted as an adult pursuant to RCW 13.04.030.

15 **Sec. 208.** 1993 c 415 s 8 (uncodified) is amended to read as  
16 follows:

17 The administrator for the courts shall convene a working group to  
18 develop standards and guidelines for the prosecution of juvenile  
19 offenders under Title 13 RCW, review any racial disproportionality in  
20 diversion, and review the use of detention facilities in a way to  
21 reduce racial disproportionality. The administrator shall appoint:

22 (1) One defense attorney familiar with juvenile justice, and three  
23 prosecuting attorneys familiar with juvenile justice;

24 (2) One superior court judge;

25 (3) One court commissioner;

26 (4) One juvenile court administrator;

27 (5) One representative of the juvenile disposition standards board;

28 (6) One representative of the department of social and health  
29 services;

30 (7) One social researcher with expertise in juvenile or criminal  
31 justice;

32 (8) Two representatives of child advocacy groups recommended by the  
33 governor; and

34 (9) Two persons recommended jointly by the Washington state  
35 minority commissions.

36 Prosecutorial guidelines for charging youth under chapter 13.40 RCW  
37 and for filing charges against youth which will or may result in youth

1 being prosecuted as adults under RCW 13.04.030(1)(e)(iv) or 13.40.100  
2 shall be racially neutral. The standards shall also include a review  
3 mechanism to ensure that the standards result in equitable and racially  
4 neutral filing and prosecution practices. The work group shall develop  
5 and submit its recommended standards and guidelines to the appropriate  
6 committees of the legislature by December 1, 1994.

7 **PART III - THEFT OF FIREARMS**

8 NEW SECTION. **Sec. 301.** A new section is added to chapter 9A.56  
9 RCW to read as follows:

10 (1) A person is guilty of theft of a firearm if the person:

11 (a) Commits a theft of a firearm;

12 (b) Is in possession of a stolen firearm;

13 (c) Delivers a stolen firearm;

14 (d) Possesses with intent to deliver a stolen firearm; or

15 (e) Sells a stolen firearm.

16 (2) This section applies regardless of the stolen firearm's value.

17 (3) "Possession of a stolen firearm" as used in this section has  
18 the same meaning as "possessing stolen property" in RCW 9A.56.140.

19 (4) Theft of a firearm is a class B felony.

20 **Sec. 302.** RCW 9A.56.040 and 1987 c 140 s 2 are each amended to  
21 read as follows:

22 (1) A person is guilty of theft in the second degree if he or she  
23 commits theft of:

24 (a) Property or services which exceed(s) two hundred and fifty  
25 dollars in value, but does not exceed one thousand five hundred dollars  
26 in value; or

27 (b) A public record, writing, or instrument kept, filed, or  
28 deposited according to law with or in the keeping of any public office  
29 or public servant; or

30 (c) An access device; or

31 (d) A motor vehicle, of a value less than one thousand five hundred  
32 dollars(~~;~~ ~~or~~

33 ~~(e) A firearm, of a value less than one thousand five hundred~~  
34 ~~dollars)).~~

35 (2) Theft in the second degree is a class C felony.



1 (1)

TABLE 1

2

Sentencing Grid

3 SERIOUSNESS

4 SCORE

OFFENDER SCORE

5

6

	0	1	2	3	4	5	6	7	8	9 or more
--	---	---	---	---	---	---	---	---	---	-----------

7

8 XV Life Sentence without Parole/Death Penalty

9

10	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
11		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
12		320	333	347	361	374	388	416	450	493	548

13

14	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
15		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
16		164	178	192	205	219	233	260	288	342	397

17

18	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
19		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
20		123	136	147	160	171	184	216	236	277	318

21

22	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
23		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
24		102	114	125	136	147	158	194	211	245	280

25

26	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
27		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
28		68	75	82	89	96	102	130	144	171	198

29

30	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
31		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
32		41	48	54	61	68	75	102	116	144	171

33

34	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
35		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
36		27	34	41	48	54	61	89	102	116	144

37

1	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
2		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
3		20	27	34	41	48	54	75	89	102	116
4											
5	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
6		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
7		14	20	27	34	41	48	61	75	89	102
8											
9	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
10		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
11		12	14	17	20	29	43	54	68	82	96
12											
13	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
14		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
15		9	12	14	17	20	29	43	57	70	84
16											
17	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
18		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
19		3	8	12	12	16	22	29	43	57	68
20											
21	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
22		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
23		Days	6	9	12	14	18	22	29	43	57
24											
25	I			3m	4m	5m	8m	13m	16m	20m	2y2m
26		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
27		Days	Days	5	6	8	12	14	18	22	29
28											

29 NOTE: Numbers in the first horizontal row of each seriousness category  
30 represent sentencing midpoints in years(y) and months(m). Numbers in  
31 the second and third rows represent presumptive sentencing ranges in  
32 months, or in days if so designated. 12+ equals one year and one day.

33 (2) For persons convicted of the anticipatory offenses of criminal  
34 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
35 presumptive sentence is determined by locating the sentencing grid  
36 sentence range defined by the appropriate offender score and the  
37 seriousness level of the completed crime, and multiplying the range by  
38 75 percent.

1 (3) The following additional times shall be added to the  
2 presumptive sentence if the offender or an accomplice was armed with a  
3 deadly weapon as defined in this chapter and the offender is being  
4 sentenced for one of the crimes listed in this subsection. If the  
5 offender or an accomplice was armed with a deadly weapon and the  
6 offender is being sentenced for an anticipatory offense under chapter  
7 9A.28 RCW to commit one of the crimes listed in this subsection, the  
8 following times shall be added to the presumptive range determined  
9 under subsection (2) of this section:

10 (a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW  
11 9A.56.200), or Kidnapping 1 (RCW 9A.40.020);

12 (b) 18 months for Burglary 1 (RCW 9A.52.020);

13 (c) 12 months for (~~Assault 2 (RCW 9A.36.020 or 9A.36.021),~~  
14 ~~Assault of a Child 2 (RCW 9A.36.130)~~) any violent offense except as  
15 provided in (a) and (b) of this subsection, Escape 1 (RCW 9A.76.110),  
16 (~~Kidnapping 2 (RCW 9A.40.030),~~) Burglary 2 of a building other than  
17 a dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080),  
18 or any drug offense.

19 (4) The following additional times shall be added to the  
20 presumptive sentence if the offender or an accomplice committed the  
21 offense while in a county jail or state correctional facility as that  
22 term is defined in this chapter and the offender is being sentenced for  
23 one of the crimes listed in this subsection. If the offender or an  
24 accomplice committed one of the crimes listed in this subsection while  
25 in a county jail or state correctional facility as that term is defined  
26 in this chapter, and the offender is being sentenced for an  
27 anticipatory offense under chapter 9A.28 RCW to commit one of the  
28 crimes listed in this subsection, the following times shall be added to  
29 the presumptive sentence range determined under subsection (2) of this  
30 section:

31 (a) Eighteen months for offenses committed under RCW  
32 69.50.401(a)(1)(i) or 69.50.410;

33 (b) Fifteen months for offenses committed under RCW  
34 69.50.401(a)(1)(ii), (iii), and (iv);

35 (c) Twelve months for offenses committed under RCW 69.50.401(d).

36 For the purposes of this subsection, all of the real property of  
37 a state correctional facility or county jail shall be deemed to be part  
38 of that facility or county jail.

1 (5) An additional twenty-four months shall be added to the  
2 presumptive sentence for any ranked offense involving a violation of  
3 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

4 **Sec. 502.** RCW 9.94A.320 and 1992 c 145 s 4 and 1992 c 75 s 3 are  
5 each reenacted and amended to read as follows:

6 TABLE 2

7 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

8	XV	Aggravated Murder 1 (RCW 10.95.020)
9	XIV	Murder 1 (RCW 9A.32.030)
10		Homicide by abuse (RCW 9A.32.055)
11	XIII	Murder 2 (RCW 9A.32.050)
12	XII	Assault 1 (RCW 9A.36.011)
13		Assault of a Child 1 (RCW 9A.36.120)
14	XI	Rape 1 (RCW 9A.44.040)
15		Rape of a Child 1 (RCW 9A.44.073)
16	X	Kidnapping 1 (RCW 9A.40.020)
17		Rape 2 (RCW 9A.44.050)
18		Rape of a Child 2 (RCW 9A.44.076)
19		Child Molestation 1 (RCW 9A.44.083)
20		Damaging building, etc., by explosion with
21		threat to human being (RCW
22		70.74.280(1))
23		Over 18 and deliver heroin or narcotic from
24		Schedule I or II to someone under 18
25		(RCW 69.50.406)
26		Leading Organized Crime (RCW
27		9A.82.060(1)(a))
28	IX	Assault of a Child 2 (RCW 9A.36.130)
29		Robbery 1 (RCW 9A.56.200)
30		Manslaughter 1 (RCW 9A.32.060)
31		Explosive devices prohibited (RCW 70.74.180)
32		Indecent Liberties (with forcible
33		compulsion) (RCW 9A.44.100(1)(a))

1           Endangering life and property by explosives  
2           with threat to human being (RCW  
3           70.74.270)  
4           Over 18 and deliver narcotic from Schedule  
5           III, IV, or V or a nonnarcotic from  
6           Schedule I-V to someone under 18 and 3  
7           years junior (RCW 69.50.406)  
8           Controlled Substance Homicide (RCW  
9           69.50.415)  
10          Sexual Exploitation (RCW 9.68A.040)  
11          Inciting Criminal Profiteering (RCW  
12          9A.82.060(1)(b))  
  
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 intent  
19           to deliver heroin or cocaine (RCW  
20           69.50.401(a)(1)(i))  
21           Manufacture, deliver, or possess with intent  
22           to deliver methamphetamine (RCW  
23           69.50.401(a)(1)(ii))  
24           Vehicular Homicide, by being under the  
25           influence of intoxicating liquor or any  
26           drug or by the operation of any vehicle  
27           in a reckless manner (RCW 46.61.520)  
  
28   VII     Burglary 1 (RCW 9A.52.020)  
29           Vehicular Homicide, by disregard for the  
30           safety of others (RCW 46.61.520)  
31           Introducing Contraband 1 (RCW 9A.76.140)  
32           Indecent Liberties (without forcible  
33           compulsion) (RCW 9A.44.100(1) (b) and  
34           (c))  
35           Child Molestation 2 (RCW 9A.44.086)  
36           Dealing in depictions of minor engaged in  
37           sexually explicit conduct (RCW  
38           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       VI    Bribery (RCW 9A.68.010)  
7           Manslaughter 2 (RCW 9A.32.070)  
8           Rape of a Child 3 (RCW 9A.44.079)  
9           Intimidating a Juror/Witness (RCW 9A.72.110,  
10           9A.72.130)  
11           Damaging building, etc., by explosion with  
12           no threat to human being (RCW  
13           70.74.280(2))  
14           Endangering life and property by explosives  
15           with no threat to human being (RCW  
16           70.74.270)  
17           Incest 1 (RCW 9A.64.020(1))  
18           Manufacture, deliver, or possess with intent  
19           to deliver narcotics from Schedule I or  
20           II (except heroin or cocaine) (RCW  
21           69.50.401(a)(1)(i))  
22           Intimidating a Judge (RCW 9A.72.160)  
23           Bail Jumping with Murder 1 (RCW  
24           9A.76.170(2)(a))  
25       V    Theft of a Firearm (section 301 of this act)  
26           Reckless Endangerment 1 (RCW 9A.36.045)  
27           Criminal Mistreatment 1 (RCW 9A.42.020)  
28           Rape 3 (RCW 9A.44.060)  
29           Sexual Misconduct with a Minor 1 (RCW  
30           9A.44.093)  
31           Child Molestation 3 (RCW 9A.44.089)  
32           Kidnapping 2 (RCW 9A.40.030)  
33           Extortion 1 (RCW 9A.56.120)  
34           Incest 2 (RCW 9A.64.020(2))  
35           Perjury 1 (RCW 9A.72.020)  
36           Extortionate Extension of Credit (RCW  
37           9A.82.020)

1 Advancing money or property for extortionate  
2 extension of credit (RCW 9A.82.030)  
3 Extortionate Means to Collect Extensions of  
4 Credit (RCW 9A.82.040)  
5 Rendering Criminal Assistance 1 (RCW  
6 9A.76.070)  
7 Bail Jumping with class A Felony (RCW  
8 9A.76.170(2)(b))  
9 Delivery of imitation controlled substance  
10 by person eighteen or over to person  
11 under eighteen (RCW 69.52.030(2))

12 IV Residential Burglary (RCW 9A.52.025)  
13 Theft of Livestock 1 (RCW 9A.56.080)  
14 Robbery 2 (RCW 9A.56.210)  
15 Assault 2 (RCW 9A.36.021)  
16 Escape 1 (RCW 9A.76.110)  
17 Arson 2 (RCW 9A.48.030)  
18 Bribing a Witness/Bribe Received by Witness  
19 (RCW 9A.72.090, 9A.72.100)  
20 Malicious Harassment (RCW 9A.36.080)  
21 Threats to Bomb (RCW 9.61.160)  
22 Willful Failure to Return from Furlough (RCW  
23 72.66.060)  
24 Hit and Run « Injury Accident (RCW  
25 46.52.020(4))  
26 Vehicular Assault (RCW 46.61.522)  
27 Manufacture, deliver, or possess with intent  
28 to deliver narcotics from Schedule III,  
29 IV, or V or nonnarcotics from Schedule  
30 I-V (except marijuana or  
31 methamphetamines) (RCW  
32 69.50.401(a)(1)(ii) through (iv))  
33 Influencing Outcome of Sporting Event (RCW  
34 9A.82.070)  
35 Use of Proceeds of Criminal Profiteering  
36 (RCW 9A.82.080 (1) and (2))  
37 Knowingly Trafficking in Stolen Property  
38 (RCW 9A.82.050(2))

1       III       Criminal mistreatment 2 (RCW 9A.42.030)  
2       Extortion 2 (RCW 9A.56.130)  
3       Unlawful Imprisonment (RCW 9A.40.040)  
4       Assault 3 (RCW 9A.36.031)  
5       Assault of a Child 3 (RCW 9A.36.140)  
6       Custodial Assault (RCW 9A.36.100)  
7       Unlawful possession of firearm or pistol by felon (RCW  
8               9.41.040)  
9       Harassment (RCW 9A.46.020)  
10       Promoting Prostitution 2 (RCW 9A.88.080)  
11       Willful Failure to Return from Work Release  
12               (RCW 72.65.070)  
13       Burglary 2 (RCW 9A.52.030)  
14       Introducing Contraband 2 (RCW 9A.76.150)  
15       Communication with a Minor for Immoral  
16               Purposes (RCW 9.68A.090)  
17       Patronizing a Juvenile Prostitute (RCW  
18               9.68A.100)  
19       Escape 2 (RCW 9A.76.120)  
20       Perjury 2 (RCW 9A.72.030)  
21       Bail Jumping with class B or C Felony (RCW  
22               9A.76.170(2)(c))  
23       Intimidating a Public Servant (RCW  
24               9A.76.180)  
25       Tampering with a Witness (RCW 9A.72.120)  
26       Manufacture, deliver, or possess with intent  
27               to deliver marijuana (RCW  
28               69.50.401(a)(1)(ii))  
29       Delivery of a material in lieu of a  
30               controlled substance (RCW 69.50.401(c))  
31       Manufacture, distribute, or possess with  
32               intent to distribute an imitation  
33               controlled substance (RCW 69.52.030(1))  
34       Recklessly Trafficking in Stolen Property  
35               (RCW 9A.82.050(1))  
36       Theft of livestock 2 (RCW 9A.56.080)  
37       Securities Act violation (RCW 21.20.400)

1       II       Malicious Mischief 1 (RCW 9A.48.070)  
2               Possession of Stolen Property 1 (RCW  
3               9A.56.150)  
4               Theft 1 (RCW 9A.56.030)  
5               Possession of controlled substance that is  
6               either heroin or narcotics from  
7               Schedule I or II (RCW 69.50.401(d))  
8               Possession of phencyclidine (PCP) (RCW  
9               69.50.401(d))  
10              Create, deliver, or possess a counterfeit  
11              controlled substance (RCW 69.50.401(b))  
12              Computer Trespass 1 (RCW 9A.52.110)  
13              (~~Reckless Endangerment 1 (RCW 9A.36.045)~~)  
14              Escape from Community Custody (RCW  
15              72.09.310)

16       I       Theft 2 (RCW 9A.56.040)  
17               Possession of Stolen Property 2 (RCW  
18               9A.56.160)  
19               Forgery (RCW 9A.60.020)  
20               Taking Motor Vehicle Without Permission (RCW  
21               9A.56.070)  
22               Vehicle Prowl 1 (RCW 9A.52.095)  
23               Attempting to Elude a Pursuing Police  
24               Vehicle (RCW 46.61.024)  
25               Malicious Mischief 2 (RCW 9A.48.080)  
26               Reckless Burning 1 (RCW 9A.48.040)  
27               Unlawful Issuance of Checks or Drafts (RCW  
28               9A.56.060)  
29               Unlawful Use of Food Stamps (RCW 9.91.140  
30               (2) and (3))  
31               False Verification for Welfare (RCW  
32               74.08.055)  
33               Forged Prescription (RCW 69.41.020)  
34               Forged Prescription for a Controlled  
35               Substance (RCW 69.50.403)

1 Possess Controlled Substance that is a  
2 Narcotic from Schedule III, IV, or V or  
3 Non-narcotic from Schedule I-V (except  
4 phencyclidine) (RCW 69.50.401(d))

5 **PART VI - PERSONAL PROTECTION SPRAYS**

6 NEW SECTION. **Sec. 601.** A new section is added to chapter 9.91  
7 RCW to read as follows:

8 (1) It is unlawful for a person under eighteen years old, unless  
9 the person is at least fourteen years old and has the permission of a  
10 parent or guardian to do so, to purchase or possess a personal  
11 protection spray device. A violation of this subsection is a  
12 misdemeanor.

13 (2) No town, city, county, special purpose district, quasi-  
14 municipal corporation or other unit of government may prohibit a person  
15 eighteen years old or older, or a person fourteen years old or older  
16 who has the permission of a parent or guardian to do so, from  
17 purchasing or possessing a personal protection spray device or from  
18 using such a device in a manner consistent with the authorized use of  
19 force under RCW 9A.16.020. No town, city, county, special purpose  
20 district, quasi-municipal corporation, or other unit of government may  
21 prohibit a person eighteen years old or older from delivering a  
22 personal protection spray device to a person authorized to possess such  
23 a device.

24 (3) For purposes of this section:

25 (a) "Personal protection spray device" means a commercially  
26 available dispensing device designed and intended for use in self-  
27 defense and containing a nonlethal sternutator or lacrimator agent,  
28 including but not limited to:

29 (i) Tear gas, the active ingredient of which is either  
30 chloracetophenone (CN) or O-chlorobenzylidene malonotrile (CS); or

31 (ii) Other agent commonly known as mace, pepper mace, or pepper  
32 gas.

33 (b) "Delivering" means actual, constructive, or attempted  
34 transferring from one person to another.

1 (4) Nothing in this section authorizes the delivery, purchase,  
2 possession, or use of any device or chemical agent that is otherwise  
3 prohibited by state law.

4 **PART VII - JUVENILE JUSTICE PROVISIONS, EFFECTIVE JULY 1, 1994**

5 **A. ADMINISTRATION**

6 NEW SECTION. **Sec. 701.** The legislature finds that the incidence  
7 of juvenile crime has escalated at an alarming rate, and that the  
8 state's juvenile rehabilitation system needs major adjustments in order  
9 to respond.

10 The current system lacks adequate bed space, adequate population  
11 forecasting, an effective sentencing scheme, an appropriate inmate  
12 classification system, and sufficient judicial discretion in sentencing  
13 young offenders.

14 These defects have often resulted in sentences that are driven by  
15 fiscal policy, and not by rehabilitative or punitive principles; and

16 Washington must develop a juvenile offender rehabilitation system  
17 that truly emphasizes public safety, offender responsibility, and  
18 offender rehabilitation.

19 **Sec. 702.** RCW 43.20A.090 and 1970 ex.s. c 18 s 7 are each amended  
20 to read as follows:

21 The secretary shall appoint a deputy secretary, a department  
22 personnel director and such assistant secretaries as shall be needed to  
23 administer the department. The deputy secretary shall have charge and  
24 general supervision of the department in the absence or disability of  
25 the secretary, and in case of a vacancy in the office of secretary,  
26 shall continue in charge of the department until a successor is  
27 appointed and qualified, or until the governor shall appoint an acting  
28 secretary. The secretary shall appoint an assistant secretary to  
29 administer the juvenile rehabilitation responsibilities required of the  
30 department by chapters 13.04, 13.40, and 13.50 RCW. The officers  
31 appointed under this section, and exempt from the provisions of the  
32 state civil service law by the terms of RCW 41.06.076, shall be paid  
33 salaries to be fixed by the governor in accordance with the procedure  
34 established by law for the fixing of salaries for officers exempt from  
35 the operation of the state civil service law.

1           NEW SECTION. Sec. 703. A new section is added to chapter 13.40  
2 RCW to read as follows:

3           The assistant secretary shall manage and administer the  
4 department's juvenile rehabilitation responsibilities, including but  
5 not limited to the operation of all state institutions or facilities  
6 used for juvenile rehabilitation.

7           The assistant secretary shall:

8           (1) Prepare a biennial budget request sufficient to meet the  
9 confinement and rehabilitative needs of the juvenile rehabilitation  
10 program, as forecast by the office of financial management;

11           (2) Create by rule a formal system for inmate classification.  
12 This classification system shall consider:

13           (a) Public safety;

14           (b) Internal security and staff safety; and

15           (c) Rehabilitative resources both within and outside the  
16 department;

17           (3) Develop agreements with local jurisdictions to develop  
18 regional facilities with a variety of custody levels;

19           (4) Adopt rules establishing effective disciplinary policies to  
20 maintain order within institutions;

21           (5) Develop a comprehensive diagnostic evaluation process to be  
22 used at intake, including but not limited to evaluation for substance  
23 addiction or abuse, literacy, learning disabilities, fetal alcohol  
24 syndrome or effect, attention deficit disorder, and mental health; and

25           (6) Develop a plan to implement, by July 1, 1995:

26           (a) Substance abuse treatment programs for all state juvenile  
27 rehabilitation facilities and institutions;

28           (b) Vocational education and instruction programs at all state  
29 juvenile rehabilitation facilities and institutions.

30           NEW SECTION. Sec. 704. A new section is added to chapter 13.40  
31 RCW to read as follows:

32           The assistant secretary shall review the vocational education  
33 curriculum, facilities, and teaching personnel in all juvenile  
34 residential programs and report to the legislature by December 12,  
35 1994. The report shall include an assessment of the number and types  
36 of vocational programs currently available, and the status of  
37 buildings, teaching personnel, and equipment currently used for  
38 vocational training. The report shall also contain an action plan for

1 implementing, by July 1, 1995, a state-wide uniform prevocational and  
2 vocational education program, including but not limited to, a  
3 projection of the need for the programs for both female and male  
4 juvenile offenders, the number of students that could benefit from the  
5 programs, projected vocational trade needs, physical plant  
6 modifications or building needs, equipment needs, teaching personnel  
7 needs, and estimated costs. In addition, the report shall identify how  
8 the department can develop vocational programs jointly with trade  
9 associations, trade unions, and other state, local, and federal  
10 agencies. The department shall also identify businesses and industries  
11 potentially interested in working with the program.

12 NEW SECTION. **Sec. 705.** A new section is added to chapter 13.40  
13 RCW to read as follows:

14 The assistant secretary shall issue arrest warrants for juveniles  
15 who escape from department residential custody. These arrest warrants  
16 shall authorize any law enforcement, probation and parole, or peace  
17 officer of this state, or any other state where the juvenile is  
18 located, to arrest the juvenile and to place the juvenile in physical  
19 custody pending the juvenile's return to confinement in a state  
20 juvenile rehabilitation facility.

21 **Sec. 706.** RCW 13.50.010 and 1993 c 374 s 1 are each amended to  
22 read as follows:

23 (1) For purposes of this chapter:

24 (a) "Juvenile justice or care agency" means any of the following:  
25 Police, diversion units, court, prosecuting attorney, defense attorney,  
26 detention center, attorney general, the department of social and health  
27 services and its contracting agencies, schools, juvenile justice  
28 advisory committees of county law and justice councils; and, in  
29 addition, persons or public or private agencies having children  
30 committed to their custody;

31 (b) "Official juvenile court file" means the legal file of the  
32 juvenile court containing the petition or information, motions,  
33 memorandums, briefs, findings of the court, and court orders;

34 (c) "Social file" means the juvenile court file containing the  
35 records and reports of the (~~probation~~) community supervision  
36 counselor;

1 (d) "Records" means the official juvenile court file, the social  
2 file, and records of any other juvenile justice or care agency in the  
3 case.

4 (2) Each petition or information filed with the court may include  
5 only one juvenile and each petition or information shall be filed under  
6 a separate docket number. The social file shall be filed separately  
7 from the official juvenile court file.

8 (3) It is the duty of any juvenile justice or care agency to  
9 maintain accurate records. To this end:

10 (a) The agency may never knowingly record inaccurate information.  
11 Any information in records maintained by the department of social and  
12 health services relating to a petition filed pursuant to chapter 13.34  
13 RCW that is found by the court, upon proof presented, to be false or  
14 inaccurate shall be corrected or expunged from such records by the  
15 agency;

16 (b) An agency shall take reasonable steps to insure the security  
17 of its records and prevent tampering with them; and

18 (c) An agency shall make reasonable efforts to insure the  
19 completeness of its records, including action taken by other agencies  
20 with respect to matters in its files.

21 (4) Each juvenile justice or care agency shall implement  
22 procedures consistent with the provisions of this chapter to facilitate  
23 inquiries concerning records.

24 (5) Any person who has reasonable cause to believe information  
25 concerning that person is included in the records of a juvenile justice  
26 or care agency and who has been denied access to those records by the  
27 agency may make a motion to the court for an order authorizing that  
28 person to inspect the juvenile justice or care agency record concerning  
29 that person. The court shall grant the motion to examine records  
30 unless it finds that in the interests of justice or in the best  
31 interests of the juvenile the records or parts of them should remain  
32 confidential.

33 (6) A juvenile, or his or her parents, or any person who has  
34 reasonable cause to believe information concerning that person is  
35 included in the records of a juvenile justice or care agency may make  
36 a motion to the court challenging the accuracy of any information  
37 concerning the moving party in the record or challenging the continued  
38 possession of the record by the agency. If the court grants the

1 motion, it shall order the record or information to be corrected or  
2 destroyed.

3 (7) The person making a motion under subsection (5) or (6) of this  
4 section shall give reasonable notice of the motion to all parties to  
5 the original action and to any agency whose records will be affected by  
6 the motion.

7 (8) The court may permit inspection of records by, or release of  
8 information to, any clinic, hospital, or agency which has the subject  
9 person under care or treatment, or to individuals or agencies engaged  
10 in legitimate research for educational, scientific, or public purposes,  
11 including juvenile justice advisory committees of county law and  
12 justice councils. The court may also permit inspection of, or release  
13 of information from, records which have been sealed pursuant to RCW  
14 13.50.050(11). Access to records or information for research purposes  
15 shall be permitted only if the anonymity of all persons mentioned in  
16 the records or information will be preserved. Each person granted  
17 permission to inspect juvenile justice or care agency records for  
18 research purposes shall present a notarized statement to the court  
19 stating that the names of juveniles and parents will remain  
20 confidential.

21 (9) Juvenile detention facilities shall release records to the  
22 juvenile disposition standards commission under RCW 13.40.025 upon  
23 request. The commission shall not disclose the names of any juveniles  
24 or parents mentioned in the records without the named individual's  
25 written permission.

26 **Sec. 707.** RCW 72.09.300 and 1993 sp.s. c 21 s 8 are each amended  
27 to read as follows:

28 (1) Every county legislative authority shall by resolution or  
29 ordinance establish a local law and justice council. The county  
30 legislative authority shall determine the size and composition of the  
31 council, which shall include the county sheriff and a representative of  
32 the municipal police departments within the county, the county  
33 prosecutor and a representative of the municipal prosecutors within the  
34 county, a representative of the city legislative authorities within the  
35 county, a representative of the county's superior, juvenile, district,  
36 and municipal courts, the county jail administrator, the county clerk,  
37 the county risk manager, and the secretary of corrections. Officials  
38 designated may appoint representatives.

1 (2) A combination of counties may establish a local law and  
2 justice council by intergovernmental agreement. The agreement shall  
3 comply with the requirements of this section.

4 (3) The local law and justice council shall develop a local law  
5 and justice plan for the county. The council shall design the elements  
6 and scope of the plan, subject to final approval by the county  
7 legislative authority. The general intent of the plan shall include  
8 seeking means to maximize local resources including personnel and  
9 facilities, reduce duplication of services, and share resources between  
10 local and state government in order to accomplish local efficiencies  
11 without diminishing effectiveness. The plan shall also include a  
12 section on jail management. This section may include the following  
13 elements:

14 (a) A description of current jail conditions, including whether  
15 the jail is overcrowded;

16 (b) A description of potential alternatives to incarceration;

17 (c) A description of current jail resources;

18 (d) A description of the jail population as it presently exists  
19 and how it is projected to change in the future;

20 (e) A description of projected future resource requirements;

21 (f) A proposed action plan, which shall include recommendations to  
22 maximize resources, maximize the use of intermediate sanctions,  
23 minimize overcrowding, avoid duplication of services, and effectively  
24 manage the jail and the offender population;

25 (g) A list of proposed advisory jail standards and methods to  
26 effect periodic quality assurance inspections of the jail;

27 (h) A proposed plan to collect, synthesize, and disseminate  
28 technical information concerning local criminal justice activities,  
29 facilities, and procedures;

30 (i) A description of existing and potential services for offenders  
31 including employment services, substance abuse treatment, mental health  
32 services, and housing referral services.

33 (4) The council may propose other elements of the plan, which  
34 shall be subject to review and approval by the county legislative  
35 authority, prior to their inclusion into the plan.

36 (5) The county legislative authority may request technical  
37 assistance in developing or implementing the plan from other units or  
38 agencies of state or local government, which shall include the

1 department, the office of financial management, and the Washington  
2 association of sheriffs and police chiefs.

3 (6) Upon receiving a request for assistance from a county, the  
4 department may provide the requested assistance.

5 (7) The secretary may adopt rules for the submittal, review, and  
6 approval of all requests for assistance made to the department. The  
7 secretary may also appoint an advisory committee of local and state  
8 government officials to recommend policies and procedures relating to  
9 the state and local correctional systems and to assist the department  
10 in providing technical assistance to local governments. The committee  
11 shall include representatives of the county sheriffs, the police  
12 chiefs, the county prosecuting attorneys, the county and city  
13 legislative authorities, and the jail administrators. The secretary  
14 may contract with other state and local agencies and provide funding in  
15 order to provide the assistance requested by counties.

16 (8) The department shall establish a base level of state  
17 correctional services, which shall be determined and distributed in a  
18 consistent manner state-wide. The department's contributions to any  
19 local government, approved pursuant to this section, shall not operate  
20 to reduce this base level of services.

21 (9) The council shall establish an advisory committee on juvenile  
22 justice proportionality. The council shall appoint the county juvenile  
23 court administrator and at least five citizens as advisory committee  
24 members. The citizen advisory committee members shall be  
25 representative of the county's ethnic and geographic diversity. The  
26 advisory committee members shall serve two-year terms and may be  
27 reappointed. The duties of the advisory committee include:

28 (a) Monitoring and reporting to the juvenile disposition standards  
29 commission on the proportionality, effectiveness, and cultural  
30 relevance of:

31 (i) The rehabilitative goals required by juvenile offender  
32 dispositions;

33 (ii) The rehabilitative services offered by county and state  
34 institutions to juvenile offenders; and

35 (iii) The rehabilitative services offered in conjunction with  
36 diversions, deferred sentences, community supervision, and parole;

37 (b) Reviewing citizen complaints regarding bias or  
38 disproportionality in that county's juvenile justice system;

1        (c) By September 1 of each year, beginning with 1995, submit to  
2 the juvenile disposition standards commission a report summarizing the  
3 advisory committee's findings under (a) and (b) of this subsection.

4        **Sec. 708.** RCW 13.06.050 and 1993 c 415 s 7 are each amended to  
5 read as follows:

6        No county shall be entitled to receive any state funds provided by  
7 this chapter until its application and plan are approved, and unless  
8 and until the minimum standards prescribed by the department of social  
9 and health services are complied with and then only on such terms as  
10 are set forth in this section. In addition, any county making  
11 application for state funds under this chapter that also operates a  
12 juvenile detention facility must have standards of operations in place  
13 that include: Intake and admissions, medical and health care,  
14 communication, correspondence, visiting and telephone use, security and  
15 control, sanitation and hygiene, juvenile rights, rules and discipline,  
16 property, juvenile records, safety and emergency procedures,  
17 programming, release and transfer, training and staff development, and  
18 food service.

19        (1) The distribution of funds to a county or a group of counties  
20 shall be based on criteria including but not limited to the county's  
21 per capita income, regional or county at-risk populations, juvenile  
22 crime or arrest rates, rates of poverty, size of racial minority  
23 populations, and existing programs~~((, and the effectiveness and~~  
24 ~~efficiency of consolidating local programs towards reducing commitments~~  
25 ~~to state correctional facilities for offenders whose standard range~~  
26 ~~disposition does not include commitment of the offender to the~~  
27 ~~department and reducing reliance on other traditional departmental~~  
28 ~~services))~~.

29        (2) The department may not place caps on commitments to the  
30 department or otherwise limit a county's ability to commit juvenile  
31 offenders to the department. The department's disbursement of funds under  
32 this chapter may not be conditioned on the number of juveniles  
33 committed to the department.

34        (3) The secretary will reimburse a county upon presentation and  
35 approval of a valid claim pursuant to the provisions of this chapter  
36 based on actual performance in meeting the terms and conditions of the  
37 approved plan and contract. Funds received by participating counties

1 under this chapter shall not be used to replace local funds for  
2 existing programs.

3 ((+3+)) (4) The secretary, in conjunction with the human rights  
4 commission, shall evaluate the effectiveness of programs funded under  
5 this chapter in reducing racial disproportionality. The secretary  
6 shall investigate whether implementation of such programs has reduced  
7 disproportionality in counties with initially high levels of  
8 disproportionality. The analysis shall indicate which programs are  
9 cost-effective in reducing disproportionality in such areas as  
10 alternatives to detention, intake and risk assessment standards  
11 pursuant to RCW 13.40.038, alternatives to incarceration, and in the  
12 prosecution and adjudication of juveniles. The secretary shall report  
13 his or her findings to the legislature by December 1, 1994, and  
14 December 1 of each year thereafter.

15 **B. STUDIES CONCERNING JUVENILE JUSTICE**

16 NEW SECTION. **Sec. 709.** The legislature finds that:

17 Local jurisdictions have difficulty administering and enforcing  
18 the laws related to juvenile offenders;

19 These difficulties include the local jurisdictions' abilities to  
20 arrest, adjudicate, confine, administer, and supervise juvenile  
21 offenders;

22 These difficulties have resulted in significant delays in the  
23 administration of justice to juvenile offenders;

24 These difficulties may be due to a number of factors, including,  
25 but not necessarily limited to, resource limitations within the various  
26 units of government charged with the responsibility for administering  
27 and enforcing laws related to juvenile offenders.

28 Therefore, effective July 1, 1994, a special legislative committee  
29 is created to assess the ability and needs of the state and local  
30 jurisdictions to address adequately the administration of justice to  
31 juvenile offenders. Specifically, this committee shall review the  
32 implementation and administration of:

- 33 (1) Chapter 13.04 RCW, the basic juvenile court act;
- 34 (2) Chapter 13.06 RCW, consolidated juvenile services funding;
- 35 (3) Chapter 13.16 RCW, places of detention;
- 36 (4) Chapter 13.20 RCW, county detention facilities; and
- 37 (5) Chapter 13.40 RCW, the juvenile justice act of 1977.

1           The committee established under this section shall consist of two  
2 members, who shall not be members of the same caucus, from each of the  
3 following: The house of representatives committees on corrections,  
4 judiciary, appropriations, human services, and capital budget; and the  
5 senate committees on law and justice and health and human services; and  
6 four members, no more than two of whom shall be members of the same  
7 caucus, from the senate ways and means committee. The speaker of the  
8 house of representatives shall appoint the members from the house of  
9 representatives, and the president of the senate shall appoint the  
10 members from the senate. This committee shall meet and conduct  
11 hearings as often as is necessary to carry out its responsibilities  
12 under this section.

13           The special committee shall receive access to all relevant  
14 information necessary to monitor the conduct of agencies or employees.  
15 All confidential information received by the special committee under  
16 this section shall be kept confidential by members of the committee and  
17 shall not be further disseminated unless specifically authorized by  
18 state or federal law.

19           The special committee shall report its findings and make  
20 recommendations regarding the issues and chapters cited in this section  
21 in a report submitted to the legislature before the 1996 regular  
22 session of the legislature.

23           The special committee, unless recreated by the legislature, shall  
24 cease to exist after submitting the report required under this section.

25           NEW SECTION.   **Sec. 710.** (1) The office of the administrator for  
26 the courts shall convene a work group to recommend to the legislature  
27 standards to guide the court's discretion at significant stages of the  
28 juvenile justice process. The work group shall consist of two juvenile  
29 court judges, two juvenile court administrators, two prosecuting  
30 attorneys or deputy prosecuting attorneys actively practicing in  
31 juvenile court, and two defense attorneys actively practicing in  
32 juvenile court. The work group shall, by September 1, 1994, recommend  
33 to the legislature standards to guide:

- 34           (a) The decision to defer adjudication;
- 35           (b) The decision to suspend a sentence;
- 36           (c) The setting of rehabilitative goals in a disposition order  
37 that includes commitment to the department of social and health  
38 services;

1 (d) The determination that a juvenile has or has not met the  
2 rehabilitative goals during the term of commitment to the department of  
3 social and health services; and

4 (e) The decision to set a date for a juvenile's release from the  
5 department of social and health services' custody.

6 (2) The office of the administrator for the courts shall convene  
7 a work group of at least five juvenile court administrators to  
8 establish a state-wide uniform process for conducting the  
9 predisposition, evaluation required by section 806, chapter . . . , Laws  
10 of 1994 (section 806 of this act).

11 The work group shall, by January 1, 1995, provide to the office of  
12 the administrator for the courts a recommendation for a state-wide  
13 uniform evaluation process.

#### 14 C. JUVENILE DISPOSITION STANDARDS

15 **Sec. 711.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to  
16 read as follows:

17 For the purposes of this chapter:

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

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

22 (b) Manslaughter in the first degree; or

23 (c) Assault in the second degree, extortion in the first degree,  
24 child molestation in the second degree, kidnapping in the second  
25 degree, robbery in the second degree, residential burglary, or burglary  
26 in the second degree, where such offenses include the infliction of  
27 bodily harm upon another or where during the commission of or immediate  
28 withdrawal from such an offense the perpetrator is armed with a deadly  
29 weapon (~~(or firearm as defined in RCW 9A.04.110)~~);

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

35 (3) "Community supervision" means an order of disposition by the  
36 court of an adjudicated youth not committed to the department and an  
37 order granting a deferred adjudication pursuant to section 714 of this

1 act. A community supervision order for a single offense may be for a  
2 period of up to two years for a sex offense as defined by RCW 9.94A.030  
3 and up to one year for other offenses. Community supervision is an  
4 individualized program comprised of one or more of the following:

5 (a) Community-based sanctions;

6 (b) Community-based rehabilitation;

7 (c) Monitoring and reporting requirements;

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

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

11 (b) Community service not to exceed one hundred fifty hours of  
12 service;

13 (5) "Community-based rehabilitation" means one or more of the  
14 following: Attendance of information classes; counseling, outpatient  
15 substance abuse treatment programs, outpatient mental health programs,  
16 anger management classes, or other services; or attendance at school or  
17 other educational programs appropriate for the juvenile as determined  
18 by the school district. Placement in community-based rehabilitation  
19 programs is subject to available funds;

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

28 (7) "Confinement" means physical custody by the department of  
29 social and health services in a facility operated by or pursuant to a  
30 contract with the state, or physical custody in a detention facility  
31 operated by or pursuant to a contract with any county. The county may  
32 operate or contract with vendors to operate county detention  
33 facilities. "Confinement" includes state and county group homes,  
34 foster care homes, inpatient substance abuse programs, juvenile basic  
35 training camps, and electronic monitoring. The department may operate  
36 or contract to operate detention facilities for juveniles committed to  
37 the department. Pretrial confinement or confinement of less than  
38 thirty-one days imposed as part of a disposition or modification order  
39 may be served consecutively or intermittently, in the discretion of the

1 court and may be served in a detention group home, detention foster  
2 home, or with electronic monitoring. Detention group homes and  
3 detention foster homes used for confinement shall not also be used for  
4 the placement of dependent children. Confinement in detention group  
5 homes and detention foster homes and electronic monitoring are subject  
6 to available funds;

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

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

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

15 (b) The criminal complaint was diverted by a prosecutor pursuant  
16 to the provisions of this chapter on agreement of the respondent and  
17 after an advisement to the respondent that the criminal complaint would  
18 be considered as part of the respondent's criminal history.  
19 Successfully completed deferred adjudications shall not be considered  
20 part of the respondent's criminal history;

21 (10) "Department" means the department of social and health  
22 services;

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

29 (12) "Diversion unit" means any ((probation)) community  
30 supervision counselor who enters into a diversion agreement with an  
31 alleged youthful offender, or any other person, community  
32 accountability board, or other entity except a law enforcement official  
33 or entity, with whom the juvenile court administrator has contracted to  
34 arrange and supervise such agreements pursuant to RCW 13.40.080, or any  
35 person, community accountability board, or other entity specially  
36 funded by the legislature to arrange and supervise diversion agreements  
37 in accordance with the requirements of this chapter. For purposes of  
38 this subsection, "community accountability board" means a board  
39 comprised of members of the local community in which the juvenile

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

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

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

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

17 (16) "Manifest injustice" means a disposition that would either  
18 impose an excessive penalty on the juvenile, would fail to promote the  
19 juvenile's best rehabilitative interest, or would impose a serious, and  
20 clear danger to society in light of the purposes of this chapter;

21 (17) "Middle offender" means a person who has committed an offense  
22 and who is neither a minor (~~(or first)~~) offender nor a serious  
23 offender;

24 (18) "Minor (~~(or first)~~) offender" means a person (~~(sixteen years~~  
25 ~~of age or younger)~~) whose current offense(s) and criminal history fall  
26 entirely within one of the following categories:

27 (a) Four misdemeanors;

28 (b) Two misdemeanors and one gross misdemeanor;

29 (c) One misdemeanor and two gross misdemeanors; or

30 (d) Three gross misdemeanors(~~(+~~

31 ~~(e) One class C felony except manslaughter in the second degree~~  
32 ~~and one misdemeanor or gross misdemeanor;~~

33 ~~(f) One class B felony except: Any felony which constitutes an~~  
34 ~~attempt to commit a class A felony; manslaughter in the first degree;~~  
35 ~~assault in the second degree; extortion in the first degree; indecent~~  
36 ~~liberties; kidnapping in the second degree; robbery in the second~~  
37 ~~degree; burglary in the second degree; residential burglary; vehicular~~  
38 ~~homicide; or arson in the second degree)).~~

1 For purposes of this definition, current violations shall be  
2 counted as misdemeanors;

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

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

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

19 (22) "Secretary" means the secretary of the department of social  
20 and health services;

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

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

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

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

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

36 (28) "Deadly weapon" means a deadly weapon as defined in RCW  
37 9.94A.125;

38 (29) "Assistant secretary" means the assistant secretary for  
39 juvenile rehabilitation within the department;

1       (30) "Violent offense" means a violent offense as defined in RCW  
2 9.94A.030;

3       (31) "Placement out of the home" means placement for twenty-four  
4 hour residential care in foster or group care or with a court-approved  
5 custodian. Placement out of the home in county or state-funded  
6 placements is subject to available funds and beds.

7       **Sec. 712.** RCW 13.40.070 and 1992 c 205 s 107 are each amended to  
8 read as follows:

9       (1) Complaints referred to the juvenile court alleging the  
10 commission of an offense shall be referred directly to the prosecutor.  
11 The prosecutor, upon receipt of a complaint, shall screen the complaint  
12 to determine whether:

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

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

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

21       (3) If the requirements of subsections (1) (a) and (b) of this  
22 section are met, the prosecutor shall either file an information in  
23 juvenile court or divert the case, as set forth in subsections (5),  
24 (6), and (7) of this section. If the prosecutor finds that the  
25 requirements of subsection (1) (a) and (b) of this section are not met,  
26 the prosecutor shall maintain a record, for one year, of such decision  
27 and the reasons therefor. In lieu of filing an information or  
28 diverting an offense a prosecutor may file a motion to modify community  
29 supervision where such offense constitutes a violation of community  
30 supervision.

31       (4) An information shall be a plain, concise, and definite written  
32 statement of the essential facts constituting the offense charged. It  
33 shall be signed by the prosecuting attorney and conform to chapter  
34 10.37 RCW.

35       (5) Where a case is legally sufficient, the prosecutor shall file  
36 an information with the juvenile court if:

37       (a) An alleged offender is accused of a class A felony, a class B  
38 felony, an attempt to commit a class B felony, a class C felony listed

1 in RCW 9.94A.440(2) as a crime against persons or listed in RCW  
2 9A.46.060 as a crime of harassment, a class C felony that is a  
3 violation of RCW 9.41.080 or 9.41.040(1)(e), or any other offense  
4 listed in RCW 13.40.020(1) (b) or (c); or

5 (b) An alleged offender is accused of a felony and has a criminal  
6 history of ~~((at least one class A or class B felony, or two class C~~  
7 ~~felonies)) any felony, or at least two gross misdemeanors, or at least  
8 two misdemeanors ~~((and one additional misdemeanor or gross misdemeanor,~~  
9 ~~or at least one class C felony and one misdemeanor or gross~~  
10 ~~misdemeanor)); or~~~~

11 (c) An alleged offender has previously been committed to the  
12 department; or

13 (d) An alleged offender has been referred by a diversion unit for  
14 prosecution or desires prosecution instead of diversion; or

15 (e) An alleged offender has three or more diversion~~((s))~~ contracts  
16 on the alleged offender's criminal history; or

17 (f) A special allegation has been filed that the offender or an  
18 accomplice was armed with a deadly weapon when the offense was  
19 committed.

20 (6) Where a case is legally sufficient the prosecutor shall divert  
21 the case if the alleged offense is a misdemeanor or gross misdemeanor  
22 or violation and the alleged ~~((offense(s) in combination with the~~  
23 ~~alleged offender's criminal history do not exceed two offenses or~~  
24 ~~violations and do not include any felonies: PROVIDED, That)) offense~~  
25 is the offender's first offense or violation. If the alleged offender  
26 is charged with a related offense that must or may be filed under  
27 subsections (5) and (7) of this section, a case under this subsection  
28 may also be filed.

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

35 (8) Whenever a juvenile is placed in custody or, where not placed  
36 in custody, referred to a diversionary interview, the parent or legal  
37 guardian of the juvenile shall be notified as soon as possible  
38 concerning the allegation made against the juvenile and the current  
39 status of the juvenile. Where a case involves victims of crimes

1 against persons or victims whose property has not been recovered at the  
2 time a juvenile is referred to a diversionary unit, the victim shall be  
3 notified of the referral and informed how to contact the unit.

4 (9) The responsibilities of the prosecutor under subsections (1)  
5 through (8) of this section may be performed by a juvenile court  
6 (~~probation~~) community supervision counselor for any complaint  
7 referred to the court alleging the commission of an offense which would  
8 not be a felony if committed by an adult, if the prosecutor has given  
9 sufficient written notice to the juvenile court that the prosecutor  
10 will not review such complaints.

11 (10) The prosecutor, juvenile court (~~probation~~) community  
12 supervision counselor, or diversion unit may, in exercising their  
13 authority under this section or RCW 13.40.080, refer juveniles to  
14 mediation or victim offender reconciliation programs. Such mediation  
15 or victim offender reconciliation programs shall be voluntary for  
16 victims.

17 **Sec. 713.** RCW 13.40.080 and 1992 c 205 s 108 are each amended to  
18 read as follows:

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

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

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

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

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

1 agency: PROVIDED, That the state shall not be liable for costs  
2 resulting from the diversionary unit exercising the option to permit  
3 diversion agreements to mandate attendance at up to ten hours of  
4 counseling and/or up to twenty hours of educational or informational  
5 sessions; (~~and~~)

6 (d) A fine, not to exceed one hundred dollars. In determining the  
7 amount of the fine, the diversion unit shall consider only the  
8 juvenile's financial resources and whether the juvenile has the means  
9 to pay the fine. The diversion unit shall not consider the financial  
10 resources of the juvenile's parents, guardian, or custodian in  
11 determining the fine to be imposed; and

12 (e) Requirements to remain during specified hours at home, school,  
13 or work, and restrictions on leaving or entering specified geographical  
14 areas.

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

24 (4) A diversion agreement may not exceed a period of six months  
25 and may include a period extending beyond the eighteenth birthday of  
26 the divertee. Any restitution assessed during its term may not exceed  
27 an amount which the juvenile could be reasonably expected to pay during  
28 this period. If additional time is necessary for the juvenile to  
29 complete restitution to the victim, the time period limitations of this  
30 subsection may be extended by an additional six months.

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

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

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

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

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

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

7 (ii) Disclosure of all evidence to be offered against the  
8 diverttee;

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

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

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

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

16 (iv) Demonstration by evidence that the diverttee has substantially  
17 violated the terms of his or her diversion agreement.

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

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

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

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

28 (8) The diversion unit shall be responsible for advising a  
29 diverttee of his or her rights as provided in this chapter.

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

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

1 interviews mean all interviews regarding the diversion agreement  
2 process.

3 The juvenile shall be advised that a diversion agreement shall  
4 constitute a part of the juvenile's criminal history as defined by RCW  
5 13.40.020(9) (~~as now or hereafter amended~~). A signed acknowledgment  
6 of such advisement shall be obtained from the juvenile, and the  
7 document shall be maintained by the diversionary unit together with the  
8 diversion agreement, and a copy of both documents shall be delivered to  
9 the prosecutor if requested by the prosecutor. The supreme court shall  
10 promulgate rules setting forth the content of such advisement in simple  
11 language.

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

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

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

29 (13) A diversionary unit may, in instances where it determines  
30 that the act or omission of an act for which a juvenile has been  
31 referred to it involved no victim, or where it determines that the  
32 juvenile referred to it has no prior criminal history and is alleged to  
33 have committed an illegal act involving no threat of or instance of  
34 actual physical harm and involving not more than fifty dollars in  
35 property loss or damage and that there is no loss outstanding to the  
36 person or firm suffering such damage or loss, counsel and release or  
37 release such a juvenile without entering into a diversion agreement.  
38 A diversion unit's authority to counsel and release a juvenile under  
39 this subsection shall include the authority to refer the juvenile to

1 community-based counseling or treatment programs. Any juvenile  
2 released under this subsection shall be advised that the act or  
3 omission of any act for which he or she had been referred shall  
4 constitute a part of the juvenile's criminal history as defined by RCW  
5 13.40.020(9) (~~as now or hereafter amended~~). A signed acknowledgment  
6 of such advisement shall be obtained from the juvenile, and the  
7 document shall be maintained by the unit, and a copy of the document  
8 shall be delivered to the prosecutor if requested by the prosecutor.  
9 The supreme court shall promulgate rules setting forth the content of  
10 such advisement in simple language. A juvenile determined to be  
11 eligible by a diversionary unit for release as provided in this  
12 subsection shall retain the same right to counsel and right to have his  
13 or her case referred to the court for formal action as any other  
14 juvenile referred to the unit.

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

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

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

34 NEW SECTION. **Sec. 714.** A new section is added to chapter 13.40  
35 RCW to read as follows:

36 (1) At any time before adjudication, the juvenile court has the  
37 power, after consulting the juvenile's custodial parent or parents or  
38 guardian and with the consent of the juvenile, to continue the case for

1 a period not to exceed one year from the date of entry of the plea or  
2 finding of guilt. The court may continue the case for an additional  
3 one-year period for good cause.

4 (2) Any juvenile granted a deferral of adjudication under this  
5 section shall be placed under community supervision. The court may  
6 impose any conditions of supervision that it deems appropriate.  
7 Payment of restitution, as provided in RCW 13.40.190 shall also be a  
8 condition of community supervision under this section.

9 (3) Upon full compliance with such conditions of supervision, the  
10 court shall dismiss the case with prejudice.

11 (4) If the juvenile fails to comply with the terms of supervision,  
12 the court shall enter an order of adjudication and proceed to  
13 disposition. The juvenile's lack of compliance shall be determined by  
14 the judge upon written motion by the prosecutor or the juvenile's  
15 juvenile court community supervision counselor. The state shall bear  
16 the burden to prove by a preponderance of the evidence that the  
17 juvenile has failed to comply with the terms of community supervision.

18 (5) If the juvenile agrees to a deferral of adjudication, the  
19 juvenile shall waive all rights:

20 (a) To a speedy trial and disposition;

21 (b) To call and confront witnesses; and

22 (c) To a hearing on the record. The adjudicatory hearing shall be  
23 limited to a reading of the court's record.

24 (6)(a) In addition to imposing conditions of community  
25 supervision, the court may order that the juvenile be placed in a  
26 placement out of the home if the court finds that the child is in need  
27 of supervision and that placement of the child out of the home is in  
28 the child's best interests. The court shall consider the following  
29 factors, among others, when determining whether to place the child out  
30 of the home:

31 (i) The age of the youth;

32 (ii) Whether the child has a history of running away from home,  
33 school absences, drug or alcohol abuse, assaultive behavior, curfew  
34 violations, or is beyond the control of his or her parent to the extent  
35 that the child's behavior substantially endangers the health, safety,  
36 or welfare of the child or any other person;

37 (iii) The community supervision officer's report concerning the  
38 family environment;

1 (iv) Assessment of the child's chances of successfully complying  
2 with the terms of community supervision if the child remains in the  
3 home; and

4 (v) The wishes of the parents, the parent's willingness and  
5 ability to assist the child in complying with the terms of community  
6 supervision, and the parent's willingness and ability to voluntarily  
7 attend counseling or parenting seminars, or to seek treatment if the  
8 parent, in the court's determination, has drug or alcohol problems,  
9 mental health problems, or anger management problems.

10 (b) If the court finds that placement out of the home is necessary  
11 and is in the best interests of the juvenile and community and that  
12 reasonable efforts have been made to prevent out-of-home placement, the  
13 court shall order an out-of-home placement, subject to available funds  
14 and beds. The order shall be directed to the receiving agency or  
15 person. In determining the location of the out-of-home placement the  
16 court shall consider the needs of the juvenile, the juvenile's family,  
17 and the community. The court shall first consider placement with a  
18 relative and shall accord great weight to the juvenile's community  
19 supervision officer's placement recommendation.

20 (c) A placement out of the home shall not exceed one year. The  
21 court shall review the placement every ninety days. The juvenile's  
22 community supervision officer shall request from the receiving agency  
23 or person information on the placement, and the community supervision  
24 officer shall include this information and other relevant information  
25 in a report to be presented to the court at the placement review. The  
26 review shall be conducted administratively.

27 (d) The court shall enter findings articulating the basis for the  
28 placement and the basis for selecting the particular placement.

29 (e) If the receiving agency or person determines that the juvenile  
30 is inappropriately placed, the agency or person may file with the court  
31 a petition for reconsideration.

32 (f) Nothing in this section authorizes a juvenile court judge to  
33 place a juvenile in a state-funded out of home placement unless the  
34 department agrees to the placement.

35 (7) This section shall not apply if the juvenile is charged with  
36 a violent or sex offense or if the juvenile has had a prior deferred  
37 adjudication.



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	B	Burglary 2 (9A.52.030)	C
8	D	Burglary Tools (Possession of)	
9		(9A.52.060)	E
10	D	Criminal Trespass 1 (9A.52.070)	E
11	E	Criminal Trespass 2 (9A.52.080)	E
12	D	Vehicle Prowling (9A.52.100)	E
13		Drugs	
14	E	Possession/Consumption of Alcohol	
15		(66.44.270)	E
16	C	Illegally Obtaining Legend Drug	
17		(69.41.020)	D
18	C+	Sale, Delivery, Possession of Legend	
19		Drug with Intent to Sell	
20		(69.41.030)	D+
21	E	Possession of Legend Drug	
22		(69.41.030)	E
23	B+	Violation of Uniform Controlled	
24		Substances Act - Narcotic Sale	
25		(69.50.401(a)(1)(i))	B+
26	C	Violation of Uniform Controlled	
27		Substances Act - Nonnarcotic Sale	
28		(69.50.401(a)(1)(ii))	C
29	E	Possession of Marihuana <40 grams	
30		(69.50.401(e))	E
31	C	Fraudulently Obtaining Controlled	
32		Substance (69.50.403)	C
33	C+	Sale of Controlled Substance	
34		for Profit (69.50.410)	C+
35	E	<del>((Glue Sniffing (9.47A.050))</del>	E
36		<u>Unlawful Inhalation (9.47A.020)</u>	

1	B	Violation of Uniform Controlled	
2		Substances Act - Narcotic	
3		Counterfeit Substances	
4		(69.50.401(b)(1)(i))	B
5	C	Violation of Uniform Controlled	
6		Substances Act - Nonnarcotic	
7		Counterfeit Substances	
8		(69.50.401(b)(1) (ii), (iii), (iv))	C
9	C	Violation of Uniform Controlled	
10		Substances Act - Possession of a	
11		Controlled Substance	
12		(69.50.401(d))	C
13	C	Violation of Uniform Controlled	
14		Substances Act - Possession of a	
15		Controlled Substance	
16		(69.50.401(c))	C
17		Firearms and Weapons	
18	<del>((C+</del>	<del>Committing Crime when Armed</del>	
19		<del>(9.41.025)</del>	<del>D+</del>
20	<del>E</del>	<del>Carrying Loaded Pistol Without</del>	
21		<del>Permit (9.41.050)</del>	<del>E</del>
22	<del>E)) C</del>	<del>((Use)) Possession of Firearms</del>	
23		<del>by Minor (((&lt;14&gt;)) (&lt;18))</del>	
24		<del>((&lt;9.41.240&gt;)) (9.41.040(1)(e))</del>	<del>((E)) C</del>
25	D+	Possession of Dangerous Weapon	
26		(9.41.250)	E
27	D	Intimidating Another Person by use	
28		of Weapon (9.41.270)	E
29	<u>C</u>	<u>Delivery of Firearm by Minor</u>	
30		<u>(9.41.080)</u>	<u>C</u>
31		Homicide	
32	A+	Murder 1 (9A.32.030)	A
33	A+	Murder 2 (9A.32.050)	B+
34	B+	Manslaughter 1 (9A.32.060)	C+
35	C+	Manslaughter 2 (9A.32.070)	D+
36	B+	Vehicular Homicide (46.61.520)	C+

1		Kidnapping	
2	A	Kidnap 1 (9A.40.020)	B+
3	B+	Kidnap 2 (9A.40.030)	C+
4	C+	Unlawful Imprisonment	
5		(9A.40.040)	D+
6	<del>((D</del>	<del>Custodial Interference</del>	
7		<del>(9A.40.050)</del>	<del>E))</del>
8		Obstructing Governmental Operation	
9	E	Obstructing a Public Servant	
10		(9A.76.020)	E
11	E	Resisting Arrest (9A.76.040)	E
12	B	Introducing Contraband 1	
13		(9A.76.140)	C
14	C	Introducing Contraband 2	
15		(9A.76.150)	D
16	E	Introducing Contraband 3	
17		(9A.76.160)	E
18	B+	Intimidating a Public Servant	
19		(9A.76.180)	C+
20	B+	Intimidating a Witness	
21		(9A.72.110)	C+
22	<del>((E</del>	<del>Criminal Contempt</del>	
23		<del>(9.23.010)</del>	<del>E))</del>
24		Public Disturbance	
25	C+	Riot with Weapon (9A.84.010)	D+
26	D+	Riot Without Weapon	
27		(9A.84.010)	E
28	E	Failure to Disperse (9A.84.020)	E
29	E	Disorderly Conduct (9A.84.030)	E
30		Sex Crimes	
31	A	Rape 1 (9A.44.040)	B+
32	A-	Rape 2 (9A.44.050)	B+
33	C+	Rape 3 (9A.44.060)	D+
34	A-	Rape of a Child 1 (9A.44.073)	B+
35	B	Rape of a Child 2 (9A.44.076)	C+
36	B	Incest 1 (9A.64.020(1))	C

1	C	Incest 2 (9A.64.020(2))	D
2	D+	<del>((Public Indecency))</del> <u>Indecent Exposure</u>	
3		(Victim <14) (9A.88.010)	E
4	E	<del>((Public Indecency))</del> <u>Indecent Exposure</u>	
5		(Victim 14 or over) (9A.88.010)	E
6	B+	Promoting Prostitution 1	
7		(9A.88.070)	C+
8	C+	Promoting Prostitution 2	
9		(9A.88.080)	D+
10	E	O & A (Prostitution) (9A.88.030)	E
11	B+	Indecent Liberties (9A.44.100)	C+
12	B+	Child Molestation 1 (9A.44.083)	C+
13	C+	Child Molestation 2 (9A.44.086)	C
14		Theft, Robbery, Extortion, and Forgery	
15	B	Theft 1 (9A.56.030)	C
16	C	Theft 2 (9A.56.040)	D
17	D	Theft 3 (9A.56.050)	E
18	B	Theft of Livestock (9A.56.080)	C
19	C	Forgery ( <del>((9A.56.020))</del> ) <u>(9A.60.020)</u>	D
20	A	Robbery 1 (9A.56.200)	B+
21	B+	Robbery 2 (9A.56.210)	C+
22	B+	Extortion 1 (9A.56.120)	C+
23	C+	Extortion 2 (9A.56.130)	D+
24	B	Possession of Stolen Property 1	
25		(9A.56.150)	C
26	C	Possession of Stolen Property 2	
27		(9A.56.160)	D
28	D	Possession of Stolen Property 3	
29		(9A.56.170)	E
30	C	Taking Motor Vehicle Without	
31		Owner's Permission (9A.56.070)	D
32		Motor Vehicle Related Crimes	
33	E	Driving Without a License	
34		(46.20.021)	E
35	C	Hit and Run - Injury	
36		(46.52.020(4))	D

1	D	Hit and Run-Attended	
2		(46.52.020(5))	E
3	E	Hit and Run-Unattended	
4		(46.52.010)	E
5	C	Vehicular Assault (46.61.522)	D
6	C	Attempting to Elude Pursuing	
7		Police Vehicle (46.61.024)	D
8	E	Reckless Driving (46.61.500)	E
9	D	Driving While Under the Influence	
10		(46.61.515)	E
11	<del>((B+</del>	<del>Negligent Homicide by Motor</del>	
12		<del>Vehicle (46.61.520)</del>	<del>C+))</del>
13	D	Vehicle Prowling (9A.52.100)	E
14	C	Taking Motor Vehicle Without	
15		Owner's Permission (9A.56.070)	D
16		Other	
17	B	Bomb Threat (9.61.160)	C
18	C	Escape 1 (9A.76.110)	C
19	C	Escape 2 (9A.76.120)	C
20	D	Escape 3 (9A.76.130)	E
21	C	Failure to Appear in Court	
22		(10.19.130)	D
23	<del>((E</del>	<del>Tampering with Fire Alarm</del>	
24		<del>Apparatus (9.40.100)</del>	<del>E))</del>
25	E	Obscene, Harassing, Etc.,	
26		Phone Calls (9.61.230)	E
27	A	Other Offense Equivalent to an	
28		Adult Class A Felony	B+
29	B	Other Offense Equivalent to an	
30		Adult Class B Felony	C
31	C	Other Offense Equivalent to an	
32		Adult Class C Felony	D
33	D	Other Offense Equivalent to an	
34		Adult Gross Misdemeanor	E
35	E	Other Offense Equivalent to an	
36		Adult Misdemeanor	E

1 V Violation of Order of Restitution,  
 2 Community Supervision, or  
 3 Confinement §13.40.200) V

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

6 1st escape or attempted escape during 12-month period - 4 weeks  
 7 confinement

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

10 3rd and subsequent escape or attempted escape during 12-month  
 11 period - 12 weeks confinement

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

14 SCHEDULE B  
 15 PRIOR OFFENSE INCREASE FACTOR

16 For use with all CURRENT OFFENSES occurring on or after July 1,  
 17 1989.

18 TIME SPAN

19 OFFENSE	0-12	13-24	25 Months
20 CATEGORY	Months	Months	or More
21 .....	.....	.....	.....
22 A+	.9	.9	.9
23 A	.9	.8	.6
24 A-	.9	.8	.5
25 B+	.9	.7	.4
26 B	.9	.6	.3
27 C+	.6	.3	.2
28 C	.5	.2	.2
29 D+	.3	.2	.1
30 D	.2	.1	.1
31 E	.1	.1	.1

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

5 SCHEDULE C  
 6 CURRENT OFFENSE POINTS

7 For use with all CURRENT OFFENSES occurring on or after July 1,  
 8 1989.

9 AGE

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

23 JUVENILE SENTENCING STANDARDS  
 24 SCHEDULE D-1

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

29 ((MINOR/FIRST)) MINOR OFFENDER

30 OPTION A

1

STANDARD RANGE

2

Community

3

Community

Service

4 Points

Supervision

Hours

Fine

5 1-9

0-3 months

and/or 0-8

and/or 0-\$10

6 10-19

0-3 months

and/or 0-8

and/or 0-\$10

7 20-29

0-3 months

and/or 0-16

and/or 0-\$10

8 30-39

0-3 months

and/or 8-24

and/or 0-\$25

9 40-49

3-6 months

and/or 16-32

and/or 0-\$25

10 50-59

3-6 months

and/or 24-40

and/or 0-\$25

11 60-69

6-9 months

and/or 32-48

and/or 0-\$50

12 70-79

6-9 months

and/or 40-56

and/or 0-\$50

13 80-89

9-12 months

and/or 48-64

and/or 10-\$100

14 90-109

9-12 months

and/or 56-72

and/or 10-\$100

15

OR

16

OPTION B

17

STATUTORY OPTION

18 0-12 Months Community Supervision

19 0-150 Hours Community Service

20 0-100 Fine

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

23

OR

24

OPTION C

25

MANIFEST INJUSTICE

26 When a term of community supervision would effectuate a manifest  
27 injustice, another disposition may be imposed. When a judge imposes a  
28 sentence of confinement exceeding 30 days, the court shall sentence the  
29 juvenile to a maximum term and the provisions of RCW ((13.40.030(5), as  
30 now or hereafter amended,)) 13.40.030(2) shall be used to determine the  
31 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

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

Middle offenders with more than 110 points do not have to be committed. They may be assigned community supervision under option B. All A+ offenses 180-224 weeks

OR

1                                   OPTION B  
2                                   STATUTORY OPTION

- 3 0-12 Months Community Supervision
- 4 0-150 Hours Community Service
- 5 0-100 Fine

6 If the middle offender has less than 110 points, the court may impose  
7 a determinate disposition of community supervision and/or up to 30 days  
8 confinement; in which case, if confinement has been imposed, the court  
9 shall state either aggravating or mitigating factors as set forth in  
10 RCW 13.40.150(~~(, as now or hereafter amended)~~)). If the middle offender  
11 has more than 110 points, the court may impose a disposition under  
12 option A and may suspend the disposition on the condition that the  
13 offender serve up to thirty days of confinement and follow all  
14 conditions of community supervision. If the offender fails to comply  
15 with the terms of community supervision, the court may impose sanctions  
16 pursuant to RCW 13.40.200 or may revoke the suspended disposition and  
17 order execution of the disposition. If the court imposes confinement  
18 under this option B, the court shall state either aggravating or  
19 mitigating factors set forth in RCW 13.40.150.

20                                   OR

21  
22                                   OPTION C  
23                                   MANIFEST INJUSTICE

24 If the court determines that a disposition under A or B would  
25 effectuate a manifest injustice, the court shall sentence the juvenile  
26 to a maximum term and the provisions of RCW (~~(13.40.030(5), as now or~~  
27 ~~hereafter amended,)) 13.40.030(2) shall be used to determine the range.~~

28                                   JUVENILE SENTENCING STANDARDS  
29                                   SCHEDULE D-3

30 This schedule may only be used for serious offenders. After the  
31 determination is made that a youth is a serious offender, the court has  
32 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	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  
16 OPTION B  
17 MANIFEST INJUSTICE

18 A disposition outside the standard range shall be determined and shall  
19 be comprised of confinement or community supervision or a combination  
20 thereof. When a judge finds a manifest injustice and imposes a  
21 sentence of confinement exceeding 30 days, the court shall sentence the  
22 juvenile to a maximum term, and the provisions of RCW (~~(13.40.030(5),~~  
23 ~~as now or hereafter amended,~~) 13.40.030(2) shall be used to determine  
24 the range.

25 **Sec. 717.** RCW 13.40.160 and 1992 c 45 s 6 are each amended to  
26 read as follows:

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

32 If the court concludes, and enters reasons for its conclusion,  
33 that disposition within the standard range would effectuate a manifest  
34 injustice the court shall impose a disposition outside the standard

1 range, as indicated in option B of schedule D-3, RCW 13.40.0357. The  
2 court's finding of manifest injustice shall be supported by clear and  
3 convincing evidence.

4 A disposition outside the standard range shall be determinate and  
5 shall be comprised of confinement or community supervision, or a  
6 combination thereof. When a judge finds a manifest injustice and  
7 imposes a sentence of confinement exceeding thirty days, the court  
8 shall sentence the juvenile to a maximum term, and the provisions of  
9 RCW 13.40.030(2)((~~, as now or hereafter amended,~~)) shall be used to  
10 determine the range. A disposition outside the standard range is  
11 appealable under RCW 13.40.230((~~, as now or hereafter amended,~~)) by the  
12 state or the respondent. A disposition within the standard range is  
13 not appealable under RCW 13.40.230 ((~~as now or hereafter amended~~)).

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

31 Except for disposition of community supervision or a disposition  
32 imposed pursuant to subsection (5) of this section, a disposition may  
33 be appealed as provided in RCW 13.40.230((~~, as now or hereafter  
34 amended,~~)) by the state or the respondent. A disposition of community  
35 supervision or a disposition imposed pursuant to subsection (5) of this  
36 section may not be appealed under RCW 13.40.230 ((~~as now or hereafter  
37 amended~~)).

38 (3) Where a respondent is found to have committed an offense for  
39 which the respondent declined to enter into a diversion agreement, the

1 court shall impose a term of community supervision limited to the  
2 conditions allowed in a diversion agreement as provided in RCW  
3 13.40.080(2) (~~as now or hereafter amended~~)).

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

5 (a) The court shall impose a determinate disposition within the  
6 standard range(s) for such offense, as indicated in option A of  
7 schedule D-2, RCW 13.40.0357 except as provided in subsections (5) and  
8 (6) of this section(~~(:—PROVIDED, That)~~). If the standard range  
9 includes a term of confinement exceeding thirty days, commitment shall  
10 be to the department (~~for the standard range of confinement~~); or

11 (b) The court shall impose a determinate disposition of community  
12 supervision and/or up to thirty days confinement, as indicated in  
13 option B of schedule D-2, RCW 13.40.0357 in which case, if confinement  
14 has been imposed, the court shall state either aggravating or  
15 mitigating factors as set forth in RCW 13.40.150 (~~as now or hereafter~~  
16 ~~amended~~)).

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

24 (d) A disposition pursuant to subsection (4)(c) of this section is  
25 appealable under RCW 13.40.230(~~, as now or hereafter amended,~~) by the  
26 state or the respondent. A disposition pursuant to subsection (4) (a)  
27 or (b) of this section is not appealable under RCW 13.40.230 (~~as now~~  
28 ~~or hereafter amended~~)).

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

35 The report of the examination shall include at a minimum the  
36 following: The respondent's version of the facts and the official  
37 version of the facts, the respondent's offense history, an assessment  
38 of problems in addition to alleged deviant behaviors, the respondent's  
39 social, educational, and employment situation, and other evaluation

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

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)(i) Frequency and type of contact between the offender and  
8 therapist;

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

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

14 (iv) Anticipated length of treatment; and

15 (v) Recommended crime-related prohibitions.

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

22 After receipt of reports of the examination, the court shall then  
23 consider whether the offender and the community will benefit from use  
24 of this special sex offender disposition alternative and consider the  
25 victim's opinion whether the offender should receive a treatment  
26 disposition under this section. If the court determines that this  
27 special sex offender disposition alternative is appropriate, then the  
28 court shall impose a determinate disposition within the standard range  
29 for the offense, and the court may suspend the execution of the  
30 disposition and place the offender on community supervision for ((up  
31 to)) not less than two years. As a condition of the suspended  
32 disposition, the court may impose the conditions of community  
33 supervision and other conditions, including up to thirty days of  
34 confinement and requirements that the offender do any one or more of  
35 the following:

36 (b)(i) Devote time to a specific education, employment, or  
37 occupation;

38 (ii) Undergo available outpatient sex offender treatment for up to  
39 two years, or inpatient sex offender treatment not to exceed the

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

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

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

17 (v) Report as directed to the court and a ((probation)) community  
18 supervision counselor;

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

21 (vii) Make restitution to the victim for the cost of any  
22 counseling reasonably related to the offense.

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

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

32 Except as provided in this subsection (5), after July 1, 1991,  
33 examinations and treatment ordered pursuant to this subsection shall  
34 only be conducted by sex offender treatment providers certified by the  
35 department of health pursuant to chapter 18.155 RCW. A sex offender  
36 therapist who examines or treats a juvenile sex offender pursuant to  
37 this subsection does not have to be certified by the department of  
38 health pursuant to chapter 18.155 RCW if the court finds that: (A) The  
39 offender has already moved to another state or plans to move to another

1 state for reasons other than circumventing the certification  
2 requirements; (B) no certified providers are available for treatment  
3 within a reasonable geographical distance of the offender's home; and  
4 (C) the evaluation and treatment plan comply with this subsection (5)  
5 and the rules adopted by the department of health.

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

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

24 (6) Section 719 of this act shall govern the disposition of any  
25 juvenile adjudicated of possessing a firearm in violation of RCW  
26 9.41.040(1)(e), delivery of a firearm in violation of RCW 9.41.080,  
27 theft of a firearm as defined in section 301 of this act, or any crime  
28 in which a special finding is entered that the juvenile was armed with  
29 a deadly weapon as provided in section 718 of this act.

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

34 ~~((+7))~~ (8) Except as provided for in subsection (5) of this  
35 section, section 714 of this act, and RCW 13.40.0357, the court shall  
36 not suspend or defer the imposition or the execution of the  
37 disposition.

1       (~~(+8)~~) (9) In no case shall the term of confinement imposed by  
2 the court at disposition exceed that to which an adult could be  
3 subjected for the same offense.

4       (10) If a court does not exercise a disposition option available  
5 under this chapter due to a lack of available funds, services, or bed  
6 space, the court shall enter a finding in the disposition that an  
7 alternative disposition was not ordered due to the lack of available  
8 funds, services, or bed space.

9       NEW SECTION. Sec. 718. A new section is added to chapter 13.40  
10 RCW to read as follows:

11       A prosecutor may file a special allegation that the offender or an  
12 accomplice was armed with a deadly weapon as defined in RCW 9.94A.125  
13 when the offender committed the alleged offense. If a special  
14 allegation has been filed and the court finds that the offender  
15 committed the alleged offense, the court shall also make a finding  
16 whether the offender or an accomplice was armed with a deadly weapon  
17 when the offender committed the offense.

18       NEW SECTION. Sec. 719. A new section is added to chapter 13.40  
19 RCW to read as follows:

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

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

1 (3) If a respondent is found to have committed an offense of theft  
2 of a firearm as defined in section 301 of this act, the court shall  
3 commit the offender to the department for a minimum of one hundred  
4 twenty days confinement. If the offender's standard range of  
5 disposition for the offense as indicated in RCW 13.40.0357 is more than  
6 one hundred twenty days, the court shall commit the offender to the  
7 standard range disposition. The department shall not release the  
8 offender until the offender has served a minimum of one hundred twenty  
9 days in confinement.

10 (4) If the court finds that the respondent or an accomplice was  
11 armed with a deadly weapon as provided in section 718 of this act, the  
12 court shall determine the standard range disposition for the offense  
13 pursuant to RCW 13.40.160. One hundred eighty days of confinement  
14 shall be added to the entire standard range disposition of confinement  
15 if the offender or an accomplice was armed with a deadly weapon when  
16 the offender committed: (a) Any violent offense; or (b) escape in the  
17 first degree (RCW 9A.76.110); burglary in the second degree (RCW  
18 9A.52.030); theft of livestock in the first or second degree (RCW  
19 9A.56.080); or any felony drug offense. If the offender or an  
20 accomplice was armed with a deadly weapon and the offender is being  
21 adjudicated for an anticipatory felony offense under chapter 9A.28 RCW  
22 to commit one of the offenses listed in this subsection, one hundred  
23 eighty days shall be added to the entire standard range disposition of  
24 confinement. The one hundred eighty days shall be imposed regardless  
25 of the offense's juvenile disposition offense category as designated in  
26 RCW 13.40.0357. The department shall not release the offender until  
27 the offender has served a minimum of one hundred eighty days in  
28 confinement, unless the juvenile is committed to and successfully  
29 completes the juvenile offender basic training camp disposition option.

30 (5) Option B of schedule D-2, RCW 13.40.0357, shall not be  
31 available for middle offenders who receive a disposition under this  
32 section. When a disposition under this section would effectuate a  
33 manifest injustice, the court may impose another disposition. When a  
34 judge finds a manifest injustice and imposes a disposition of  
35 confinement exceeding thirty days, the court shall commit the juvenile  
36 to a maximum term, and the provisions of RCW 13.40.030(2) shall be used  
37 to determine the range. When a judge finds a manifest injustice and  
38 imposes a disposition of confinement less than thirty days, the

1 disposition shall be comprised of confinement or community supervision  
2 or both.

3 (6) Any term of confinement ordered pursuant to this section shall  
4 run consecutively to any term of confinement imposed in the same  
5 disposition for other offenses.

6 **Sec. 720.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to  
7 read as follows:

8 (1) Except as provided in subsection (2) of this section, where a  
9 disposition is imposed on a youth for two or more offenses, the terms  
10 shall run consecutively~~((, subject to the following limitations:~~

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

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

18 ~~(3) The aggregate of all consecutive terms of community~~  
19 ~~supervision shall not exceed two years in length, or require payment of~~  
20 ~~more than two hundred dollars in fines or the performance of more than~~  
21 ~~two hundred hours of community service)) or concurrently in the court's~~  
22 discretion.

23 (2) Any term of confinement ordered pursuant to section 719 of  
24 this act shall run consecutively to any term of confinement imposed in  
25 the same disposition for other offenses.

26 **Sec. 721.** RCW 13.40.190 and 1987 c 281 s 5 are each amended to  
27 read as follows:

28 (1) In its dispositional order, the court shall require the  
29 respondent and may require his or her parents, guardians, or custodians  
30 to make restitution to any persons who have suffered loss or damage as  
31 a result of the offense committed by the respondent. In addition,  
32 restitution may be ordered for loss or damage if the offender pleads  
33 guilty to a lesser offense or fewer offenses and agrees with the  
34 prosecutor's recommendation that the offender be required to pay  
35 restitution to a victim of an offense or offenses which, pursuant to a  
36 plea agreement, are not prosecuted. The payment of restitution shall  
37 be in addition to any punishment which is imposed pursuant to the other

1 provisions of this chapter. The court may determine the amount, terms,  
2 and conditions of the restitution. Restitution may include the costs  
3 of counseling reasonably related to the offense. If the respondent  
4 participated in the crime with another person or other persons, all  
5 such participants shall be jointly and severally responsible for the  
6 payment of restitution. The court may not require the respondent or  
7 parent, guardian, or custodian to pay full or partial restitution if  
8 the respondent or parent, guardian, or custodian reasonably satisfies  
9 the court that he or she does not have the means to make full or  
10 partial restitution and could not reasonably acquire the means to pay  
11 such restitution. In cases where an offender has been committed to the  
12 department for a period of confinement exceeding fifteen weeks,  
13 restitution may be waived.

14 (2) If an order includes restitution as one of the monetary  
15 assessments, the county clerk shall make disbursements to victims named  
16 in the order. The restitution to victims named in the order shall be  
17 paid prior to any payment for other penalties or monetary assessments.

18 (3) A respondent under obligation to pay restitution may petition  
19 the court for modification of the restitution order.

20 **Sec. 722.** RCW 13.40.200 and 1986 c 288 s 5 are each amended to  
21 read as follows:

22 (1) When a respondent fails to comply with an order of  
23 restitution, community supervision, penalty assessments, or confinement  
24 of less than thirty days, the court upon motion of the prosecutor or  
25 its own motion, may modify the order after a hearing on the violation.

26 (2) The hearing shall afford the respondent the same due process  
27 of law as would be afforded an adult probationer. The court may issue  
28 a summons or a warrant to compel the respondent's appearance. The  
29 state shall have the burden of proving by a preponderance of the  
30 evidence the fact of the violation. The respondent shall have the  
31 burden of showing that the violation was not a wilful refusal to comply  
32 with the terms of the order. If a respondent has failed to pay a fine,  
33 penalty assessments, or restitution or to perform community service  
34 hours, as required by the court, it shall be the respondent's burden to  
35 show that he or she did not have the means and could not reasonably  
36 have acquired the means to pay the fine, penalty assessments, or  
37 restitution or perform community service.

1 (3)(a) If the court finds that a respondent has wilfully violated  
2 the terms of an order pursuant to subsections (1) and (2) of this  
3 section, it may impose a penalty of up to thirty days' confinement or  
4 other conditions of community supervision the court considers  
5 appropriate. Penalties for multiple violations occurring prior to the  
6 hearing shall not be aggregated to exceed thirty days' confinement.  
7 Regardless of the number of times a respondent is brought to court for  
8 violations of the terms of a single disposition order, the combined  
9 total number of days spent by the respondent in detention shall never  
10 exceed the maximum term to which an adult could be sentenced for the  
11 underlying offense.

12 (b) If the violation of the terms of the order under (a) of this  
13 subsection is failure to pay fines, penalty assessments, complete  
14 community service, or make restitution, the term of confinement imposed  
15 under (a) of this subsection shall be assessed at a rate of one day of  
16 confinement for each twenty-five dollars or eight hours owed.

17 (4) If a respondent has been ordered to pay a fine or monetary  
18 penalty and due to a change of circumstance cannot reasonably comply  
19 with the order, the court, upon motion of the respondent, may order  
20 that the unpaid fine or monetary penalty be converted to community  
21 service. The number of hours of community service in lieu of a  
22 monetary penalty or fine shall be converted at the rate of the  
23 prevailing state minimum wage per hour. The monetary penalties or  
24 fines collected shall be deposited in the county general fund. A  
25 failure to comply with an order under this subsection shall be deemed  
26 a failure to comply with an order of community supervision and may be  
27 proceeded against as provided in this section.

28 **Sec. 723.** RCW 13.40.210 and 1990 c 3 s 304 are each amended to  
29 read as follows:

30 (1) The secretary shall, except in the case of a juvenile  
31 committed by a court to a term of confinement in a state institution  
32 outside the appropriate standard range for the offense(s) for which the  
33 juvenile was found to be guilty established pursuant to RCW 13.40.030,  
34 (~~as now or hereafter amended,~~) set a release or discharge date for  
35 each juvenile committed to its custody (~~which~~). The release or  
36 discharge date shall be within the prescribed range to which a juvenile  
37 has been committed except as provided in section 727 of this act  
38 concerning offenders the department determines are eligible for the

1 juvenile offender basic training camp program. Such dates shall be  
2 determined prior to the expiration of sixty percent of a juvenile's  
3 minimum term of confinement included within the prescribed range to  
4 which the juvenile has been committed. The secretary shall release any  
5 juvenile committed to the custody of the department within four  
6 calendar days prior to the juvenile's release date or on the release  
7 date set under this chapter(~~(:—PROVIDED, That)~~). Days spent in the  
8 custody of the department shall be tolled by any period of time during  
9 which a juvenile has absented himself or herself from the department's  
10 supervision without the prior approval of the secretary or the  
11 secretary's designee.

12 (2) The secretary shall monitor the average daily population of  
13 the state's juvenile residential facilities. When the secretary  
14 concludes that in-residence population of residential facilities  
15 exceeds one hundred five percent of the rated bed capacity specified in  
16 statute, or in absence of such specification, as specified by the  
17 department in rule, the secretary may recommend reductions to the  
18 governor. On certification by the governor that the recommended  
19 reductions are necessary, the secretary has authority to  
20 administratively release a sufficient number of offenders to reduce in-  
21 residence population to one hundred percent of rated bed capacity. The  
22 secretary shall release those offenders who have served the greatest  
23 proportion of their sentence. However, the secretary may deny release  
24 in a particular case at the request of an offender, or if the secretary  
25 finds that there is no responsible custodian, as determined by the  
26 department, to whom to release the offender, or if the release of the  
27 offender would pose a clear danger to society. The department shall  
28 notify the committing court of the release at the (~~end of each~~  
29 ~~calendar year~~) time of release if any such early releases have  
30 occurred (~~during that year~~) as a result of excessive in-residence  
31 population. In no event shall (~~a serious~~) an offender(~~, as defined~~  
32 ~~in RCW 13.40.020(1)~~) adjudicated of a violent offense be granted  
33 release under the provisions of this subsection.

34 (3) Following the juvenile's release pursuant to subsection (1) of  
35 this section, the secretary may require the juvenile to comply with a  
36 program of parole to be administered by the department in his or her  
37 community which shall last no longer than eighteen months, except that  
38 in the case of a juvenile sentenced for rape in the first or second  
39 degree, rape of a child in the first or second degree, child

1 molestation in the first degree, or indecent liberties with forcible  
2 compulsion, the period of parole shall be twenty-four months. A parole  
3 program is mandatory for offenders released under subsection (2) of  
4 this section. The secretary shall, for the period of parole,  
5 facilitate the juvenile's reintegration into his or her community and  
6 to further this goal may require the juvenile to: (a) Undergo  
7 available medical or psychiatric treatment; (b) report as directed to  
8 a parole officer; (c) pursue a course of study or vocational training;  
9 (d) remain within prescribed geographical boundaries and notify the  
10 department of any change in his or her address; and (e) refrain from  
11 committing new offenses. After termination of the parole period, the  
12 juvenile shall be discharged from the department's supervision.

13 (4) The department may also modify parole for violation thereof.  
14 If, after affording a juvenile all of the due process rights to which  
15 he or she would be entitled if the juvenile were an adult, the  
16 secretary finds that a juvenile has violated a condition of his or her  
17 parole, the secretary shall order one of the following which is  
18 reasonably likely to effectuate the purpose of the parole and to  
19 protect the public: (a) Continued supervision under the same  
20 conditions previously imposed; (b) intensified supervision with  
21 increased reporting requirements; (c) additional conditions of  
22 supervision authorized by this chapter; (d) except as provided in (e)  
23 of this subsection, imposition of a period of confinement not to exceed  
24 thirty days in a facility operated by or pursuant to a contract with  
25 the state of Washington or any city or county for a portion of each day  
26 or for a certain number of days each week with the balance of the days  
27 or weeks spent under supervision; and (e) the secretary may order any  
28 of the conditions or may return the offender to confinement in an  
29 institution for the remainder of the sentence range if the offense for  
30 which the offender was sentenced is rape in the first or second degree,  
31 rape of a child in the first or second degree, child molestation in the  
32 first degree, indecent liberties with forcible compulsion, or a sex  
33 offense that is also a serious violent offense as defined by RCW  
34 9.94A.030.

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

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

4 **Sec. 724.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to  
5 read as follows:

6 (1) Dispositions reviewed pursuant to RCW 13.40.160(~~(, as now or~~  
7 ~~hereafter amended,)~~) shall be reviewed in the appropriate division of  
8 the court of appeals.

9 An appeal under this section shall be heard solely upon the record  
10 that was before the disposition court. No written briefs may be  
11 required, and the appeal shall be heard within thirty days following  
12 the date of sentencing and a decision rendered within fifteen days  
13 following the argument. The supreme court shall promulgate any  
14 necessary rules to effectuate the purposes of this section.

15 (2) To uphold a disposition outside the standard range, or which  
16 imposes confinement for a minor (~~(or first)~~) offender, the court of  
17 appeals must find (a) that the reasons supplied by the disposition  
18 judge are supported by the record which was before the judge and that  
19 those reasons clearly and convincingly support the conclusion that a  
20 disposition within the range, or nonconfinement for a minor (~~(or~~  
21 ~~first)~~) offender, would constitute a manifest injustice, and (b) that  
22 the sentence imposed was neither clearly excessive nor clearly too  
23 lenient.

24 (3) If the court does not find subsection (2)(a) of this section  
25 it shall remand the case for disposition within the standard range or  
26 for community supervision without confinement as would otherwise be  
27 appropriate pursuant to this chapter.

28 (4) If the court finds subsection (2)(a) but not subsection (2)(b)  
29 of this section it shall remand the case with instructions for further  
30 proceedings consistent with the provisions of this chapter.

31 (5) Pending appeal, a respondent may not be committed or detained  
32 for a period of time in excess of the standard range for the offense(s)  
33 committed or sixty days, whichever is longer. The disposition court  
34 may impose conditions on release pending appeal as provided in RCW  
35 13.40.040(4) and 13.40.050(6). Upon the expiration of the period of  
36 commitment or detention specified in this subsection, the court may  
37 also impose such conditions on the respondent's release pending  
38 disposition of the appeal.

1 (6) Appeal of a disposition under this section does not affect the  
2 finality or appeal of the underlying adjudication of guilt.

3 NEW SECTION. **Sec. 725.** The juvenile disposition standards  
4 commission shall make a recommendation to the legislature concerning  
5 what juvenile disposition offense category should be assigned to the  
6 crime of theft of a firearm as created in section 301 of this act and  
7 to the crime of reckless endangerment in the first degree, RCW  
8 9A.36.045. The recommendation shall be presented to the legislature no  
9 later than November 1, 1994.

10 **D. JUVENILE OFFENDER BASIC TRAINING CAMP PROGRAM**

11 NEW SECTION. **Sec. 726.** The legislature finds that the number of  
12 juvenile offenders and the severity of their crimes is increasing  
13 rapidly state-wide. In addition, many juvenile offenders continue to  
14 reoffend after they are released from the juvenile justice system  
15 causing disproportionately high and expensive rates of recidivism.

16 The legislature further finds that juvenile criminal behavior is  
17 often the result of a lack of self-discipline, the lack of systematic  
18 work habits and ethics, the inability to deal with authority figures,  
19 and an unstable or unstructured living environment. The legislature  
20 further finds that the department of social and health services  
21 currently operates an insufficient number of confinement beds to meet  
22 the rapidly growing juvenile offender population. Together these  
23 factors are combining to produce a serious public safety hazard and the  
24 need to develop more effective and stringent juvenile punishment and  
25 rehabilitation options.

26 The legislature intends that juvenile offenders who enter the  
27 state rehabilitation system have the opportunity and are given the  
28 responsibility to become more effective participants in society by  
29 enhancing their personal development, work ethics, and life skills.  
30 The legislature recognizes that structured incarceration programs for  
31 juvenile offenders such as juvenile offender basic training camps, can  
32 instill the self-discipline, accountability, self-esteem, and work  
33 ethic skills that could discourage many offenders from returning to the  
34 criminal justice system. Juvenile offender basic training camp  
35 incarceration programs generally emphasize life skills training,  
36 prevocational work skills training, anger management, dealing with

1 difficult at-home family problems and/or abuses, discipline, physical  
2 training, structured and intensive work activities, and educational  
3 classes. The legislature further recognizes that juvenile offenders  
4 can benefit from a highly structured basic training camp environment  
5 and the public can also benefit through increased public protection and  
6 reduced cost due to lowered rates of recidivism.

7 NEW SECTION. **Sec. 727.** A new section is added to chapter 13.40  
8 RCW to read as follows:

9 (1) The department of social and health services shall establish  
10 and operate a medium security juvenile offender basic training camp  
11 program. The department shall site a juvenile offender basic training  
12 camp facility in the most cost-effective facility possible and shall  
13 review the possibility of using an existing abandoned and/or available  
14 state, federally, or military-owned site or facility.

15 (2) The department may contract under this chapter with private  
16 companies, the national guard, or other federal, state, or local  
17 agencies to operate the juvenile offender basic training camp,  
18 notwithstanding the provisions of RCW 41.06.380. Requests for  
19 proposals from possible contractors shall not call for payment on a per  
20 diem basis.

21 (3) The juvenile offender basic training camp shall accommodate at  
22 least seventy offenders. The beds shall count as additions to, and not  
23 be used as replacements for, existing bed capacity at existing  
24 department of social and health services juvenile facilities.

25 (4) The juvenile offender basic training camp shall be a  
26 structured and regimented model lasting one hundred twenty days  
27 emphasizing the building up of an offender's self-esteem, confidence,  
28 and discipline. The juvenile offender basic training camp program  
29 shall provide participants with basic education, prevocational  
30 training, work-based learning, live work, work ethic skills, conflict  
31 resolution counseling, substance abuse intervention, anger management  
32 counseling, and structured intensive physical training. The juvenile  
33 offender basic training camp program shall have a curriculum training  
34 and work schedule that incorporates a balanced assignment of these or  
35 other rehabilitation and training components for no less than sixteen  
36 hours per day, six days a week.

37 The department shall adopt rules for the safe and effective  
38 operation of the juvenile offender basic training camp program,

1 standards for an offender's successful program completion, and rules  
2 for the continued after-care supervision of offenders who have  
3 successfully completed the program.

4 (5) Offenders eligible for the juvenile offender basic training  
5 camp option shall be those with a disposition of at least fifty-two  
6 weeks but not more than seventy-eight weeks. Violent and sex offenders  
7 shall not be eligible for the juvenile offender basic training camp  
8 program.

9 (6) All juvenile offenders eligible for the juvenile offender  
10 basic training camp sentencing option shall spend the first one hundred  
11 twenty days of their disposition in a juvenile offender basic training  
12 camp. If the juvenile offender's activities while in the juvenile  
13 offender basic training camp are so disruptive to the juvenile offender  
14 basic training camp program, as determined by the secretary according  
15 to rules adopted by the department, as to result in the removal of the  
16 juvenile offender from the juvenile offender basic training camp  
17 program, or if the offender cannot complete the juvenile offender basic  
18 training camp program due to medical problems, the secretary shall  
19 require that the offender be committed to a juvenile institution to  
20 serve the entire remainder of his or her disposition, less the amount  
21 of time already served in the juvenile offender basic training camp  
22 program.

23 (7) All offenders who successfully graduate from the one hundred  
24 twenty day juvenile offender basic training camp program shall spend  
25 the remainder of their disposition on parole in a division of juvenile  
26 rehabilitation intensive aftercare program in the local community. The  
27 program shall provide for the needs of the offender based on his or her  
28 progress in the aftercare program as indicated by ongoing assessment of  
29 those needs and progress. The intensive aftercare program shall  
30 monitor postprogram juvenile offenders and assist them to successfully  
31 reintegrate into the community. In addition, the program shall develop  
32 a process for closely monitoring and assessing public safety risks.  
33 The intensive aftercare program shall be designed and funded by the  
34 department of social and health services.

35 (8) No juvenile who suffers from any mental or physical problems  
36 that could endanger his or her health or drastically affect his or her  
37 performance in the program shall be admitted to or retained in the  
38 juvenile offender basic training camp program.

1 (9) The department shall also develop and maintain a database to  
2 measure recidivism rates specific to this incarceration program. The  
3 data base shall maintain data on all juvenile offenders who complete  
4 the juvenile offender basic training camp program for a period of two  
5 years after they have completed the program. The data base shall also  
6 maintain data on the criminal activity, educational progress, and  
7 employment activities of all juvenile offenders who participated in the  
8 program. The department shall produce an outcome evaluation report on  
9 the progress of the juvenile offender basic training camp program to  
10 the appropriate committees of the legislature no later than December  
11 12, 1996.

12 **E. CURFEWS AND RUNAWAYS**

13 NEW SECTION. **Sec. 728.** The legislature recognizes the growing  
14 problem of nighttime violence and other criminal activity committed in  
15 public places by and against youth. The legislature finds that it is  
16 an appropriate exercise of police powers to restrict the hours during  
17 which youth may be in public places without adult supervision or  
18 authorization.

19 NEW SECTION. **Sec. 729.** A new section is added to chapter 9.91  
20 RCW to read as follows:

21 (1) For purposes of this section:

22 (a) "Reasonable necessity" means, but is not limited to, a need to  
23 act in response to a fire, natural disaster, or automobile accident, or  
24 the need to obtain medical care for the youth or a member of the  
25 youth's family or the need to act in response to any other  
26 unanticipated event or circumstance where a reasonable person would  
27 find it necessary to be in a public place.

28 (b) "Youth" means a person under the age of seventeen.

29 (c) "Public place" means any sidewalk, street, alley, highway,  
30 park, or other public place, or place of business or parking lot that  
31 is open to the public whether on public or private property, and  
32 includes a vehicle that is in a public place.

33 (2) No youth may be in a public place between the hours of twelve  
34 midnight and five a.m. unless:

1 (a) The youth is accompanied by a parent, legal guardian, or a  
2 person twenty-one years of age or older who is authorized by the  
3 youth's parent or legal guardian to accompany the youth;

4 (b) The youth is traveling by direct route to or from a religious  
5 activity, political activity, or an event sponsored by a school;

6 (c) The youth is traveling by direct route to or from his or her  
7 place of lawful employment; or

8 (d) The youth's presence in a public place is a reasonable  
9 necessity.

10 (3) A law enforcement officer may stop and detain a person that  
11 the officer reasonably believes is a youth in violation of subsection  
12 (2) of this section in order to obtain the person's name and age and  
13 the address of the person's parent or legal guardian.

14 (4) A law enforcement officer who reasonably believes a youth is  
15 in violation of subsection (2) of this section may take the youth into  
16 custody pursuant to RCW 13.32A.050 and transport the youth to his or  
17 her home or to a residential center as provided for in RCW 13.32A.060  
18 or to another facility in which the youth will be supervised by an  
19 adult for the duration of the curfew period.

20 (5) A youth who has been transported to his or her home or to a  
21 residential center for a violation of subsection (2) of this section,  
22 and who during the same curfew period of the same day again violates  
23 subsection (2) of this section, is guilty of a misdemeanor.

24 **Sec. 730.** RCW 13.32A.050 and 1990 c 276 s 5 are each amended to  
25 read as follows:

26 A law enforcement officer shall take a child into custody:

27 (1) If a law enforcement agency has been contacted by the parent  
28 of the child that the child is absent from parental custody without  
29 consent; or

30 (2) If a law enforcement officer reasonably believes, considering  
31 the child's age, the location, and the time of day, that a child is in  
32 circumstances which constitute a danger to the child's safety or that  
33 a child is violating section 729 of this act or a local curfew  
34 ordinance; or

35 (3) If an agency legally charged with the supervision of a child  
36 has notified a law enforcement agency that the child has run away from  
37 placement; or

1 (4) If a law enforcement agency has been notified by the juvenile  
2 court that the court finds probable cause exists to believe that the  
3 child has violated a court placement order issued pursuant to chapter  
4 13.32A RCW or that the court has issued an order for law enforcement  
5 pick-up of the child under this chapter.

6 Law enforcement custody shall not extend beyond the amount of  
7 time reasonably necessary to transport the child to a destination  
8 authorized by law and to place the child at that destination.

9 An officer who takes a child into custody under this section and  
10 places the child in a designated crisis residential center shall inform  
11 the department of such placement within twenty-four hours.

12 (5) Nothing in this section affects the authority of any political  
13 subdivision to make regulations concerning the conduct of minors in  
14 public places by ordinance or other local law.

15 (6) If a law enforcement officer has a reasonable suspicion that  
16 a child is being unlawfully harbored under RCW 13.32A.080, the officer  
17 shall remove the child from the custody of the person harboring the  
18 child and shall transport the child to one of the locations specified  
19 in RCW 13.32A.060.

20 NEW SECTION. Sec. 731. A new section is added to chapter 35.21  
21 RCW to read as follows:

22 A town, city, or county may by resolution exempt itself from the  
23 provisions of section 729 of this act. A city, town, or county may  
24 adopt a local curfew ordinance so long as it does not deviate from  
25 section 729 of this act by:

26 (1) Expanding the hours of curfew either by extending them to  
27 before midnight or after 5:00 a.m.;

28 (2) Applying a curfew to persons seventeen years of age or older;

29 (3) Eliminating or diminishing any of the exceptions provided in  
30 section 729(2) of this act; or

31 (4) Providing any greater penalty.

32 **Sec. 732.** RCW 13.32A.060 and 1985 c 257 s 8 are each amended to  
33 read as follows:

34 (1) An officer taking a child into custody under RCW 13.32A.050  
35 (1) or (2) shall inform the child of the reason for such custody and  
36 shall either:

1 (a) Transport the child to his or her home. The officer releasing  
2 a child into the custody of the parent shall inform the parent of the  
3 reason for the taking of the child into custody and shall inform the  
4 child and the parent of the nature and location of appropriate services  
5 available in their community; or

6 (b) Take the child to the home of an adult extended family member,  
7 a designated crisis residential center, or the home of a responsible  
8 adult after attempting to notify the parent or legal guardian:

9 (i) If the child (~~(evincees)~~) expresses fear or distress at the  
10 prospect of being returned to his or her home(~~(i-or~~

11 ~~(ii) If the officer believes~~) which leads the officer to believe  
12 there is a possibility that the child is experiencing in the home some  
13 type of child abuse or neglect, as defined in RCW 26.44.020, as now law  
14 or hereafter amended; or

15 (~~(iii)~~) (ii) If it is not practical to transport the child to  
16 his or her home; or

17 (~~(iv)~~) (iii) If there is no parent available to accept custody  
18 of the child.

19 The officer releasing a child into the custody of an extended  
20 family member or a responsible adult shall inform the child and the  
21 extended family member or responsible adult of the nature and location  
22 of appropriate services available in the community.

23 (2) An officer taking a child into custody under RCW 13.32A.050  
24 (3) or (4) shall inform the child of the reason for custody, and shall  
25 take the child to a designated crisis residential center licensed by  
26 the department and established pursuant to chapter 74.13 RCW. However,  
27 an officer taking a child into custody under RCW 13.32A.050(4) may  
28 place the child in a juvenile detention facility as provided in RCW  
29 13.32A.065. The department shall ensure that all the enforcement  
30 authorities are informed on a regular basis as to the location of the  
31 designated crisis residential center or centers in their judicial  
32 district, where children taken into custody under RCW 13.32A.050 may be  
33 taken.

34 **Sec. 733.** RCW 13.32A.080 and 1981 c 298 s 6 are each amended to  
35 read as follows:

36 (1)(a) A person commits the crime of unlawful harboring of a minor  
37 if the person provides shelter to a minor without the consent of a  
38 parent of the minor and after the person knows that the minor is away

1 from the home of the parent, without the parent's permission, and if  
2 the person intentionally:

3 (i) Fails to release the minor to a law enforcement officer after  
4 being requested to do so by the officer; or

5 (ii) Fails to disclose the location of the minor to a law  
6 enforcement officer after being requested to do so by the officer, if  
7 the person knows the location of the minor and had either taken the  
8 minor to that location or had assisted the minor in reaching that  
9 location; or

10 (iii) Obstructs a law enforcement officer from taking the minor  
11 into custody; or

12 (iv) Assists the minor in avoiding or attempting to avoid the  
13 custody of the law enforcement officer.

14 (b) It is a defense to a prosecution under this section that the  
15 defendant had custody of the minor pursuant to a court order.

16 (2) Harboring a minor is punishable as a gross misdemeanor ((if  
17 the offender has not been previously convicted under this section and  
18 a gross misdemeanor if the offender has been previously convicted under  
19 this section)).

20 (3) Any person who provides shelter to a child, absent from home,  
21 may notify the department's local community service office of the  
22 child's presence.

23 (4) An adult responsible for involving a child in the commission  
24 of an offense may be prosecuted under existing criminal statutes  
25 including, but not limited to:

26 (a) Distribution of a controlled substance to a minor, as defined  
27 in RCW 69.50.406;

28 (b) Promoting prostitution as defined in chapter 9A.88 RCW; and

29 (c) Complicity of the adult in the crime of a minor, under RCW  
30 9A.08.020.

31 **Sec. 734.** RCW 13.32A.130 and 1992 c 205 s 206 are each amended to  
32 read as follows:

33 A child admitted to a crisis residential center under this chapter  
34 who is not returned to the home of his or her parent or who is not  
35 placed in an alternative residential placement under an agreement  
36 between the parent and child, shall, except as provided for by RCW  
37 13.32A.140 and 13.32A.160(2), reside in ((such)) the placement under  
38 the rules ((and regulations)) established for the center for a period

1 not to exceed five consecutive days from the time of intake, except as  
2 otherwise provided by this chapter. Crisis residential center staff  
3 shall make a concerted effort to achieve a reconciliation of the  
4 family. If a reconciliation and voluntary return of the child has not  
5 been achieved within forty-eight hours from the time of intake, and if  
6 the person in charge of the center does not consider it likely that  
7 reconciliation will be achieved within the five-day period, then the  
8 person in charge shall inform the parent and child of (1) the  
9 availability of counseling services; (2) the right to file a petition  
10 for an alternative residential placement, the right of a parent to file  
11 an at-risk youth petition, and the right of the parent and child to  
12 obtain assistance in filing the petition; and (3) the right to request  
13 a review of any alternative residential placement(~~(:—PROVIDED, That)~~).  
14 At no time shall information regarding a parent's or child's rights be  
15 withheld if requested(~~(:—PROVIDED FURTHER, That)~~). The department  
16 shall develop and distribute to all law enforcement agencies and to  
17 each crisis residential center administrator a written statement  
18 delineating (~~(such)~~) the services and rights. Every officer taking a  
19 child into custody shall provide the child and his or her parent(s) or  
20 responsible adult with whom the child is placed with a copy of (~~(such)~~)  
21 the statement. In addition, the administrator of the facility or his  
22 or her designee shall provide every resident and parent with a copy of  
23 (~~(such)~~) the statement.

24 NEW SECTION. Sec. 735. A new section is added to chapter 74.13  
25 RCW to read as follows:

26 The department of social and health services shall maintain a  
27 toll-free hotline to assist parents of runaway children. The hotline  
28 shall provide parents with a complete description of their rights when  
29 dealing with their runaway child.

30 NEW SECTION. Sec. 736. A new section is added to chapter 43.101  
31 RCW to read as follows:

32 The criminal justice training commission shall ensure that every  
33 law enforcement agency in the state has an accurate and up-to-date  
34 policy manual describing the statutes relating to juvenile runaways.

1           NEW SECTION.   **Sec. 737.**   If section 735 of this act is not  
2 specifically referenced in the supplemental operating budget by June  
3 30, 1994, section 735 of this act shall be null and void.

4           **PART VIII - JUVENILE JUSTICE PROVISIONS, EFFECTIVE JULY 1, 1995**

5           NEW SECTION.   **Sec. 801.**   The legislature finds that the juvenile  
6 justice act of 1977, chapter 13.40 RCW, requires substantial revision.  
7 The legislature reaffirms the goals of the act, including the dual  
8 goals of punishment and rehabilitation of juvenile offenders.   The  
9 legislature finds, however, that the substantive provisions of the act  
10 are too structured to achieve fully the act's goals.

11           The framework created by the act has diminishing relevance to  
12 today's violent and chronic offenders.   Juveniles are committing  
13 increasingly violent crimes, and they are committing these violent  
14 crimes at an increasingly younger age.   Simultaneously, juveniles  
15 habitually commit minor offenses.   Dispositions prescribed by the act  
16 are not long enough to permit substantial rehabilitation of violent  
17 offenders, and minor offenders receive no meaningful intervention.   The  
18 fixed system established by the act restricts the judiciary's efforts  
19 to tailor punishment and rehabilitation to the juvenile's individual  
20 needs.   Additionally, substantial delays occur before the juvenile  
21 offender is held accountable for criminal acts.

22           Juvenile offenders must learn personal accountability and must  
23 accept responsibility for their criminal behavior.   To this end, the  
24 juvenile system must provide a swift response, meaningful punishment,  
25 and effective rehabilitation.   Therefore, sections 801 through 812 of  
26 this act seek to accomplish the following goals:   (1) Increasing the  
27 speed of the juvenile justice system's response to juvenile offenders'  
28 criminal behavior; (2) increasing the certainty of punishment and  
29 intervention; (3) increasing judicial discretion and permitting judges  
30 to tailor dispositions to the juvenile's offense; (4) expanding the  
31 range of disposition alternatives to permit meaningful punishment and  
32 effective rehabilitation; (5) increasing the likelihood that juveniles  
33 will comply with the terms of their dispositions by creating compliance  
34 incentives and, if necessary, placing the juveniles in supportive out-  
35 of-home placements; and (6) reducing the complexity of the system.

1           **Sec. 802.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to  
2 read as follows:

3           For the purposes of this chapter:

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

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

8           ~~(b) Manslaughter in the first degree; or~~

9           ~~(c) Assault in the second degree, extortion in the first degree,~~  
10 ~~child molestation in the second degree, kidnapping in the second~~  
11 ~~degree, robbery in the second degree, residential burglary, or burglary~~  
12 ~~in the second degree, where such offenses include the infliction of~~  
13 ~~bodily harm upon another or where during the commission of or immediate~~  
14 ~~withdrawal from such an offense the perpetrator is armed with a deadly~~  
15 ~~weapon or firearm as defined in RCW 9A.04.110;~~

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

21           ~~((3))~~ (2) "Community supervision" means an order of disposition  
22 by the court of an adjudicated youth not committed to the department  
23 and an order granting a deferred adjudication pursuant to section 714  
24 of this act. A community supervision order for a single offense may be  
25 for a period of up to two years for a sex offense as defined by RCW  
26 9.94A.030 and up to one year for other offenses. Community supervision  
27 is an individualized program comprised of one or more of the following:

28           (a) Community-based sanctions;

29           (b) Community-based rehabilitation;

30           (c) Monitoring and reporting requirements;

31           ~~((4))~~ (3) Community-based sanctions may include one or more of  
32 the following:

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

34           (b) Community service not to exceed one hundred fifty hours of  
35 service;

36           ~~((5))~~ (4) "Community-based rehabilitation" means one or more of  
37 the following: Attendance of information classes; counseling,  
38 outpatient substance abuse treatment programs, outpatient mental health  
39 programs, anger management classes, or other services; or attendance at

1 school or other educational programs appropriate for the juvenile as  
2 determined by the school district. Placement in community-based  
3 rehabilitation programs is subject to available funds;

4 ~~((+6+))~~ (5) "Monitoring and reporting requirements" means one or  
5 more of the following: Curfews; requirements to remain at home,  
6 school, work, or court-ordered treatment programs during specified  
7 hours; restrictions from leaving or entering specified geographical  
8 areas; requirements to report to the ~~((probation))~~ community  
9 supervision officer as directed and to remain under the ~~((probation))~~  
10 community supervision officer's supervision; and other conditions or  
11 limitations as the court may require which may not include confinement;

12 ~~((+7+))~~ (6) "Confinement" means physical custody by the department  
13 of social and health services in a facility operated by or pursuant to  
14 a contract with the state, or physical custody in a detention facility  
15 operated by or pursuant to a contract with any county. The county may  
16 operate or contract with vendors to operate county detention  
17 facilities. Confinement includes state and county group homes, foster  
18 care homes, inpatient substance abuse programs, juvenile basic training  
19 camps, and electronic monitoring. The department may operate or  
20 contract to operate detention facilities for juveniles committed to the  
21 department. Pretrial confinement or confinement of less than thirty-  
22 one days imposed as part of a disposition or modification order may be  
23 served consecutively or intermittently, in the discretion of the court  
24 and may be served in a detention group home, detention foster home, or  
25 with electronic monitoring. Detention group homes and detention foster  
26 homes used for confinement shall not also be used for the placement of  
27 dependent children. Confinement in detention group homes and detention  
28 foster homes and electronic monitoring are subject to available funds;

29 ~~((+8+))~~ (7) "Court", when used without further qualification,  
30 means the juvenile court judge(s) or commissioner(s);

31 ~~((+9+))~~ (8) "Criminal history" includes all criminal complaints  
32 against the respondent for which, prior to the commission of a current  
33 offense(~~((a))~~), the allegations were found correct by a court(~~((. If~~  
34 ~~a respondent is convicted of two or more charges arising out of the~~  
35 ~~same course of conduct, only the highest charge from among these shall~~  
36 ~~count as an offense for the purposes of this chapter))~~); or ~~((b))~~ the  
37 criminal complaint was diverted by a prosecutor pursuant to the  
38 provisions of this chapter on agreement of the respondent and after an  
39 advisement to the respondent that the criminal complaint would be

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

4 ~~((+10))~~ (9) "Department" means the department of social and  
5 health services;

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

12 ~~((+12))~~ (11) "Diversion unit" means any ~~((probation))~~ community  
13 supervision counselor who enters into a diversion agreement with an  
14 alleged youthful offender, or any other person, community  
15 accountability board, or other entity except a law enforcement official  
16 or entity, with whom the juvenile court administrator has contracted to  
17 arrange and supervise such agreements pursuant to RCW 13.40.080, or any  
18 person, community accountability board, or other entity specially  
19 funded by the legislature to arrange and supervise diversion agreements  
20 in accordance with the requirements of this chapter. For purposes of  
21 this subsection, "community accountability board" means a board  
22 comprised of members of the local community in which the juvenile  
23 offender resides. The superior court shall appoint the members. The  
24 boards shall consist of at least three and not more than seven members.  
25 If possible, the board should include a variety of representatives from  
26 the community, such as a law enforcement officer, teacher or school  
27 administrator, high school student, parent, and business owner, and  
28 should represent the cultural diversity of the local community;

29 ~~((+13))~~ (12) "Institution" means a juvenile facility established  
30 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

31 ~~((+14))~~ (13) "Juvenile," "youth," and "child" mean any individual  
32 who is under the chronological age of eighteen years and who has not  
33 been previously transferred to adult court pursuant to RCW 13.40.110 or  
34 who is otherwise under adult court jurisdiction;

35 ~~((+15))~~ (14) "Juvenile offender" means any juvenile who has been  
36 found by the juvenile court to have committed an offense, including a  
37 person eighteen years of age or older over whom jurisdiction has been  
38 extended under RCW 13.40.300;

1           (~~(16)~~) (15) "Manifest injustice" means a disposition that would  
2 either impose an excessive penalty on the juvenile, would fail to  
3 promote the juvenile's best rehabilitative interest, or would impose a  
4 serious, and clear danger to society in light of the purposes of this  
5 chapter;

6           (~~(17)~~) "Middle offender" means a person who has committed an  
7 offense and who is neither a minor or first offender nor a serious  
8 offender;

9           (18) "Minor or first offender" means a person sixteen years of age  
10 or younger whose current offense(s) and criminal history fall entirely  
11 within one of the following categories:

12           (a) Four misdemeanors;

13           (b) Two misdemeanors and one gross misdemeanor;

14           (c) One misdemeanor and two gross misdemeanors;

15           (d) Three gross misdemeanors;

16           (e) One class C felony except manslaughter in the second degree  
17 and one misdemeanor or gross misdemeanor;

18           (f) One class B felony except: Any felony which constitutes an  
19 attempt to commit a class A felony; manslaughter in the first degree;  
20 assault in the second degree; extortion in the first degree; indecent  
21 liberties; kidnapping in the second degree; robbery in the second  
22 degree; burglary in the second degree; residential burglary; vehicular  
23 homicide; or arson in the second degree.

24           For purposes of this definition, current violations shall be  
25 counted as misdemeanors;

26           (~~(19)~~) (16) "Offense" means an act designated a violation or a  
27 crime if committed by an adult under the law of this state, under any  
28 ordinance of any city or county of this state, under any federal law,  
29 or under the law of another state if the act occurred in that state;

30           (~~(20)~~) (17) "Placement out of the home" means placement for  
31 twenty-four hour residential care in foster or group care, or with a  
32 court-approved custodian. Placement out of the home in county or  
33 state-funded placements is subject to available funds and beds;

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

36           (~~(21)~~) (19) "Restitution" means financial reimbursement by the  
37 offender to the victim, and shall be limited to easily ascertainable  
38 damages for injury to or loss of property, actual expenses incurred for  
39 medical treatment for physical injury to persons, lost wages resulting

1 from physical injury, and costs of the victim's counseling reasonably  
2 related to the offense if the offense is a sex offense. Restitution  
3 shall not include reimbursement for damages for mental anguish, pain  
4 and suffering, or other intangible losses. Nothing in this chapter  
5 shall limit or replace civil remedies or defenses available to the  
6 victim or offender;

7 ~~((+22))~~ (20) "Secretary" means the secretary of the department of  
8 social and health services;

9 ~~((+23))~~ (21) "Services" mean services which provide alternatives  
10 to incarceration for those juveniles who have pleaded or been  
11 adjudicated guilty of an offense or have signed a diversion agreement  
12 pursuant to this chapter;

13 ~~((+24))~~ (22) "Sex offense" means an offense defined as a sex  
14 offense in RCW 9.94A.030;

15 ~~((+25))~~ (23) "Sexual motivation" means that one of the purposes  
16 for which the respondent committed the offense was for the purpose of  
17 his or her sexual gratification;

18 ~~((+26))~~ (24) "Foster care" means temporary physical care in a  
19 foster family home or group care facility as defined in RCW 74.15.020  
20 and licensed by the department, or other legally authorized care;

21 ~~((+27))~~ (25) "Violation" means an act or omission, which if  
22 committed by an adult, must be proven beyond a reasonable doubt, and is  
23 punishable by sanctions which do not include incarceration;

24 (26) "Deadly weapon" means a deadly weapon as defined in RCW  
25 9.94A.125;

26 (27) "Assistant secretary" means the assistant secretary for  
27 juvenile rehabilitation within the department;

28 (28) "Violent offense" means violent offense as defined in RCW  
29 9.94A.030.

30 **Sec. 803.** RCW 13.40.025 and 1986 c 288 s 8 are each amended to  
31 read as follows:

32 (1) There is established a juvenile disposition standards  
33 commission to propose disposition standards to the legislature in  
34 accordance with RCW 13.40.030 and perform the other responsibilities  
35 set forth in this chapter.

36 (2) The commission shall be composed of the secretary or the  
37 secretary's designee and the following ~~((nine))~~ members appointed by  
38 the governor, subject to confirmation by the senate: (a) ~~((A))~~ Two

1 superior court judges; (b) ~~((a))~~ two prosecuting ~~((attorney))~~ or deputy  
2 prosecuting attorneys; (c) a law enforcement officer; (d) an  
3 administrator of juvenile court services; (e) ~~((a))~~ two public  
4 defenders actively practicing in juvenile court; (f) a county  
5 legislative official or county executive; and (g) three other persons  
6 who have demonstrated significant interest in the adjudication and  
7 disposition of juvenile offenders. Additionally, the speaker of the  
8 house of representatives and the president of the senate shall each  
9 appoint two nonvoting members to the commission, one from each of the  
10 two largest caucuses in each house. In making the appointments, the  
11 governor shall seek the recommendations of the association of superior  
12 court judges in respect to the members who ~~((is a))~~ are superior court  
13 judges; of Washington prosecutors in respect to the prosecuting  
14 ~~((attorney))~~ or deputy prosecuting attorney members; of the Washington  
15 association of sheriffs and police chiefs in respect to the member who  
16 is a law enforcement officer; of juvenile court administrators in  
17 respect to the member who is a juvenile court administrator; and of the  
18 state bar association in respect to the public defender member; and of  
19 the Washington association of counties in respect to the member who is  
20 either a county legislative official or county executive.

21 (3) The ~~((secretary or the secretary's designee))~~ governor shall  
22 ~~((serve as chairman))~~ designate the chair of the commission, who shall  
23 be neither the secretary nor the secretary's designee.

24 (4) The secretary shall serve on the commission during the  
25 secretary's tenure as secretary of the department. The term of the  
26 remaining members of the commission shall be three years. The initial  
27 terms shall be determined by lot conducted at the commission's first  
28 meeting as follows: (a) Four members shall serve ~~((a two-year))~~ one-  
29 year terms; ~~((and))~~ (b) four members shall serve ~~((a three-year))~~ two-  
30 year term; and (c) six members shall serve three-year terms. In the  
31 event of a vacancy, the appointing authority shall designate a new  
32 member to complete the remainder of the unexpired term.

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

36 (6) The commission shall meet at least once every three months.

37 **Sec. 804.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to  
38 read as follows:

1 (1) It is the responsibility of the commission to:

2 (a)(i) Evaluate the effectiveness of existing disposition  
3 standards and related statutes in implementing policies set forth in  
4 RCW 13.40.010 generally(~~(7)~~);

5 (ii) (~~(specifically)~~) Review (the guidelines relating to the  
6 confinement of minor and first offenders as well as) the use of  
7 diversion, (~~(and)~~) deferred adjudications, and suspended confinement or  
8 commitment;

9 (iii) Review the application of current and proposed juvenile  
10 sentencing standards and guidelines for potential adverse impacts on  
11 the sentencing outcomes of racial and ethnic minority youth; and

12 (iv) Evaluate the effectiveness of existing disposition standards  
13 in light of juvenile offenders' rehabilitative needs;

14 (b) Solicit the comments and suggestions of the juvenile justice  
15 community, including juvenile justice advisory committees of local law  
16 and justice councils, concerning disposition standards, effectiveness,  
17 and proportionality; (and)

18 (c) Make recommendations to the legislature regarding revisions or  
19 modifications of the disposition standards ((in accordance with RCW  
20 13.40.030));

21 (d) Implement a comprehensive tracking program to analyze  
22 recidivism among juvenile offenders, particularly among offenders who  
23 receive alternatives such as diversion, deferred adjudication, and  
24 suspended confinement or commitment. The commission shall include  
25 information and statistics about juvenile recidivism in the  
26 commission's annual report;

27 (e) If the commission identifies racial or other  
28 disproportionalities at any stage of administration of juvenile  
29 justice, identify the disproportionalities in the annual report and  
30 make recommendations for corrective measures; and

31 (f) Review the instances in which the court enters a finding  
32 pursuant to RCW 13.40.160(16) that the court has declined to exercise  
33 a disposition option due to lack of funds, services, or bed space. The  
34 commission shall document the number and circumstances of these  
35 findings in its annual report.

36 The evaluations shall be submitted to the legislature on December  
37 1 of each (~~(even-numbered)~~) year (~~(thereafter)~~).

38 (2)(a) If sufficient funds are not provided for (b) of this  
39 subsection, it is the responsibility of the department to: ((a)) (i)

1 Provide the commission with available data concerning the  
2 implementation of the disposition standards and related statutes and  
3 their effect on the performance of the department's responsibilities  
4 relating to juvenile offenders; ~~((b))~~ (ii) at the request of the  
5 commission, provide technical and administrative assistance to the  
6 commission in the performance of its responsibilities; and ~~((e))~~  
7 (iii) provide the commission and legislature with recommendations for  
8 modification of the disposition standards.

9 (b) If sufficient funds are provided for this subsection (2)(b),  
10 the commission may use the staff, resources, and executive officer of  
11 the sentencing guidelines commission. The office of financial  
12 management may determine the number of additional staff needed to  
13 supplement the staff of the sentencing guidelines commission in order  
14 to provide the juvenile disposition standards commission with a  
15 research staff of sufficient size and with sufficient resources to  
16 accomplish its duties.

17 (3) The commission may request from the office of financial  
18 management, the administrator for the courts, local law and justice  
19 councils, and the department such data, information, and data  
20 processing assistance as it may need to accomplish its duties, and the  
21 services shall be provided without cost to the commission. The  
22 department and other organizations or individuals shall provide the  
23 commission and the legislature with recommendations for modification of  
24 the disposition standards. The commission shall have rule-making  
25 authority to develop a system for fulfilling its identified data needs.

26 (4) The commission shall conduct a study to determine the capacity  
27 of rehabilitative facilities and programs that are or will be  
28 available. While the commission need not consider the capacity in  
29 arriving at its recommendations, the commission shall project whether  
30 the implementation of its recommendations would result in exceeding the  
31 capacity.

32 (5) The commission shall adopt its own bylaws.

33 **Sec. 805.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to  
34 read as follows:

35 ~~((1)(a) The juvenile disposition standards commission shall~~  
36 ~~recommend to the legislature no later than November 1st of each year~~  
37 ~~disposition standards for all offenses. The standards shall establish,~~  
38 ~~in accordance with the purposes of this chapter, ranges which may~~

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

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

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

1       ~~(a) Where the maximum term in the range is ninety days or less,~~  
2 ~~the minimum term in the range may be no less than fifty percent of the~~  
3 ~~maximum term in the range;~~  
4       ~~(b) Where the maximum term in the range is greater than ninety~~  
5 ~~days but not greater than one year, the minimum term in the range may~~  
6 ~~be no less than seventy-five percent of the maximum term in the range;~~  
7 ~~and~~  
8       ~~(c) Where the maximum term in the range is more than one year, the~~  
9 ~~minimum term in the range may be no less than eighty percent of the~~  
10 ~~maximum term in the range.))~~

11       **Sec. 806.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to  
12 read 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~~  
25 ~~misdemeanors))~~ Prior to disposition, the county shall conduct a  
26 predisposition diagnostic evaluation of the juvenile and shall prepare  
27 a report of the evaluation. The county shall provide this report to  
28 the court. The evaluation shall include an assessment of the  
29 juvenile's rehabilitative needs including but not limited to the  
30 juvenile's needs for treatment, therapy, and education. The evaluation  
31 shall also include a preliminary assessment of the security risks posed  
32 by the juvenile;

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

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

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

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

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

8 (c) Consider any predisposition reports;

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

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

15 (f) Determine the amount of restitution owing to the victim, if  
16 any;

17 (g) (~~Determine whether the respondent is a serious offender, a~~  
18 ~~middle offender, or a minor or first offender~~) Consider the types of  
19 treatment, therapy, education, and other rehabilitative services that  
20 would be most effective at rehabilitating the offender;

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

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

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

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

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

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

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

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

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

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

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

7 (v) The current offense included a finding of sexual motivation  
8 pursuant to RCW 9.94A.127;

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

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

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

16 (a) The sex of the respondent;

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

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

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

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

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

28 **Sec. 807.** RCW 13.40.160 and 1992 c 45 s 6 are each amended to  
29 read as follows:

30 (1) ~~((When the respondent is found to be a serious offender, the  
31 court shall commit the offender to the department for the standard  
32 range of disposition for the offense, as indicated in option A of  
33 schedule D-3, RCW 13.40.0357 except as provided in subsection (5) of  
34 this section.~~

35 ~~If the court concludes, and enters reasons for its conclusion,  
36 that disposition within the standard range would effectuate a manifest  
37 injustice the court shall impose a disposition outside the standard  
38 range, as indicated in option B of schedule D-3, RCW 13.40.0357. The~~

1 court's finding of manifest injustice shall be supported by clear and  
2 convincing evidence.

3 A disposition outside the standard range shall be determinate and  
4 shall be comprised of confinement or community supervision, or a  
5 combination thereof. When a judge finds a manifest injustice and  
6 imposes a sentence of confinement exceeding thirty days, the court  
7 shall sentence the juvenile to a maximum term, and the provisions of  
8 RCW 13.40.030(2), as now or hereafter amended, shall be used to  
9 determine the range. A disposition outside the standard range is  
10 appealable under RCW 13.40.230, as now or hereafter amended, by the  
11 state or the respondent. A disposition within the standard range is  
12 not appealable under RCW 13.40.230 as now or hereafter amended.

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

30 Except for disposition of community supervision or a disposition  
31 imposed pursuant to subsection (5) of this section, a disposition may  
32 be appealed as provided in RCW 13.40.230, as now or hereafter amended,  
33 by the state or the respondent. A disposition of community supervision  
34 or a disposition imposed pursuant to subsection (5) of this section may  
35 not be appealed under RCW 13.40.230 as now or hereafter amended.

36 (3) Where a respondent is found to have committed an offense for  
37 which the respondent declined to enter into a diversion agreement, the  
38 court shall impose a term of community supervision limited to the

1 conditions allowed in a diversion agreement as provided in RCW  
2 13.40.080(2) as now or hereafter amended.

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

4 (a) The court shall impose a determinate disposition within the  
5 standard range(s) for such offense, as indicated in option A of  
6 schedule D-2, RCW 13.40.0357 except as provided in subsection (5) of  
7 this section: PROVIDED, That if the standard range includes a term of  
8 confinement exceeding thirty days, commitment shall be to the  
9 department for the standard range of confinement; or

10 (b) The court shall impose a determinate disposition of community  
11 supervision and/or up to thirty days confinement, as indicated in  
12 option B of schedule D-2, RCW 13.40.0357 in which case, if confinement  
13 has been imposed, the court shall state either aggravating or  
14 mitigating factors as set forth in RCW 13.40.150 as now or hereafter  
15 amended.

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

23 (d) A disposition pursuant to subsection (4)(c) of this section is  
24 appealable under RCW 13.40.230, as now or hereafter amended, by the  
25 state or the respondent. A disposition pursuant to subsection (4) (a)  
26 or (b) of this section is not appealable under RCW 13.40.230 as now or  
27 hereafter amended.

28 (5)) The court may impose a disposition as provided in this  
29 section for any juvenile adjudicated for an offense. Offenders  
30 eligible for the juvenile offender basic training camp program may  
31 receive a disposition under section 727 of this act.

32 (2) The court shall consider various factors, including but not  
33 limited to the following, when determining a disposition:

34 (a) The juvenile's age and maturity;

35 (b) The juvenile's criminal history and the recency of that  
36 criminal history;

37 (c) Whether the juvenile has had prior deferrals of adjudications;

38 (d) Whether the juvenile complied with the terms of the  
39 disposition imposed for prior offenses;

1       (e) The seriousness of the offense;

2       (f) Whether the juvenile's adjudication resulted from accomplice  
3 liability; and

4       (g) Whether any aggravating or mitigating factors apply.

5       (3)(a) For a juvenile adjudicated for a misdemeanor or a gross  
6 misdemeanor, the court shall impose a disposition comprised of any of  
7 the following:

8           0 - 12 Months of community supervision;

9           0 - 150 Hours of community service;

10          0 - \$100 Fine;

11          0 - 30 Days in confinement if the juvenile has prior criminal  
12 history or a prior deferred adjudication.

13       (b) The court shall not commit a juvenile adjudicated of a  
14 misdemeanor or gross misdemeanor to the department unless the court  
15 enters a finding that a disposition under (a) of this subsection would  
16 effectuate a manifest injustice.

17       (4)(a) Except as provided in (c) of this subsection, for a  
18 juvenile adjudicated of a class C or B felony that is not: A violent  
19 offense, a crime against persons as defined in RCW 9.94A.440(2), or a  
20 crime of harassment as defined in RCW 9A.46.060, the court shall impose  
21 a disposition comprised of any of the following:

22           0 - 12 Months of community supervision;

23           0 - 150 Hours of community service;

24           0 - \$100 Fine;

25           5 - 60 days of confinement or commitment to the department.

26       (b) Except as provided in (c) of this subsection, the court shall  
27 not commit a juvenile adjudicated under this subsection (4) to the  
28 department for more than sixty days unless (i) the court enters a  
29 finding that a disposition under (a) of this subsection would  
30 effectuate a manifest injustice; or (ii) the juvenile has a significant  
31 criminal history that would support a finding of an aggravating factor  
32 under RCW 13.40.150(3) if the criminal history was more recent.

33       (c)(i) If a respondent is found to have been in possession of a  
34 firearm in violation of RCW 9.41.040(1)(e), the court shall impose a  
35 determinate disposition of a minimum of thirty days' confinement. If  
36 the court imposes a determinate disposition of thirty days, the court  
37 may also impose up to a year of community supervision.

1 (ii) If a respondent is found to have delivered a firearm in  
2 violation of RCW 9.41.080, the court shall commit the offender to the  
3 department for one hundred twenty days' confinement.

4 (iii) If a respondent is found to have committed an offense of  
5 theft of a firearm as defined in section 301 of this act, the court  
6 shall commit the offender to the department for one hundred twenty  
7 days' confinement.

8 (d) An offender given a disposition under (c) (i), (ii), or (iii)  
9 of this subsection shall not be released prior to expiration of the  
10 court-ordered term of confinement.

11 (e) Any term of confinement ordered pursuant to (c) (i), (ii), or  
12 (iii) of this subsection shall run consecutively to any term of  
13 confinement imposed in the same disposition for other offenses.

14 (f) The court may suspend all or a portion of any term of  
15 confinement or commitment imposed under this subsection (4). In  
16 addition to the suspended confinement or commitment, the court shall  
17 impose community supervision, community service, or a fine as provided  
18 in (a) of this subsection.

19 (5)(a) For a juvenile adjudicated of a class C or B felony that is  
20 a crime against persons or a crime of harassment but is not a violent  
21 offense, the court shall impose a disposition comprised of the  
22 following:

23 0 - 12 Months community supervision;

24 0 - 150 Hours community service;

25 0 - \$100 Fine;

26 5 Days to 129 weeks in confinement or commitment to the  
27 department.

28 (b) The court shall not commit a juvenile adjudicated under this  
29 subsection (5) to the department in excess of one hundred twenty-nine  
30 weeks unless the court enters a finding that a disposition under this  
31 subsection (5) would effect a manifest injustice. The basis for the  
32 manifest injustice must be a basis other than the offender's criminal  
33 history as described in RCW 13.40.150(3)(i)(iv).

34 (c) The court may suspend all or a portion of any term of  
35 confinement or commitment imposed under this subsection (5). In  
36 addition to the suspended confinement or commitment, the court shall  
37 impose community supervision, community service, or a fine as provided  
38 in (a)(i) of this subsection.

1       (6)(a) If a juvenile is adjudicated of a class A felony, an  
2 attempt to commit a class A felony, or a sex or violent offense, the  
3 court shall impose a disposition of the following:

4       52 - 224 Weeks committed to the department.

5       (b) The court shall not impose a disposition under this subsection  
6 (6) outside the standard range unless the court finds that imposition  
7 of the standard range would effectuate a manifest injustice.

8       (c) If the juvenile is adjudicated of a sex offense, other than a  
9 sex offense that is also a serious violent offense as defined by RCW  
10 9.94A.030, the court need not impose a disposition under this  
11 subsection (6). The court may instead order a treatment disposition  
12 option under subsection (12) of this section.

13       (d) When a court adjudicates a juvenile of a sex offense, the  
14 court shall impose a disposition as provided in this subsection (6), as  
15 modified by this subsection (6)(d), unless the court orders a  
16 disposition under subsection (12) of this section. In addition to the  
17 term of commitment imposed under this subsection (6), the court shall  
18 impose a term of postrelease supervision not to exceed five years. The  
19 department shall provide the postrelease supervision. If the juvenile  
20 receives treatment while committed, the court, as a condition of  
21 postrelease supervision, may order the juvenile to continue with a  
22 particular treatment program for all or a portion of the term of  
23 postrelease supervision. The department may recommend to the  
24 sentencing court whether the option of continuing treatment is  
25 appropriate. Upon the recommendation of the department, the court may  
26 either reduce the term of postrelease supervision or impose additional  
27 or more restrictive terms of postrelease supervision. The postrelease  
28 supervision required by this section shall be in addition to any term  
29 of parole imposed by the department.

30       (7) If the court finds that the respondent or an accomplice was  
31 armed with a deadly weapon as provided in section 718 of this act, the  
32 court shall determine the standard range disposition for the offense  
33 pursuant to this section. One hundred eighty days of confinement shall  
34 be added to the entire standard range disposition of confinement if the  
35 offender or an accomplice was armed with a deadly weapon when the  
36 offender committed: (a) Any violent offense; or (b) escape in the  
37 first degree (RCW 9A.76.110), burglary in the second degree (RCW  
38 9A.52.030), theft of livestock in the first or second degree (RCW  
39 9A.56.080), or any felony drug offense. If the offender or an

1 accomplice was armed with a deadly weapon and the offender is being  
2 adjudicated for an anticipatory felony offense under chapter 9A.28 RCW  
3 to commit one of the offenses listed in this subsection, one hundred  
4 eighty days shall be added to the entire standard range disposition of  
5 confinement. The department shall not release the offender until the  
6 offender has served a minimum of one hundred eighty days in confinement  
7 unless the juvenile is committed to and successfully completes the  
8 juvenile offender basic training camp disposition option.

9 (8) In all cases, the court shall impose a determinate  
10 disposition.

11 (9) If the court concludes, and enters reasons for its conclusion,  
12 that disposition within the standard range would effectuate a manifest  
13 injustice, the court shall impose a determinate disposition outside the  
14 standard range. If the court imposes a disposition below the standard  
15 range due to a manifest injustice, the disposition shall be comprised  
16 of community supervision or confinement, or both. The court's finding  
17 of manifest injustice shall be supported by clear and convincing  
18 evidence. A disposition outside the standard range shall be appealable  
19 under RCW 13.40.230, by the state or respondent. A disposition within  
20 the standard range is not appealable.

21 (10) In all cases, the court shall enter an order for restitution,  
22 if any is due to the victim, according to RCW 13.40.190.

23 (11) In all disposition orders that include commitment to the  
24 department, the court shall make a finding of reasonable rehabilitative  
25 goals to be achieved by the juvenile during the commitment term. These  
26 goals may include, by way of example and not limitation, completion of  
27 substance abuse treatment, completion of anger management courses, and  
28 achievement of academic, educational, or vocational goals, such as  
29 grade-level reading or GED completion.

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

36 The report of the examination shall include at a minimum the  
37 following: The respondent's version of the facts and the official  
38 version of the facts, the respondent's offense history, an assessment  
39 of problems in addition to alleged deviant behaviors, the respondent's

1 social, educational, and employment situation, and other evaluation  
2 measures used. The report shall set forth the sources of the  
3 evaluator's information.

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

8 (a)(i) Frequency and type of contact between the offender and  
9 therapist;

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

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

15 (iv) Anticipated length of treatment; and

16 (v) Recommended crime-related prohibitions.

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

23 After receipt of reports of the examination, the court shall then  
24 consider whether the offender and the community will benefit from use  
25 of this special sex offender disposition alternative and consider the  
26 victim's opinion whether the offender should receive a treatment  
27 disposition under this section. If the court determines that this  
28 special sex offender disposition alternative is appropriate, then the  
29 court shall impose a determinate disposition within the standard range  
30 for the offense, and the court may suspend the execution of the  
31 disposition and place the offender on community supervision for ((up  
32 to)) not less than two years. As a condition of the suspended  
33 disposition, the court may impose the conditions of community  
34 supervision and other conditions, including up to thirty days of  
35 confinement and requirements that the offender do any one or more of  
36 the following:

37 (b)(i) Devote time to a specific education, employment, or  
38 occupation;

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

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

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

19 (v) Report as directed to the court and a (~~probation~~) community  
20 supervision counselor;

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

23 (vii) Make restitution to the victim for the cost of any  
24 counseling reasonably related to the offense.

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

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

34 Except as provided in this subsection (~~(+5)~~) (12), after July 1,  
35 1991, examinations and treatment ordered pursuant to this subsection  
36 shall only be conducted by sex offender treatment providers certified  
37 by the department of health pursuant to chapter 18.155 RCW. A sex  
38 offender therapist who examines or treats a juvenile sex offender  
39 pursuant to this subsection does not have to be certified by the

1 department of health pursuant to chapter 18.155 RCW if the court finds  
2 that: (A) The offender has already moved to another state or plans to  
3 move to another state for reasons other than circumventing the  
4 certification requirements; (B) no certified providers are available  
5 for treatment within a reasonable geographical distance of the  
6 offender's home; and (C) the evaluation and treatment plan comply with  
7 this subsection (~~((5))~~) (12) and the rules adopted by the department of  
8 health.

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

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

27 (~~((6))~~) (13) Whenever a juvenile offender is entitled to credit  
28 for time spent in detention prior to a dispositional order, the  
29 dispositional order shall specifically state the number of days of  
30 credit for time served.

31 (~~((7))~~) ~~Except as provided for in subsection (5) of this section,~~  
32 ~~the court shall not suspend or defer the imposition or the execution of~~  
33 ~~the disposition.~~

34 (~~((8))~~) (14) In no case shall the term of confinement imposed by the  
35 court at disposition exceed that to which an adult could be subjected  
36 for the same offense.

37 (15) Whenever a dispositional order requires a juvenile to  
38 participate in a treatment program, the court may require the

1 juvenile's parents, guardians, or custodians to participate in the  
2 treatment program with the juvenile.

3 (16) If a court does not exercise a disposition option available  
4 under this chapter due to a lack of available funds, services, or bed  
5 space, the court shall enter a finding in the disposition that an  
6 alternative disposition was not ordered due to the lack of available  
7 funds, services, or bed space.

8 **Sec. 808.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to  
9 read as follows:

10 Unless otherwise provided in this chapter, where a disposition is  
11 imposed on a youth for two or more offenses, the terms shall run  
12 consecutively(~~(, subject to the following limitations:~~

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

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

20 ~~(3) The aggregate of all consecutive terms of community~~  
21 ~~supervision shall not exceed two years in length, or require payment of~~  
22 ~~more than two hundred dollars in fines or the performance of more than~~  
23 ~~two hundred hours of community service)) or concurrently in the court's~~  
24 discretion, except as provided in RCW 13.40.160(4)(e).

25 **Sec. 809.** RCW 13.40.205 and 1990 c 3 s 103 are each amended to  
26 read as follows:

27 (1) A juvenile sentenced to a term of confinement to be served  
28 under the supervision of the department shall not be released from the  
29 physical custody of the department prior to the release date  
30 established under RCW 13.40.210 except as otherwise provided in this  
31 section.

32 (2) A juvenile serving a term of confinement under the supervision  
33 of the department may be released on authorized leave from the physical  
34 custody of the department only if consistent with public safety and if:

35 (a) Sixty percent of the ((minimum)) term of confinement has been  
36 served; and

37 (b) The purpose of the leave is to enable the juvenile:

1 (i) To visit the juvenile's family for the purpose of  
2 strengthening or preserving family relationships;

3 (ii) To make plans for parole or release which require the  
4 juvenile's personal appearance in the community and which will  
5 facilitate the juvenile's reintegration into the community; or

6 (iii) To make plans for a residential placement out of the  
7 juvenile's home which requires the juvenile's personal appearance in  
8 the community.

9 (3) No authorized leave may exceed seven consecutive days. The  
10 total of all pre-minimum term authorized leaves granted to a juvenile  
11 prior to final discharge from confinement shall not exceed thirty days.

12 (4) Prior to authorizing a leave, the secretary shall require a  
13 written leave plan, which shall detail the purpose of the leave and how  
14 it is to be achieved, the address at which the juvenile shall reside,  
15 the identity of the person responsible for supervising the juvenile  
16 during the leave, and a statement by such person acknowledging  
17 familiarity with the leave plan and agreeing to supervise the juvenile  
18 and to notify the secretary immediately if the juvenile violates any  
19 terms or conditions of the leave. The leave plan shall include such  
20 terms and conditions as the secretary deems appropriate and shall be  
21 signed by the juvenile.

22 (5) Upon authorizing a leave, the secretary shall issue to the  
23 juvenile an authorized leave order which shall contain the name of the  
24 juvenile, the fact that the juvenile is on leave from a designated  
25 facility, the time period of the leave, and the identity of an  
26 appropriate official of the department to contact when necessary. The  
27 authorized leave order shall be carried by the juvenile at all times  
28 while on leave.

29 (6) Prior to the commencement of any authorized leave, the  
30 secretary shall give notice of the leave to the appropriate law  
31 enforcement agency in the jurisdiction in which the juvenile will  
32 reside during the leave period. The notice shall include the identity  
33 of the juvenile, the time period of the leave, the residence of the  
34 juvenile during the leave, and the identity of the person responsible  
35 for supervising the juvenile during the leave.

36 (7) The secretary may authorize a leave, which shall not exceed  
37 forty-eight hours plus travel time, to meet an emergency situation such  
38 as a death or critical illness of a member of the juvenile's family.  
39 The secretary may authorize a leave, which shall not exceed the period

1 of time medically necessary, to obtain medical care not available in a  
2 juvenile facility maintained by the department. In cases of emergency  
3 or medical leave the secretary may waive all or any portions of  
4 subsections (2)(a), (3), (4), (5), and (6) of this section.

5 (8) If requested by the juvenile's victim or the victim's  
6 immediate family, the secretary shall give notice of any leave to the  
7 victim or the victim's immediate family.

8 (9) A juvenile who violates any condition of an authorized leave  
9 plan may be taken into custody and returned to the department in the  
10 same manner as an adult in identical circumstances.

11 (10) Notwithstanding the provisions of this section, a juvenile  
12 placed in minimum security status may participate in work, educational,  
13 community service, or treatment programs in the community up to twelve  
14 hours a day if approved by the secretary. Such a release shall not be  
15 deemed a leave of absence.

16 (11) Subsections (6), (7), and (8) of this section do not apply to  
17 juveniles covered by RCW 13.40.215.

18 **Sec. 810.** RCW 13.40.210 and 1990 c 3 s 304 are each amended to  
19 read as follows:

20 ~~(1) ((The secretary shall, except in the case of a juvenile~~  
21 ~~committed by a court to a term of confinement in a state institution~~  
22 ~~outside the appropriate standard range for the offense(s) for which the~~  
23 ~~juvenile was found to be guilty established pursuant to RCW 13.40.030,~~  
24 ~~as now or hereafter amended, set a release or discharge date for each~~  
25 ~~juvenile committed to its custody which shall be within the prescribed~~  
26 ~~range to which a juvenile has been committed. Such dates shall be~~  
27 ~~determined prior to the expiration of sixty percent of a juvenile's~~  
28 ~~minimum term of confinement included within the prescribed range to~~  
29 ~~which the juvenile has been committed.))~~ (a) When a juvenile is  
30 committed to a term of confinement in a state institution, the  
31 assistant secretary shall review the sentencing court's finding of the  
32 rehabilitative goals to be achieved by the juvenile during the term of  
33 confinement. The department shall provide rehabilitative resources,  
34 including but not limited to education, vocational training, substance  
35 abuse treatment, and counseling, to permit the juvenile to achieve  
36 these rehabilitative goals.

37 (b) After expiration of no more than sixty percent of the  
38 juvenile's commitment term, the department shall provide a report

1 containing an evaluation of the juvenile's behavior and performance  
2 during commitment. This report shall specifically describe the  
3 juvenile's progress toward achieving the designated rehabilitative  
4 goals.

5 (c) The department shall provide this report to the committing  
6 court. The court, after considering the department's report, shall  
7 determine a release or discharge date for the juvenile, which date  
8 shall fall on or before expiration of the original term of commitment.  
9 If the court sets a release date prior to expiration of the original  
10 term, the court may suspend the remainder of the term.

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

13 (e) The department shall establish by rule standards of good  
14 behavior, good performance, and progress toward rehabilitative goals.

15 (f) After the court determines a release date, the secretary shall  
16 release any juvenile committed to the custody of the department within  
17 four calendar days prior to the juvenile's release date or on the  
18 release date set under this chapter(~~(: PROVIDED, That)~~). Days spent  
19 in the custody of the department shall be tolled by any period of time  
20 during which a juvenile has absented himself or herself from the  
21 department's supervision without the prior approval of the secretary or  
22 the secretary's designee.

23 (g) The early release provisions of this section do not apply to  
24 confinement imposed under RCW 13.40.160(4)(c).

25 (2) The secretary shall monitor the average daily population of  
26 the state's juvenile residential facilities. When the secretary  
27 concludes that in-residence population of residential facilities  
28 exceeds one hundred five percent of the rated bed capacity specified in  
29 statute, or in absence of such specification, as specified by the  
30 department in rule, the secretary may recommend reductions to the  
31 governor. On certification by the governor that the recommended  
32 reductions are necessary, the secretary has authority to  
33 administratively release a sufficient number of offenders to reduce in-  
34 residence population to one hundred percent of rated bed capacity. The  
35 secretary shall release those offenders who have served the greatest  
36 proportion of their sentence. However, the secretary may deny release  
37 in a particular case at the request of an offender, or if the secretary  
38 finds that there is no responsible custodian, as determined by the  
39 department, to whom to release the offender, or if the release of the

1 offender would pose a clear danger to society. The department shall  
2 notify the committing court of the release at the ~~((end of each~~  
3 ~~calendar year))~~ time of release if any such early releases have  
4 occurred ~~((during that year))~~ as a result of excessive in-residence  
5 population. In no event shall ~~((a serious))~~ an offender~~((, as defined~~  
6 ~~in RCW 13.40.020(1))~~) adjudicated of a violent offense be granted  
7 release under the provisions of this subsection.

8 (3) Following the juvenile's release pursuant to subsection (1) of  
9 this section, the secretary may require the juvenile to comply with a  
10 program of parole to be administered by the department in his or her  
11 community which shall last no longer than eighteen months, except that  
12 in the case of a juvenile sentenced for rape in the first or second  
13 degree, rape of a child in the first or second degree, child  
14 molestation in the first degree, or indecent liberties with forcible  
15 compulsion, the period of parole shall be twenty-four months. A parole  
16 program is mandatory for offenders released under subsection (2) of  
17 this section. The secretary shall, for the period of parole,  
18 facilitate the juvenile's reintegration into his or her community and  
19 to further this goal may require the juvenile to: (a) Undergo  
20 available medical or psychiatric treatment; (b) report as directed to  
21 a parole officer; (c) pursue a course of study or vocational training;  
22 (d) remain within prescribed geographical boundaries and notify the  
23 department of any change in his or her address; and (e) refrain from  
24 committing new offenses. After termination of the parole period, the  
25 juvenile shall be discharged from the department's supervision.

26 (4) The department may also modify parole for violation thereof.  
27 If, after affording a juvenile all of the due process rights to which  
28 he or she would be entitled if the juvenile were an adult, the  
29 secretary finds that a juvenile has violated a condition of his or her  
30 parole, the secretary shall order one of the following which is  
31 reasonably likely to effectuate the purpose of the parole and to  
32 protect the public: (a) Continued supervision under the same  
33 conditions previously imposed; (b) intensified supervision with  
34 increased reporting requirements; (c) additional conditions of  
35 supervision authorized by this chapter; (d) except as provided in (e)  
36 of this subsection, imposition of a period of confinement not to exceed  
37 thirty days in a facility operated by or pursuant to a contract with  
38 the state of Washington or any city or county for a portion of each day  
39 or for a certain number of days each week with the balance of the days

1 or weeks spent under supervision; and (e) the secretary may order any  
2 of the conditions or may return the offender to confinement in an  
3 institution for the remainder of the sentence range if the offense for  
4 which the offender was sentenced is rape in the first or second degree,  
5 rape of a child in the first or second degree, child molestation in the  
6 first degree, indecent liberties with forcible compulsion, or a sex  
7 offense that is also a serious violent offense as defined by RCW  
8 9.94A.030.

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

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

16 **Sec. 811.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to  
17 read as follows:

18 (1) Dispositions reviewed pursuant to RCW 13.40.160(~~(, as now or~~  
19 ~~hereafter amended,)~~) shall be reviewed in the appropriate division of  
20 the court of appeals.

21 An appeal under this section shall be heard solely upon the record  
22 that was before the disposition court. No written briefs may be  
23 required, and the appeal shall be heard within thirty days following  
24 the date of sentencing and a decision rendered within fifteen days  
25 following the argument. The supreme court shall promulgate any  
26 necessary rules to effectuate the purposes of this section.

27 (2) To uphold a disposition outside the standard range, (~~(or which~~  
28 ~~imposes confinement for a minor or first offender,)~~) the court of  
29 appeals must find (a) that the reasons supplied by the disposition  
30 judge are supported by the record which was before the judge and that  
31 those reasons clearly and convincingly support the conclusion that a  
32 disposition within the range(~~(, or nonconfinement for a minor or first~~  
33 ~~offender,)~~) would constitute a manifest injustice, and (b) that the  
34 sentence imposed was neither clearly excessive nor clearly too lenient.

35 (3) If the court does not find subsection (2)(a) of this section  
36 it shall remand the case for disposition within the standard range or  
37 for community supervision without confinement as would otherwise be  
38 appropriate pursuant to this chapter.

1 (4) If the court finds subsection (2)(a) but not subsection (2)(b)  
2 of this section it shall remand the case with instructions for further  
3 proceedings consistent with the provisions of this chapter.

4 (5) Pending appeal, a respondent may not be committed or detained  
5 for a period of time in excess of the standard range for the offense(s)  
6 committed or sixty days, whichever is longer. The disposition court  
7 may impose conditions on release pending appeal as provided in RCW  
8 13.40.040(4) and 13.40.050(6). Upon the expiration of the period of  
9 commitment or detention specified in this subsection, the court may  
10 also impose such conditions on the respondent's release pending  
11 disposition of the appeal.

12 (6) Appeal of a disposition under this section does not affect the  
13 finality or appeal of the underlying adjudication of guilt.

14 NEW SECTION. **Sec. 812.** The following acts or parts of acts are  
15 each repealed:

16 (1) RCW 13.40.0354 and 1989 c 407 s 6;

17 (2) RCW 13.40.0357 and 1994 c . . . s 716 (section 716 of this  
18 act) & 1989 c 407 s 7;

19 (3) RCW 13.40.--- and 1994 c . . . s 719 (section 719 of this  
20 act); and

21 (4) 1994 c . . . s 725 (section 725 of this act) (uncodified).

## 22 **PART IX - TECHNICAL PROVISIONS**

23 NEW SECTION. **Sec. 901.** If any provision of this act or its  
24 application to any person or circumstance is held invalid, the  
25 remainder of the act or the application of the provision to other  
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 902.** Part and subpart headings and the table  
28 of contents as used in this act do not constitute any part of the law.

29 NEW SECTION. **Sec. 903.** (1) Sections 101 through 104, 106 through  
30 112, 114 through 117, 119 through 135, 137 through 144, 201 through  
31 601, and 701 through 737 of this act shall take effect July 1, 1994.

32 (2) Sections 801 through 812 of this act shall take effect July 1,  
33 1995.

1 (3) Sections 105, 113, 118, and 136 of this act are necessary for  
2 the immediate preservation of the public peace, health, or safety, or  
3 support of the state government and its existing public institutions,  
4 and shall take effect immediately.

5 NEW SECTION. **Sec. 904.** Sections 711, 717, 720, 723, and 724 of  
6 this act shall expire July 1, 1995.

7 NEW SECTION. **Sec. 905.** (1) Sections 701 through 737 of this act  
8 shall apply to offenses committed on or after July 1, 1994.

9 (2) Sections 801 through 812 of this act shall apply to offenses  
10 committed on or after July 1, 1995."

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