

2 **ESHB 1198** - S COMM AMD  
3 By Committee on Law & Justice

4 ADOPTED 4/15/93

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

7 "**Sec. 1.** RCW 13.40.020 and 1990 1st ex.s. c 12 s 1 are each  
8 amended to read as follows:

9 For the purposes of this chapter:

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

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

13 (b) Manslaughter in the first degree; or

14 (c) Assault in the second degree, extortion in the first degree,  
15 child molestation in the second degree, kidnapping in the second  
16 degree, robbery in the second degree, residential burglary, or burglary  
17 in the second degree, where such offenses include the infliction of  
18 bodily harm upon another or where during the commission of or immediate  
19 withdrawal from such an offense the perpetrator is armed with a deadly  
20 weapon or firearm as defined in RCW 9A.04.110;

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

26 (3) "Community supervision" means an order of disposition by the  
27 court of an adjudicated youth not committed to the department. A  
28 community supervision order for a single offense may be for a period of  
29 up to two years for a sex offense as defined by RCW 9.94A.030 and up to  
30 one year for other offenses (~~and~~). Community supervision is an  
31 individualized program comprised of one or more of the following:

32 (a) Community-based sanctions;

33 (b) Community-based rehabilitation;

34 (c) Monitoring and reporting requirements;

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

1 (a) A fine, not to exceed one hundred dollars;  
2 (b) Community service not to exceed one hundred fifty hours of  
3 service;

4 ~~((e))~~ (5) "Community-based rehabilitation" means one or more of  
5 the following: Attendance of information classes;

6 ~~((d) Counseling; or~~

7 ~~(e) Such other services to the extent funds are available for such~~  
8 ~~services,))~~ counseling, outpatient substance abuse treatment programs,  
9 outpatient mental health programs, anger management classes, or other  
10 services; or attendance at school or other educational programs  
11 appropriate for the juvenile as determined by the school district.  
12 Placement in community-based rehabilitation programs is subject to  
13 available funds;

14 (6) "Monitoring and reporting requirements" means one or more of  
15 the following: Curfews; requirements to remain at home, school, work,  
16 or court-ordered treatment programs during specified hours;  
17 restrictions from leaving or entering specified geographical areas;  
18 requirements to report to the probation officer as directed and to  
19 remain under the probation officer's supervision; and other  
20 conditions~~((7))~~ or limitations as the court may require which may not  
21 include confinement;

22 ~~((4))~~ (7) "Confinement" means physical custody by the department  
23 of social and health services in a detention facility operated by or  
24 pursuant to a contract with the state, or physical custody in a  
25 detention facility operated by or pursuant to a contract with any  
26 county. The county may operate or contract with vendors to operate  
27 county detention facilities. The department may operate or contract to  
28 operate detention facilities for juveniles committed to the department.  
29 Pretrial confinement or confinement of less than thirty-one days  
30 imposed as part of a disposition or modification order may be served  
31 consecutively or intermittently, in the discretion of the court and may  
32 be served in a detention group home, detention foster home, or with  
33 electronic monitoring. Detention group homes and detention foster  
34 homes used for confinement shall not also be used for the placement of  
35 dependent children. Confinement in detention group homes and detention  
36 foster homes and electronic monitoring are subject to available funds;

37 ~~((5))~~ (8) "Court", when used without further qualification, means  
38 the juvenile court judge(s) or commissioner(s);

1       (~~(6)~~) (9) "Criminal history" includes all criminal complaints  
2 against the respondent for which, prior to the commission of a current  
3 offense:

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

8       (b) The criminal complaint was diverted by a prosecutor pursuant to  
9 the provisions of this chapter on agreement of the respondent and after  
10 an advisement to the respondent that the criminal complaint would be  
11 considered as part of the respondent's criminal history;

12       (~~(7)~~) (10) "Department" means the department of social and health  
13 services;

14       (~~(8)~~) (11) "Detention facility" means a facility for the physical  
15 confinement of a juvenile alleged to have committed an offense or an  
16 adjudicated offender subject to a disposition or modification order;

17       (12) "Diversion unit" means any probation counselor who enters into  
18 a diversion agreement with an alleged youthful offender, or any other  
19 person or entity except a law enforcement official or entity, with whom  
20 the juvenile court administrator has contracted to arrange and  
21 supervise such agreements pursuant to RCW (~~(13.04.040, as now or~~  
22 ~~hereafter amended,)~~) 13.40.080, or any person or entity specially  
23 funded by the legislature to arrange and supervise diversion agreements  
24 in accordance with the requirements of this chapter;

25       (~~(9)~~) (13) "Institution" means a juvenile facility established  
26 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

27       (~~(10)~~) (14) "Juvenile," "youth," and "child" mean any individual  
28 who is under the chronological age of eighteen years and who has not  
29 been previously transferred to adult court;

30       (~~(11)~~) (15) "Juvenile offender" means any juvenile who has been  
31 found by the juvenile court to have committed an offense, including a  
32 person eighteen years of age or older over whom jurisdiction has been  
33 extended under RCW 13.40.300;

34       (~~(12)~~) (16) "Manifest injustice" means a disposition that would  
35 either impose an excessive penalty on the juvenile or would impose a  
36 serious, and clear danger to society in light of the purposes of this  
37 chapter;

1       (~~(13)~~) (17) "Middle offender" means a person who has committed an  
2 offense and who is neither a minor or first offender nor a serious  
3 offender;

4       (~~(14)~~) (18) "Minor or first offender" means a person sixteen  
5 years of age or younger whose current offense(s) and criminal history  
6 fall entirely within one of the following categories:

7       (a) Four misdemeanors;

8       (b) Two misdemeanors and one gross misdemeanor;

9       (c) One misdemeanor and two gross misdemeanors;

10      (d) Three gross misdemeanors;

11      (e) One class C felony except manslaughter in the second degree and  
12 one misdemeanor or gross misdemeanor;

13      (f) One class B felony except: Any felony which constitutes an  
14 attempt to commit a class A felony; manslaughter in the first degree;  
15 assault in the second degree; extortion in the first degree; indecent  
16 liberties; kidnapping in the second degree; robbery in the second  
17 degree; burglary in the second degree; residential burglary; vehicular  
18 homicide; or arson in the second degree.

19      For purposes of this definition, current violations shall be  
20 counted as misdemeanors;

21      (~~(15)~~) (19) "Offense" means an act designated a violation or a  
22 crime if committed by an adult under the law of this state, under any  
23 ordinance of any city or county of this state, under any federal law,  
24 or under the law of another state if the act occurred in that state;

25      (~~(16)~~) (20) "Respondent" means a juvenile who is alleged or  
26 proven to have committed an offense;

27      (~~(17)~~) (21) "Restitution" means financial reimbursement by the  
28 offender to the victim, and shall be limited to easily ascertainable  
29 damages for injury to or loss of property, actual expenses incurred for  
30 medical treatment for physical injury to persons, lost wages resulting  
31 from physical injury, and costs of the victim's counseling reasonably  
32 related to the offense if the offense is a sex offense. Restitution  
33 shall not include reimbursement for damages for mental anguish, pain  
34 and suffering, or other intangible losses. Nothing in this chapter  
35 shall limit or replace civil remedies or defenses available to the  
36 victim or offender;

37      (~~(18)~~) (22) "Secretary" means the secretary of the department of  
38 social and health services;

1       (~~(19)~~) (23) "Services" mean services which provide alternatives  
2 to incarceration for those juveniles who have pleaded or been  
3 adjudicated guilty of an offense or have signed a diversion agreement  
4 pursuant to this chapter;

5       (~~(20)~~) (24) "Sex offense" means an offense defined as a sex  
6 offense in RCW 9.94A.030;

7       (~~(21)~~) (25) "Sexual motivation" means that one of the purposes  
8 for which the respondent committed the offense was for the purpose of  
9 his or her sexual gratification;

10       (~~(22)~~) (26) "Foster care" means temporary physical care in a  
11 foster family home or group care facility as defined in RCW 74.15.020  
12 and licensed by the department, or other legally authorized care;

13       (~~(23)~~) (27) "Violation" means an act or omission, which if  
14 committed by an adult, must be proven beyond a reasonable doubt, and is  
15 punishable by sanctions which do not include incarceration.

16       NEW SECTION. Sec. 2. A new section is added to chapter 71.34 RCW  
17 to read as follows:

18       Whenever a county-designated mental health professional makes a  
19 determination under RCW 71.34.050 that a minor, thirteen years or  
20 older, does not meet the criteria for an involuntary detention at an  
21 evaluation and treatment facility, the county-designated mental health  
22 professional shall:

23       (1) Provide written notice to the minor's parent of the parent's  
24 right to file petitions and obtain services available under chapter  
25 13.32A RCW;

26       (2) Provide a written evaluation to the minor's parent detailing  
27 the county-designated mental health professional's reasons for not  
28 detaining the minor at an evaluation and treatment facility. The  
29 evaluation shall include the specific facts investigated, the  
30 credibility of the person or persons providing the information, and the  
31 criteria for an involuntary detention; and

32       (3) Refer the minor and the parents to other available services.

33       NEW SECTION. Sec. 3. A new section is added to chapter 70.96A RCW  
34 to read as follows:

35       Whenever a county-designated chemical dependency specialist makes  
36 a determination under RCW 70.96A.140 that a minor does not meet the

1 criteria for a commitment to a chemical dependency program, the county-  
2 designated chemical dependency specialist shall:

3 (1) Provide written notice to the minor's parent of the parent's  
4 right to file petitions and obtain services available under chapter  
5 13.32A RCW; and

6 (2) Refer the minor and the parents to other available services.

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

9 The department shall within existing funds collect such data as may  
10 be necessary to monitor any disparity in processing or disposing of  
11 cases involving juvenile offenders due to economic, gender, geographic,  
12 or racial factors that may result from implementation of section 1,  
13 chapter . . . , Laws of 1993 (section 1 of this act). Beginning  
14 December 1, 1993, the department shall report annually to the  
15 legislature on economic, gender, geographic, or racial  
16 disproportionality in the rates of arrest, detention, trial, treatment,  
17 and disposition in the state's juvenile justice system. The report  
18 shall cover the preceding calendar year. The annual report shall  
19 identify the causes of such disproportionality and shall specifically  
20 point out any economic, gender, geographic, or racial  
21 disproportionality resulting from implementation of section 1, chapter  
22 . . . , Laws of 1993 (section 1 of this act).

23 NEW SECTION. **Sec. 5.** 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. 6.** Sections 2 and 3 of this act shall take  
28 effect July 1, 1994."

29 **ESHB 1198** - S COMM AMD  
30 By Committee on Law & Justice

31 ADOPTED 4/15/93

32 On page 1, line 2 of the title, after "force;" strike the remainder  
33 of the title and insert "amending RCW 13.40.020; adding a new section  
34 to chapter 71.34 RCW; adding a new section to chapter 70.96A RCW;

1 adding a new section to chapter 13.40 RCW; and providing an effective  
2 date."

--- END ---