

1 2319-S2.E AMS LUDW S5707.2

2 **E2SHB 2319** - S AMD TO S AMD (S-5375.4/94) - 480  
3 By Senators Ludwig and Franklin

4

5 On page 60, beginning on line 27 of the amendment, strike all of  
6 sections 437 through 443

7 Renumber the sections consecutively and correct any internal  
8 references accordingly.

9 **E2SHB 2319** - S AMD TO S AMD (S-5375.4/94)  
10 By Senator

11

12 On page 139, beginning on line 21 of the amendment, strike all of  
13 section 514

14 Renumber the sections consecutively and correct any internal  
15 references accordingly.

16 **E2SHB 2319** - S AMD TO S AMD (S-5375.4/94)  
17 By Senator

18

19 On page 151, after line 6 of the amendment, insert the following:

20 **"PART VII. JUVENILE JUSTICE PROVISIONS, EFFECTIVE JULY 1, 1994**

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

25 The current system lacks adequate bed space, adequate population  
26 forecasting, an effective sentencing scheme, an appropriate inmate  
27 classification system, and sufficient judicial discretion in sentencing  
28 young offenders.

1        These defects have often resulted in sentences that are driven by  
2 fiscal policy, and not by rehabilitative or punitive principles; and  
3        Washington must develop a juvenile offender rehabilitation system  
4 that truly emphasizes public safety, offender responsibility, and  
5 offender rehabilitation.

6        **Sec. 702.** RCW 13.50.010 and 1993 c 374 s 1 are each amended to  
7 read as follows:

8        (1) For purposes of this chapter:

9        (a) "Juvenile justice or care agency" means any of the following:  
10 Police, diversion units, court, prosecuting attorney, defense attorney,  
11 detention center, attorney general, the department of social and health  
12 services and its contracting agencies, schools, juvenile justice  
13 advisory committees of county law and justice councils; and, in  
14 addition, persons or public or private agencies having children  
15 committed to their custody;

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

19        (c) "Social file" means the juvenile court file containing the  
20 records and reports of the (~~probation~~) community supervision  
21 counselor;

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

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

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

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

37        (b) An agency shall take reasonable steps to (~~insure~~) assure the  
38 security of its records and prevent tampering with them; and

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

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

7 (5) Any person who has reasonable cause to believe information  
8 concerning that person is included in the records of a juvenile justice  
9 or care agency and who has been denied access to those records by the  
10 agency may make a motion to the court for an order authorizing that  
11 person to inspect the juvenile justice or care agency record concerning  
12 that person. The court shall grant the motion to examine records  
13 unless it finds that in the interests of justice or in the best  
14 interests of the juvenile the records or parts of them should remain  
15 confidential.

16 (6) A juvenile, or his or her parents, or any person who has  
17 reasonable cause to believe information concerning that person is  
18 included in the records of a juvenile justice or care agency may make  
19 a motion to the court challenging the accuracy of any information  
20 concerning the moving party in the record or challenging the continued  
21 possession of the record by the agency. If the court grants the  
22 motion, it shall order the record or information to be corrected or  
23 destroyed.

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

28 (8) The court may permit inspection of records by, or release of  
29 information to, any clinic, hospital, or agency which has the subject  
30 person under care or treatment, or to individuals or agencies engaged  
31 in legitimate research for educational, scientific, or public purposes,  
32 including juvenile justice advisory committees of county law and  
33 justice councils. The court may also permit inspection of, or release  
34 of information from, records which have been sealed pursuant to RCW  
35 13.50.050(11). Access to records or information for research purposes  
36 shall be permitted only if the anonymity of all persons mentioned in  
37 the records or information will be preserved. Each person granted  
38 permission to inspect juvenile justice or care agency records for  
39 research purposes shall present a notarized statement to the court

1 stating that the names of juveniles and parents will remain  
2 confidential.

3 (9) Juvenile detention facilities shall release records to the  
4 juvenile disposition standards commission under RCW 13.40.025 upon  
5 request. The commission shall not disclose the names of any juveniles  
6 or parents mentioned in the records without the named individual's  
7 written permission.

8 **Sec. 703.** RCW 72.09.300 and 1993 sp.s. c 21 s 8 are each amended  
9 to read as follows:

10 (1) Every county legislative authority shall by resolution or  
11 ordinance establish a local law and justice council. The county  
12 legislative authority shall determine the size and composition of the  
13 council, which shall include the county sheriff and a representative of  
14 the municipal police departments within the county, the county  
15 prosecutor and a representative of the municipal prosecutors within the  
16 county, a representative of the city legislative authorities within the  
17 county, a representative of the county's superior, juvenile, district,  
18 and municipal courts, the county jail administrator, the county clerk,  
19 the county risk manager, and the secretary of corrections. Officials  
20 designated may appoint representatives.

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

24 (3) The local law and justice council shall develop a local law and  
25 justice plan for the county. The council shall design the elements and  
26 scope of the plan, subject to final approval by the county legislative  
27 authority. The general intent of the plan shall include seeking means  
28 to maximize local resources including personnel and facilities, reduce  
29 duplication of services, and share resources between local and state  
30 government in order to accomplish local efficiencies without  
31 diminishing effectiveness. The plan shall also include a section on  
32 jail management. This section may include the following elements:

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

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

36 (c) A description of current jail resources;

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

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

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

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

8 (h) A proposed plan to collect, synthesize, and disseminate  
9 technical information concerning local criminal justice activities,  
10 facilities, and procedures;

11 (i) A description of existing and potential services for offenders  
12 including employment services, substance abuse treatment, mental health  
13 services, and housing referral services.

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

17 (5) The county legislative authority may request technical  
18 assistance in developing or implementing the plan from other units or  
19 agencies of state or local government, which shall include the  
20 department, the office of financial management, and the Washington  
21 association of sheriffs and police chiefs.

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

24 (7) The secretary may adopt rules for the submittal, review, and  
25 approval of all requests for assistance made to the department. The  
26 secretary may also appoint an advisory committee of local and state  
27 government officials to recommend policies and procedures relating to  
28 the state and local correctional systems and to assist the department  
29 in providing technical assistance to local governments. The committee  
30 shall include representatives of the county sheriffs, the police  
31 chiefs, the county prosecuting attorneys, the county and city  
32 legislative authorities, and the jail administrators. The secretary  
33 may contract with other state and local agencies and provide funding in  
34 order to provide the assistance requested by counties.

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

1       (9) The council shall establish an advisory committee on juvenile  
2 justice proportionality. The council shall appoint the county juvenile  
3 court administrator and at least five citizens as advisory committee  
4 members. The citizen advisory committee members shall be  
5 representative of the county's ethnic and geographic diversity. The  
6 advisory committee members shall serve two-year terms and may be  
7 reappointed. The duties of the advisory committee include:

8       (a) Monitoring and reporting to the juvenile disposition standards  
9 commission on the proportionality, effectiveness, and cultural  
10 relevance of:

11       (i) The rehabilitative goals required by juvenile offender  
12 dispositions;

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

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

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

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

22       NEW SECTION. Sec. 704. (1) The office of the administrator for  
23 the courts shall convene a work group to recommend to the legislature  
24 standards to guide the court's discretion at significant stages of the  
25 juvenile justice process. The work group shall consist of two juvenile  
26 court judges, two juvenile court administrators, two prosecuting  
27 attorneys or deputy prosecuting attorneys actively practicing in  
28 juvenile court, and two defense attorneys actively practicing in  
29 juvenile court. The work group shall, by September 1, 1994, recommend  
30 to the appropriate committees of the legislature standards to guide:

31       (a) The decision to defer adjudication;

32       (b) The decision to suspend a sentence;

33       (c) The setting of rehabilitative goals in a disposition order that  
34 includes commitment to the department of social and health services;

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

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

3 (2) The office of the administrator for the courts shall convene a  
4 work group of at least five juvenile court administrators to establish  
5 a state-wide uniform process for conducting the predisposition  
6 evaluation required by section 803, chapter . . . , Laws of 1994  
7 (section 803 of this act).

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

11 **Sec. 705.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to  
12 read as follows:

13 For the purposes of this chapter:

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

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

18 (b) Manslaughter in the first degree; or

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

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

31 (3) "Community supervision" means an order of disposition by the  
32 court of an adjudicated youth not committed to the department and an  
33 order granting a deferred adjudication pursuant to section 712 of this  
34 act. A community supervision order for a single offense may be for a  
35 period of up to two years for a sex offense as defined by RCW 9.94A.030  
36 and up to one year for other offenses. As a mandatory condition of any  
37 term of community supervision, the court shall order the juvenile to  
38 refrain from committing new offenses. As a mandatory condition of

1 community supervision, the court shall order the juvenile to comply  
2 with the mandatory school attendance provisions of chapter 28A.225 RCW  
3 and to inform the school of the existence of this requirement.

4 Community supervision is an individualized program comprised of one or  
5 more of the following:

6 (a) Community-based sanctions;

7 (b) Community-based rehabilitation;

8 (c) Monitoring and reporting requirements;

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

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

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

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

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

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



1 electronic monitoring. Detention group homes and detention foster  
2 homes used for confinement shall not also be used for the placement of  
3 dependent children. Confinement in detention group homes and detention  
4 foster homes and electronic monitoring are subject to available funds;

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

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

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

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

19 (10) "Department" means the department of social and health  
20 services;

21 (11) "Detention facility" means a county facility for the physical  
22 confinement of a juvenile alleged to have committed an offense or an  
23 adjudicated offender subject to a disposition or modification order;

24 (12) "Diversion unit" means any ((probation)) community supervision  
25 counselor who enters into a diversion agreement with an alleged  
26 youthful offender, or any other person, community accountability board,  
27 or other entity except a law enforcement official or entity, with whom  
28 the juvenile court administrator has contracted to arrange and  
29 supervise such agreements pursuant to RCW 13.40.080, or any person,  
30 community accountability board, or other entity specially funded by the  
31 legislature to arrange and supervise diversion agreements in accordance  
32 with the requirements of this chapter. For purposes of this  
33 subsection, "community accountability board" means a board comprised of  
34 members of the local community in which the juvenile offender resides.  
35 The superior court shall appoint the members. The boards shall consist  
36 of at least three and not more than seven members. If possible, the  
37 board should include a variety of representatives from the community,  
38 such as a law enforcement officer, teacher or school administrator,

1 high school student, parent, and business owner, and should represent  
2 the cultural diversity of the local community;

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

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

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

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

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

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

23 (a) Four misdemeanors;

24 (b) Two misdemeanors and one gross misdemeanor;

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

26 (d) Three gross misdemeanors(~~(;~~

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

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

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

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

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

3 (20) "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 (21) "Respondent" means a juvenile who is alleged or proven to have  
8 committed an offense;

9 (~~(21)~~) (22) "Restitution" means financial reimbursement by the  
10 offender to the victim, and shall be limited to easily ascertainable  
11 damages for injury to or loss of property, actual expenses incurred for  
12 medical treatment for physical injury to persons, lost wages resulting  
13 from 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)~~) (23) "Secretary" means the secretary of the department of  
20 social and health services;

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

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

27 (~~(25)~~) (26) "Sexual motivation" means that one of the purposes  
28 for which the respondent committed the offense was for the purpose of  
29 his or her sexual gratification;

30 (~~(26)~~) (27) "Foster care" means temporary physical care in a  
31 foster family home or group care facility as defined in RCW 74.15.020  
32 and licensed by the department, or other legally authorized care;

33 (~~(27)~~) (28) "Violation" means an act or omission, which if  
34 committed by an adult, must be proven beyond a reasonable doubt, and is  
35 punishable by sanctions which do not include incarceration.

36 **Sec. 706.** RCW 13.40.025 and 1986 c 288 s 8 are each amended to  
37 read as follows:

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

5 (2) The commission shall be composed of the secretary or the  
6 secretary's designee and the following ~~((nine))~~ members appointed by  
7 the governor, subject to confirmation by the senate: (a) ~~((A))~~ Two  
8 superior court judges; (b) ~~((a))~~ two prosecuting ~~((attorney))~~ or deputy  
9 prosecuting attorneys; (c) a law enforcement officer; (d) an  
10 administrator of juvenile court services; (e) ~~((a))~~ two public  
11 defenders actively practicing in juvenile court; (f) a county  
12 legislative official or county executive; and (g) three other persons  
13 who have demonstrated significant interest in the adjudication and  
14 disposition of juvenile offenders. Additionally, the speaker of the  
15 house of representatives and the president of the senate shall each  
16 appoint two nonvoting members to the commission, one from each of the  
17 two largest caucuses in each house. In making the appointments, the  
18 governor shall seek the recommendations of the association of superior  
19 court judges in respect to the members who ~~((is a))~~ are superior court  
20 judges; of Washington prosecutors in respect to the prosecuting  
21 ~~((attorney))~~ or deputy prosecuting attorney members; of the Washington  
22 association of sheriffs and police chiefs in respect to the member who  
23 is a law enforcement officer; of juvenile court administrators in  
24 respect to the member who is a juvenile court administrator; and of the  
25 state bar association in respect to the public defender member; and of  
26 the Washington association of counties in respect to the member who is  
27 either a county legislative official or county executive.

28 (3) The ~~((secretary or the secretary's designee))~~ governor shall  
29 ~~((serve as chairman))~~ designate the chair of the commission, who shall  
30 be neither the secretary nor the secretary's designee.

31 (4) The secretary shall serve on the commission during the  
32 secretary's tenure as secretary of the department. The term of the  
33 remaining members of the commission shall be three years. The initial  
34 terms shall be determined by lot conducted at the commission's first  
35 meeting as follows: (a) Four members shall serve ~~((a two-year))~~ one-  
36 year terms; ~~((and))~~ (b) four members shall serve ~~((a three-year))~~ two-  
37 year term; and (c) six members shall serve three-year terms. In the  
38 event of a vacancy, the appointing authority shall designate a new  
39 member to complete the remainder of the unexpired term.

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

4 (6) The commission shall meet at least once every three months.

5 **Sec. 707.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to  
6 read as follows:

7 (1) It is the responsibility of the commission to:

8 (a)(i) Evaluate the effectiveness of existing disposition standards  
9 and related statutes in implementing policies set forth in RCW  
10 13.40.010 generally(~~(7)~~);

11 (ii) (~~specifically~~) Review (~~the guidelines relating to the~~  
12 ~~confinement of minor and first offenders as well as~~) the use of  
13 diversion, (~~and~~) deferred adjudications, suspended confinement or  
14 commitment, and out of home placements;

15 (iii) Review the application of current and proposed juvenile  
16 sentencing standards and guidelines for potential adverse impacts on  
17 the sentencing outcomes of racial and ethnic minority youth; and

18 (iv) Evaluate the effectiveness of existing disposition standards  
19 in light of juvenile offenders' rehabilitative needs;

20 (b) Solicit the comments and suggestions of the juvenile justice  
21 community, including juvenile justice advisory committees of local law  
22 and justice councils, concerning disposition standards, effectiveness,  
23 and proportionality; (~~and~~)

24 (c) Make recommendations to the legislature regarding revisions or  
25 modifications of the disposition standards (~~in accordance with RCW~~  
26 13.40.030));

27 (d) Implement a comprehensive tracking program to analyze  
28 recidivism among juvenile offenders, particularly among offenders who  
29 receive alternatives such as diversion, deferred adjudication, and  
30 suspended confinement or commitment. The commission shall include  
31 information and statistics about juvenile recidivism in the  
32 commission's annual report;

33 (e) If the commission identifies racial or other  
34 disproportionalities at any stage of administration of juvenile  
35 justice, identify the disproportionalities in the annual report and  
36 make recommendations for corrective measures; and

37 (f) Review the instances in which the court enters a finding  
38 pursuant to RCW 13.40.160(9) that the court has declined to exercise a

1 disposition option due to lack of funds, services, or bed space. The  
2 commission shall document the number and circumstances of these  
3 findings in its annual report.

4 The evaluations shall be submitted to the legislature on December  
5 1 of each (~~even-numbered~~) year (~~thereafter~~).

6 (2)(a) If sufficient funds are not provided for (b) of this  
7 subsection, it is the responsibility of the department to: (~~(a)~~) (i)  
8 Provide the commission with available data concerning the  
9 implementation of the disposition standards and related statutes and  
10 their effect on the performance of the department's responsibilities  
11 relating to juvenile offenders; (~~(b)~~) (ii) at the request of the  
12 commission, provide technical and administrative assistance to the  
13 commission in the performance of its responsibilities; and (~~(c)~~)  
14 (iii) provide the commission and legislature with recommendations for  
15 modification of the disposition standards.

16 (b) If sufficient funds are provided for this subsection (2)(b),  
17 the commission may use the staff, resources, and executive officer of  
18 the sentencing guidelines commission. The office of financial  
19 management may determine the number of additional staff needed to  
20 supplement the staff of the sentencing guidelines commission in order  
21 to provide the juvenile disposition standards commission with a  
22 research staff of sufficient size and with sufficient resources to  
23 accomplish its duties.

24 (3) The commission may request from the office of financial  
25 management, the administrator for the courts, local law and justice  
26 councils, and the department such data, information, and data  
27 processing assistance as it may need to accomplish its duties, and the  
28 services shall be provided without cost to the commission. The  
29 department and other organizations or individuals shall provide the  
30 commission and the legislature with recommendations for modification of  
31 the disposition standards. The commission shall have rule-making  
32 authority to develop a system for fulfilling its identified data needs.

33 (4) The commission shall conduct a study to determine the capacity  
34 of rehabilitative facilities and programs that are or will be  
35 available. While the commission need not consider the capacity in  
36 arriving at its recommendations, the commission shall project whether  
37 the implementation of its recommendations would result in exceeding the  
38 capacity.

39 (5) The commission shall adopt its own bylaws.

1        NEW SECTION.    **Sec. 708.**    The office of the administrator for the  
2 courts, in conjunction with the juvenile disposition standards  
3 commission and the juvenile justice advisory committees of local law  
4 and justice councils, shall prepare and provide to the legislature a  
5 report on the use of disposition options such as diversion, deferred  
6 adjudication, suspended confinement, and out-of-home placements, as  
7 provided in chapter . . . , Laws of 1994 (this act). This report shall  
8 be provided prior to the 1995 regular legislative session, and it shall  
9 contain statistical information and analysis of the use of these  
10 disposition options as of the date of the report.

11        **Sec. 709.**    RCW 13.40.030 and 1989 c 407 s 3 are each amended to  
12 read as follows:

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

34        (~~(b))~~) The secretary shall submit guidelines pertaining to the  
35 nature of the security to be imposed on youth placed in his or her  
36 custody based on the age, offense(s), and criminal history of the  
37 juvenile offender. Such guidelines shall be submitted to the  
38 appropriate committees of the legislature for its review no later than

1 November 1st of each year. At the same time the secretary shall submit  
2 a report on security at juvenile facilities during the preceding year.  
3 The report shall include the number of escapes from each juvenile  
4 facility, the most serious offense for which each escapee had been  
5 confined, the number and nature of offenses found to have been  
6 committed by juveniles while on escape status, the number of authorized  
7 leaves granted, the number of failures to comply with leave  
8 requirements, the number and nature of offenses committed while on  
9 leave, and the number and nature of offenses committed by juveniles  
10 while in the community on minimum security status; to the extent this  
11 information is available to the secretary. The department shall  
12 include security status definitions in the security guidelines it  
13 submits to the legislature pursuant to this section.

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

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

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

23 ~~(c) Where the maximum term in the range is more than one year, the~~  
24 ~~minimum term in the range may be no less than eighty percent of the~~  
25 ~~maximum term in the range.))~~

26 **Sec. 710.** RCW 13.40.070 and 1992 c 205 s 107 are each amended to  
27 read as follows:

28 (1) Complaints referred to the juvenile court alleging the  
29 commission of an offense shall be referred directly to the prosecutor.  
30 The prosecutor, upon receipt of a complaint, shall screen the complaint  
31 to determine whether:

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

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

36 (2) If the identical alleged acts constitute an offense under both  
37 the law of this state and an ordinance of any city or county of this



1 state, state law shall govern the prosecutor's screening and charging  
2 decision for both filed and diverted cases.

3 (3) If the requirements of subsections (1) (a) and (b) of this  
4 section are met, the prosecutor shall either file an information in  
5 juvenile court or divert the case, as set forth in subsections (5),  
6 (6), and (7) of this section. If the prosecutor finds that the  
7 requirements of subsection (1) (a) and (b) of this section are not met,  
8 the prosecutor shall maintain a record, for one year, of such decision  
9 and the reasons therefor. In lieu of filing an information or  
10 diverting an offense a prosecutor may file a motion to modify community  
11 supervision where such offense constitutes a violation of community  
12 supervision.

13 (4) An information shall be a plain, concise, and definite written  
14 statement of the essential facts constituting the offense charged. It  
15 shall be signed by the prosecuting attorney and conform to chapter  
16 10.37 RCW.

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

19 (a) An alleged offender is accused of a class A felony, a class B  
20 felony, an attempt to commit a class B felony, a class C felony listed  
21 in RCW 9.94A.440(2) as a crime against persons or listed in RCW  
22 9A.46.060 as a crime of harassment, or any other offense listed in RCW  
23 13.40.020(1) (b) or (c); or

24 (b) An alleged offender is accused of a felony and has a criminal  
25 history of ~~((at least one class A or class B felony, or two class C~~  
26 ~~felonies)) any felony, or at least two gross misdemeanors, or at least  
27 two misdemeanors ~~((and one additional misdemeanor or gross misdemeanor,~~  
28 ~~or at least one class C felony and one misdemeanor or gross~~  
29 ~~misdemeanor)); or~~~~

30 (c) An alleged offender has previously been committed to the  
31 department; or

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

34 (e) An alleged offender has ~~((three))~~ two or more diversion~~((s))~~  
35 contracts on the alleged offender's criminal history.

36 (6) Where a case is legally sufficient the prosecutor shall divert  
37 the case if the alleged offense is a misdemeanor or gross misdemeanor  
38 or violation and the alleged ~~((offense(s) in combination with the~~  
39 ~~alleged offender's criminal history do not exceed two offenses or~~

1 ~~violations and do not include any felonies: PROVIDED, That))~~ offense  
2 is the offender's first offense or violation. If the alleged offender  
3 is charged with a related offense that must or may be filed under  
4 subsections (5) and (7) of this section, a case under this subsection  
5 may also be filed.

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

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

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

27 (10) The prosecutor, juvenile court (~~probation~~) community  
28 supervision counselor, or diversion unit may, in exercising their  
29 authority under this section or RCW 13.40.080, refer juveniles to  
30 mediation or victim offender reconciliation programs. Such mediation  
31 or victim offender reconciliation programs shall be voluntary for  
32 victims.

33 **Sec. 711.** RCW 13.40.080 and 1992 c 205 s 108 are each amended to  
34 read as follows:

35 (1) A diversion agreement shall be a contract between a juvenile  
36 accused of an offense and a diversionary unit whereby the juvenile  
37 agrees to fulfill certain conditions in lieu of prosecution. The  
38 juvenile's custodial parent or parents or guardian shall be parties to

1 the diversion agreement. Such agreements may be entered into only  
2 after the prosecutor, or ((~~probation~~)) community supervision counselor  
3 pursuant to this chapter, has determined that probable cause exists to  
4 believe that a crime has been committed and that the juvenile committed  
5 it. Such agreements shall be entered into as expeditiously as  
6 possible.

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

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

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

14 (c) Attendance at up to ten hours of counseling and/or up to twenty  
15 hours of educational or informational sessions at a community agency(~~(+~~  
16 ~~PROVIDED, That~~)). The state shall not be liable for costs resulting  
17 from the diversionary unit exercising the option to permit diversion  
18 agreements to mandate attendance at up to ten hours of counseling and/  
19 or up to twenty hours of educational or informational sessions; ((and))

20 (d) A fine, not to exceed one hundred dollars. In determining the  
21 amount of the fine, the diversion unit shall consider only the  
22 juvenile's financial resources and whether the juvenile has the means  
23 to pay the fine. The diversion unit shall not consider the financial  
24 resources of the juvenile's parents, guardian, or custodian in  
25 determining the fine to be imposed; and

26 (e) Requirements to remain during specified hours at home, school,  
27 or work, and restrictions on leaving or entering specified geographical  
28 areas.

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

38 (4) A diversion agreement may not exceed a period of six months and  
39 may include a period extending beyond the eighteenth birthday of the

1 divertee. Any restitution assessed during its term may not exceed an  
2 amount which the juvenile could be reasonably expected to pay during  
3 this period. If additional time is necessary for the juvenile to  
4 complete restitution to the victim, the time period limitations of this  
5 subsection may be extended by an additional six months.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 The juvenile shall be advised that a diversion agreement shall  
16 constitute a part of the juvenile's criminal history as defined by RCW  
17 13.40.020(9) (~~as now or hereafter amended~~). A signed acknowledgment  
18 of such advisement shall be obtained from the juvenile, and the  
19 document shall be maintained by the diversionary unit together with the  
20 diversion agreement, and a copy of both documents shall be delivered to  
21 the prosecutor if requested by the prosecutor. The supreme court shall  
22 promulgate rules setting forth the content of such advisement in simple  
23 language.

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

- 27 (a) The fact that a charge or charges were made;
- 28 (b) The fact that a diversion agreement was entered into;
- 29 (c) The juvenile's obligations under such agreement;
- 30 (d) Whether the alleged offender performed his or her obligations  
31 under such agreement; and
- 32 (e) The facts of the alleged offense.

33 (12) A diversionary unit may refuse to enter into a diversion  
34 agreement with a juvenile. When a diversionary unit refuses to enter  
35 a diversion agreement with a juvenile, it shall immediately refer such  
36 juvenile to the court for action and shall forward to the court the  
37 criminal complaint and a detailed statement of its reasons for refusing  
38 to enter into a diversion agreement. The diversionary unit shall also

1 immediately refer the case to the prosecuting attorney for action if  
2 such juvenile violates the terms of the diversion agreement.

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

28 (14) A diversion unit may supervise the fulfillment of a diversion  
29 agreement entered into before the juvenile's eighteenth birthday and  
30 which includes a period extending beyond the diverttee's eighteenth  
31 birthday.

32 (15) If a fine required by a diversion agreement cannot reasonably  
33 be paid due to a change of circumstance, the diversion agreement may be  
34 modified at the request of the diverttee and with the concurrence of the  
35 diversion unit to convert an unpaid fine into community service. The  
36 modification of the diversion agreement shall be in writing and signed  
37 by the diverttee and the diversion unit. The number of hours of  
38 community service in lieu of a monetary penalty shall be converted at  
39 the rate of the prevailing state minimum wage per hour.

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

8 NEW SECTION. **Sec. 712.** A new section is added to chapter 13.40  
9 RCW to read as follows:

10 (1) At any time before adjudication, the juvenile court has the  
11 power, after consulting the juvenile's custodial parent or parents or  
12 guardian and with the consent of the juvenile, to continue the case for  
13 a period not to exceed one year from the date of entry of the plea or  
14 finding of guilt. The court may continue the case for an additional  
15 one-year period for good cause.

16 (2) Any juvenile granted a deferral of adjudication under this  
17 section shall be placed under community supervision for up to one year.  
18 The court may impose any conditions of supervision that it deems  
19 appropriate. Payment of restitution, as provided in RCW 13.40.190  
20 shall also be a condition of community supervision under this section.

21 (3) Upon full compliance with such conditions of supervision, the  
22 court shall dismiss the case with prejudice.

23 (4) If the juvenile fails to comply with the terms of supervision,  
24 the court shall enter an order of adjudication and proceed to  
25 disposition. The juvenile's lack of compliance shall be determined by  
26 the judge upon written motion by the prosecutor or the juvenile's  
27 juvenile court community supervision counselor. The state shall bear  
28 the burden to prove by a preponderance of the evidence that the  
29 juvenile has failed to comply with the terms of community supervision.

30 (5) If the juvenile agrees to a deferral of adjudication, the  
31 juvenile shall waive all rights:

32 (a) To a speedy trial and disposition;

33 (b) To call and confront witnesses; and

34 (c) To a hearing on the record. The adjudicatory hearing shall be  
35 limited to a reading of the court's record.

36 (6)(a) In addition to imposing conditions of community supervision,  
37 the court may order that the juvenile be placed in a placement out of  
38 the home if the court finds that the child is in need of supervision

1 and that placement of the child out of the home is in the child's best  
2 interests. The court shall consider the following factors, among  
3 others, when determining whether to place the child out of the home:

4 (i) The age of the youth;

5 (ii) Whether the child has a history of running away from home,  
6 school absences, drug or alcohol abuse, assaultive behavior, curfew  
7 violations, or is beyond the control of his or her parent to the extent  
8 that the child's behavior substantially endangers the health, safety,  
9 or welfare of the child or any other person;

10 (iii) The community supervision officer's report concerning the  
11 family environment;

12 (iv) Assessment of the child's chances of successfully complying  
13 with the terms of community supervision if the child remains in the  
14 home; and

15 (v) The wishes of the parents, the parent's willingness and ability  
16 to assist the child in complying with the terms of community  
17 supervision, and the parent's willingness and ability to voluntarily  
18 attend counseling or parenting seminars, or to seek treatment if the  
19 parent, in the court's determination, has drug or alcohol problems,  
20 mental health problems, or anger management problems.

21 (b) If the court finds that placement out of the home is necessary  
22 and is in the best interests of the juvenile and community and that  
23 reasonable efforts have been made to prevent out-of-home placement, the  
24 court shall order an out-of-home placement, subject to available funds  
25 and beds. The order shall be directed to the receiving agency or  
26 person. In determining the location of the out-of-home placement the  
27 court shall consider the needs of the juvenile, the juvenile's family,  
28 and the community. The court shall first consider placement with a  
29 relative and shall accord great weight to the juvenile's community  
30 supervision officer's placement recommendation.

31 (c) A placement out of the home shall not exceed one year. The  
32 court shall review the placement every ninety days. The juvenile's  
33 community supervision officer shall request from the receiving agency  
34 or person information on the placement, and the community supervision  
35 officer shall include this information and other relevant information  
36 in a report to be presented to the court at the placement review. The  
37 review shall be conducted administratively.

38 (d) The court shall enter findings articulating the basis for the  
39 placement and the basis for selecting the particular placement.



1 (e) If the receiving agency or person determines that the juvenile  
2 is inappropriately placed, the agency or person may file with the court  
3 a petition for reconsideration.

4 (f) Nothing in this section authorizes a juvenile court judge to  
5 place a juvenile in a state-funded out of home placement unless the  
6 department agrees to the placement.

7 (7) This section shall not apply if the juvenile is charged with a  
8 violent or sex offense or if the juvenile has had a prior deferred  
9 adjudication.

10 NEW SECTION. **Sec. 713.** State funds appropriated for the purposes  
11 of section 712 of this act in the 1994 supplemental operating budget do  
12 not constitute an on-going funding commitment of the state.

13 **Sec. 714.** RCW 13.40.0357 and 1989 c 407 s 7 are each amended to  
14 read as follows:

15 SCHEDULE A

16 DESCRIPTION AND OFFENSE CATEGORY

17			JUVENILE
18	JUVENILE		DISPOSITION
19	DISPOSITION		CATEGORY FOR ATTEMPT,
20	OFFENSE		BAILJUMP, CONSPIRACY,
21	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
22	.....	.....	.....

23		Arson and Malicious Mischief	
24	A	Arson 1 (9A.48.020)	B+
25	B	Arson 2 (9A.48.030)	C
26	C	Reckless Burning 1 (9A.48.040)	D
27	D	Reckless Burning 2 (9A.48.050)	E
28	B	Malicious Mischief 1 (9A.48.070)	C
29	C	Malicious Mischief 2 (9A.48.080)	D
30	D	Malicious Mischief 3 (<\$50 is	
31		E class) (9A.48.090)	E
32	E	Tampering with Fire Alarm	
33		Apparatus (9.40.100)	E
34	A	Possession of Incendiary Device	
35		(9.40.120)	B+

1		Assault and Other Crimes	
2		Involving Physical Harm	
3	A	Assault 1 (9A.36.011)	B+
4	B+	Assault 2 (9A.36.021)	C+
5	C+	Assault 3 (9A.36.031)	D+
6	D+	Assault 4 (9A.36.041)	E
7	D+	Reckless Endangerment	
8		(9A.36.050)	E
9	C+	Promoting Suicide Attempt	
10		(9A.36.060)	D+
11	D+	Coercion (9A.36.070)	E
12	C+	Custodial Assault (9A.36.100)	D+
13		Burglary and Trespass	
14	B+	Burglary 1 (9A.52.020)	C+
15	B	Burglary 2 (9A.52.030)	C
16	D	Burglary Tools (Possession of)	
17		(9A.52.060)	E
18	D	Criminal Trespass 1 (9A.52.070)	E
19	E	Criminal Trespass 2 (9A.52.080)	E
20	D	Vehicle Prowling (9A.52.100)	E
21		Drugs	
22	E	Possession/Consumption of Alcohol	
23		(66.44.270)	E
24	C	Illegally Obtaining Legend Drug	
25		(69.41.020)	D
26	C+	Sale, Delivery, Possession of Legend	
27		Drug with Intent to Sell	
28		(69.41.030)	D+
29	E	Possession of Legend Drug	
30		(69.41.030)	E
31	B+	Violation of Uniform Controlled	
32		Substances Act - Narcotic Sale	
33		(69.50.401(a)(1)(i))	B+
34	C	Violation of Uniform Controlled	
35		Substances Act - Nonnarcotic Sale	
36		(69.50.401(a)(1)(ii))	C

1	E	Possession of Marihuana <40 grams	
2		(69.50.401(e))	E
3	C	Fraudulently Obtaining Controlled	
4		Substance (69.50.403)	C
5	C+	Sale of Controlled Substance	
6		for Profit (69.50.410)	C+
7	E	<del>((Glue Sniffing (9.47A.050))</del>	E
8		<u>Unlawful Inhalation (9.47A.020)</u>	
9	B	Violation of Uniform Controlled	
10		Substances Act - Narcotic	
11		Counterfeit Substances	
12		(69.50.401(b)(1)(i))	B
13	C	Violation of Uniform Controlled	
14		Substances Act - Nonnarcotic	
15		Counterfeit Substances	
16		(69.50.401(b)(1) (ii), (iii), (iv))	C
17	C	Violation of Uniform Controlled	
18		Substances Act - Possession of a	
19		Controlled Substance	
20		(69.50.401(d))	C
21	C	Violation of Uniform Controlled	
22		Substances Act - Possession of a	
23		Controlled Substance	
24		(69.50.401(c))	C
25		Firearms and Weapons	
26	<del>((C+</del>	<del>Committing Crime when Armed</del>	
27		<del>(9.41.025)</del>	<del>D+</del>
28	<del>E</del>	<del>Carrying Loaded Pistol Without</del>	
29		<del>Permit (9.41.050)</del>	<del>E))</del>
30	E	Use of Firearms	
31		by Minor (<14)	
32		(9.41.240)	E
33	D+	Possession of Dangerous Weapon	
34		(9.41.250)	E
35	D	Intimidating Another Person by use	
36		of Weapon (9.41.270)	E

1		Homicide	
2	A+	Murder 1 (9A.32.030)	A
3	A+	Murder 2 (9A.32.050)	B+
4	B+	Manslaughter 1 (9A.32.060)	C+
5	C+	Manslaughter 2 (9A.32.070)	D+
6	B+	Vehicular Homicide (46.61.520)	C+
7		Kidnapping	
8	A	Kidnap 1 (9A.40.020)	B+
9	B+	Kidnap 2 (9A.40.030)	C+
10	C+	Unlawful Imprisonment	
11		(9A.40.040)	D+
12	<del>((D</del>	<del>Custodial Interference</del>	
13		<del>(9A.40.050)</del>	<del>E))</del>
14		Obstructing Governmental Operation	
15	E	Obstructing a Public Servant	
16		(9A.76.020)	E
17	E	Resisting Arrest (9A.76.040)	E
18	B	Introducing Contraband 1	
19		(9A.76.140)	C
20	C	Introducing Contraband 2	
21		(9A.76.150)	D
22	E	Introducing Contraband 3	
23		(9A.76.160)	E
24	B+	Intimidating a Public Servant	
25		(9A.76.180)	C+
26	B+	Intimidating a Witness	
27		(9A.72.110)	C+
28	<del>((E</del>	<del>Criminal Contempt</del>	
29		<del>(9.23.010)</del>	<del>E))</del>
30		Public Disturbance	
31	C+	Riot with Weapon (9A.84.010)	D+
32	D+	Riot Without Weapon	
33		(9A.84.010)	E
34	E	Failure to Disperse (9A.84.020)	E
35	E	Disorderly Conduct (9A.84.030)	E

1		Sex Crimes	
2	A	Rape 1 (9A.44.040)	B+
3	A-	Rape 2 (9A.44.050)	B+
4	C+	Rape 3 (9A.44.060)	D+
5	A-	Rape of a Child 1 (9A.44.073)	B+
6	B	Rape of a Child 2 (9A.44.076)	C+
7	B	Incest 1 (9A.64.020(1))	C
8	C	Incest 2 (9A.64.020(2))	D
9	D+	<del>((Public Indecency))</del> <u>Indecent Exposure</u>	
10		(Victim <14) (9A.88.010)	E
11	E	<del>((Public Indecency))</del> <u>Indecent Exposure</u>	
12		(Victim 14 or over) (9A.88.010)	E
13	B+	Promoting Prostitution 1	
14		(9A.88.070)	C+
15	C+	Promoting Prostitution 2	
16		(9A.88.080)	D+
17	E	O & A (Prostitution) (9A.88.030)	E
18	B+	Indecent Liberties (9A.44.100)	C+
19	B+	Child Molestation 1 (9A.44.083)	C+
20	C+	Child Molestation 2 (9A.44.086)	C
21		Theft, Robbery, Extortion, and Forgery	
22	B	Theft 1 (9A.56.030)	C
23	C	Theft 2 (9A.56.040)	D
24	D	Theft 3 (9A.56.050)	E
25	B	Theft of Livestock (9A.56.080)	C
26	C	Forgery ( <del>((9A.56.020))</del> ) <u>(9A.60.020)</u>	D
27	A	Robbery 1 (9A.56.200)	B+
28	B+	Robbery 2 (9A.56.210)	C+
29	B+	Extortion 1 (9A.56.120)	C+
30	C+	Extortion 2 (9A.56.130)	D+
31	B	Possession of Stolen Property 1	
32		(9A.56.150)	C
33	C	Possession of Stolen Property 2	
34		(9A.56.160)	D
35	D	Possession of Stolen Property 3	
36		(9A.56.170)	E
37	C	Taking Motor Vehicle Without	
38		Owner's Permission (9A.56.070)	D

1		Motor Vehicle Related Crimes	
2	E	Driving Without a License	
3		(46.20.021)	E
4	C	Hit and Run - Injury	
5		(46.52.020(4))	D
6	D	Hit and Run-Attended	
7		(46.52.020(5))	E
8	E	Hit and Run-Unattended	
9		(46.52.010)	E
10	C	Vehicular Assault (46.61.522)	D
11	C	Attempting to Elude Pursuing	
12		Police Vehicle (46.61.024)	D
13	E	Reckless Driving (46.61.500)	E
14	D	Driving While Under the Influence	
15		(46.61.515)	E
16	<del>((B+</del>	<del>Negligent Homicide by Motor</del>	
17		<del>Vehicle (46.61.520)</del>	<del>C+))</del>
18	D	Vehicle Prowling (9A.52.100)	E
19	C	Taking Motor Vehicle Without	
20		Owner's Permission (9A.56.070)	D
21		Other	
22	B	Bomb Threat (9.61.160)	C
23	C	Escape 1 (9A.76.110)	C
24	C	Escape 2 (9A.76.120)	C
25	D	Escape 3 (9A.76.130)	E
26	C	Failure to Appear in Court	
27		(10.19.130)	D
28	<del>((E</del>	<del>Tampering with Fire Alarm</del>	
29		<del>Apparatus (9.40.100)</del>	<del>E))</del>
30	E	Obscene, Harassing, Etc.,	
31		Phone Calls (9.61.230)	E
32	A	Other Offense Equivalent to an	
33		Adult Class A Felony	B+
34	B	Other Offense Equivalent to an	
35		Adult Class B Felony	C
36	C	Other Offense Equivalent to an	
37		Adult Class C Felony	D

1 D Other Offense Equivalent to an  
 2 Adult Gross Misdemeanor E  
 3 E Other Offense Equivalent to an  
 4 Adult Misdemeanor E  
 5 V Violation of Order of Restitution,  
 6 Community Supervision, or  
 7 Confinement (13.40.200) V

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

10 1st escape or attempted escape during 12-month period - 4 weeks  
 11 confinement  
 12 2nd escape or attempted escape during 12-month period - 8 weeks  
 13 confinement  
 14 3rd and subsequent escape or attempted escape during 12-month  
 15 period - 12 weeks confinement

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

18 SCHEDULE B  
 19 PRIOR OFFENSE INCREASE FACTOR

20 For use with all CURRENT OFFENSES occurring on or after July 1,  
 21 1989.

22 TIME SPAN

23 OFFENSE	0-12	13-24	25 Months
24 CATEGORY	Months	Months	or More
25 .....			
26 A+	.9	.9	.9
27 A	.9	.8	.6
28 A-	.9	.8	.5
29 B+	.9	.7	.4
30 B	.9	.6	.3
31 C+	.6	.3	.2

1	C	.5	.2	.2
2	D+	.3	.2	.1
3	D	.2	.1	.1
4	E	.1	.1	.1

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

9 SCHEDULE C  
10 CURRENT OFFENSE POINTS

11 For use with all CURRENT OFFENSES occurring on or after July 1,  
12 1989.

13 AGE

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

27 JUVENILE SENTENCING STANDARDS  
28 SCHEDULE D-1

29 This schedule may only be used for ((minor/first)) minor offenders.  
30 After the determination is made that a youth is a ((minor/first)) minor



1 offender, the court has the discretion to select sentencing option A,  
2 B, or C.

3 ((MINOR/FIRST)) MINOR OFFENDER

4 OPTION A

5 STANDARD RANGE

6		Community		
7	Points	Supervision	Hours	Fine
8				
9	1-9	0-3 months	and/or 0-8	and/or 0-\$10
10	10-19	0-3 months	and/or 0-8	and/or 0-\$10
11	20-29	0-3 months	and/or 0-16	and/or 0-\$10
12	30-39	0-3 months	and/or 8-24	and/or 0-\$25
13	40-49	3-6 months	and/or 16-32	and/or 0-\$25
14	50-59	3-6 months	and/or 24-40	and/or 0-\$25
15	60-69	6-9 months	and/or 32-48	and/or 0-\$50
16	70-79	6-9 months	and/or 40-56	and/or 0-\$50
17	80-89	9-12 months	and/or 48-64	and/or 10-\$100
18	90-109	9-12 months	and/or 56-72	and/or 10-\$100

19 OR

20 OPTION B

21 STATUTORY OPTION

22 0-12 Months Community Supervision

23 0-150 Hours Community Service

24 0-100 Fine

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

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OR

OPTION C  
MANIFEST INJUSTICE

When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term and the provisions of RCW (~~(13.40.030(5), as now or hereafter amended,~~) ) 13.40.030(2) shall be used to determine the range.

JUVENILE SENTENCING STANDARDS  
SCHEDULE D-2

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

MIDDLE OFFENDER  
OPTION A  
STANDARD RANGE

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

1	130-149	13-16
2	150-199	21-28
3	200-249	30-40
4	250-299	52-65
5	300-374	80-100
6	375+	103-129

7 Middle offenders with more than 110 points do not have to be committed.  
8 They may be assigned community supervision under option B.  
9 All A+ offenses 180-224 weeks

10 OR

11

12 OPTION B

13 STATUTORY OPTION

14 0-12 Months Community Supervision

15 0-150 Hours Community Service

16 0-100 Fine

17 If the middle offender has less than 110 points, the court may impose  
18 a determinate disposition of community supervision and/or up to 30 days  
19 confinement; in which case, if confinement has been imposed, the court  
20 shall state either aggravating or mitigating factors as set forth in  
21 RCW 13.40.150(, ~~as now or hereafter amended~~)). If the middle offender  
22 has more than 110 points, the court may impose a disposition under  
23 option A and may suspend the disposition on the condition that the  
24 offender serve up to thirty days of confinement and follow all  
25 conditions of community supervision. If the offender fails to comply  
26 with the terms of community supervision, the court may impose sanctions  
27 pursuant to RCW 13.40.200 or may revoke the suspended disposition and  
28 order execution of the disposition. If the court imposes confinement  
29 under this option B, the court shall state either aggravating or  
30 mitigating factors set forth in RCW 13.40.150.

31 OR

32



1 sentence of confinement exceeding 30 days, the court shall sentence the  
2 juvenile to a maximum term, and the provisions of RCW (~~(13.40.030(5),~~  
3 ~~as now or hereafter amended,~~) 13.40.030(2) shall be used to determine  
4 the range.

5 **Sec. 715.** RCW 13.40.160 and 1992 c 45 s 6 are each amended to read  
6 as follows:

7 (1) When the respondent is found to be a serious offender, the  
8 court shall commit the offender to the department for the standard  
9 range of disposition for the offense, as indicated in option A of  
10 schedule D-3, RCW 13.40.0357 except as provided in subsection (5) of  
11 this section.

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

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

28 (2) Where the respondent is found to be a minor (~~(or first)~~)  
29 offender, the court shall order that the respondent serve a term of  
30 community supervision as indicated in option A or option B of schedule  
31 D-1, RCW 13.40.0357 except as provided in subsection (5) of this  
32 section. If the court determines that a disposition of community  
33 supervision would effectuate a manifest injustice the court may impose  
34 another disposition under option C of schedule D-1, RCW 13.40.0357.  
35 Except as provided in subsection (5) of this section, a disposition  
36 other than a community supervision may be imposed only after the court  
37 enters reasons upon which it bases its conclusions that imposition of  
38 community supervision would effectuate a manifest injustice. When a

1 judge finds a manifest injustice and imposes a sentence of confinement  
2 exceeding thirty days, the court shall sentence the juvenile to a  
3 maximum term, and the provisions of RCW 13.40.030(2)((~~, as now or~~  
4 ~~hereafter amended,~~)) shall be used to determine the range. The court's  
5 finding of manifest injustice shall be supported by clear and  
6 convincing evidence.

7 Except for disposition of community supervision or a disposition  
8 imposed pursuant to subsection (5) of this section, a disposition may  
9 be appealed as provided in RCW 13.40.230((~~, as now or hereafter~~  
10 ~~amended,~~)) by the state or the respondent. A disposition of community  
11 supervision or a disposition imposed pursuant to subsection (5) of this  
12 section may not be appealed under RCW 13.40.230 ((~~as now or hereafter~~  
13 ~~amended~~)).

14 (3) Where a respondent is found to have committed an offense for  
15 which the respondent declined to enter into a diversion agreement, the  
16 court shall impose a term of community supervision limited to the  
17 conditions allowed in a diversion agreement as provided in RCW  
18 13.40.080(2) ((~~as now or hereafter amended~~)).

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

20 (a) The court shall impose a determinate disposition within the  
21 standard range(s) for such offense, as indicated in option A of  
22 schedule D-2, RCW 13.40.0357 except as provided in subsection (5) of  
23 this section((~~: PROVIDED, That~~)). If the standard range includes a  
24 term of confinement exceeding thirty days, commitment shall be to the  
25 department ((~~for the standard range of confinement~~)); or

26 (b) The court shall impose a determinate disposition of community  
27 supervision and/or up to thirty days confinement, as indicated in  
28 option B of schedule D-2, RCW 13.40.0357 in which case, if confinement  
29 has been imposed, the court shall state either aggravating or  
30 mitigating factors as set forth in RCW 13.40.150 ((~~as now or hereafter~~  
31 ~~amended~~)).

32 (c) Only if the court concludes, and enters reasons for its  
33 conclusions, that disposition as provided in subsection (4)(a) or (b)  
34 of this section would effectuate a manifest injustice, the court shall  
35 sentence the juvenile to a maximum term, and the provisions of RCW  
36 13.40.030(2)((~~, as now or hereafter amended,~~)) shall be used to  
37 determine the range. The court's finding of manifest injustice shall  
38 be supported by clear and convincing evidence.

1 (d) A disposition pursuant to subsection (4)(c) of this section is  
2 appealable under RCW 13.40.230(~~(, as now or hereafter amended,)~~) by the  
3 state or the respondent. A disposition pursuant to subsection (4) (a)  
4 or (b) of this section is not appealable under RCW 13.40.230 (~~as now  
5 or hereafter amended~~)).

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

12 The report of the examination shall include at a minimum the  
13 following: The respondent's version of the facts and the official  
14 version of the facts, the respondent's offense history, an assessment  
15 of problems in addition to alleged deviant behaviors, the respondent's  
16 social, educational, and employment situation, and other evaluation  
17 measures used. The report shall set forth the sources of the  
18 evaluator's information.

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

23 (a)(i) Frequency and type of contact between the offender and  
24 therapist;

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

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

30 (iv) Anticipated length of treatment; and

31 (v) Recommended crime-related prohibitions.

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

38 After receipt of reports of the examination, the court shall then  
39 consider whether the offender and the community will benefit from use

1 of this special sex offender disposition alternative and consider the  
2 victim's opinion whether the offender should receive a treatment  
3 disposition under this section. If the court determines that this  
4 special sex offender disposition alternative is appropriate, then the  
5 court shall impose a determinate disposition within the standard range  
6 for the offense, and the court may suspend the execution of the  
7 disposition and place the offender on community supervision for up to  
8 two years. As a condition of the suspended disposition, the court may  
9 impose the conditions of community supervision and other conditions,  
10 including up to thirty days of confinement and requirements that the  
11 offender do any one or more of the following:

12 (b)(i) Devote time to a specific education, employment, or  
13 occupation;

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

25 (iii) Remain within prescribed geographical boundaries and notify  
26 the court or the (~~probation~~) community supervision counselor prior to  
27 any change in the offender's address, educational program, or  
28 employment;

29 (iv) Report to the prosecutor and the (~~probation~~) community  
30 supervision counselor prior to any change in a sex offender treatment  
31 provider. This change shall have prior approval by the court;

32 (v) Report as directed to the court and a (~~probation~~) community  
33 supervision counselor;

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

36 (vii) Make restitution to the victim for the cost of any counseling  
37 reasonably related to the offense.

38 The sex offender treatment provider shall submit quarterly reports  
39 on the respondent's progress in treatment to the court and the parties.



1 The reports shall reference the treatment plan and include at a minimum  
2 the following: Dates of attendance, respondent's compliance with  
3 requirements, treatment activities, the respondent's relative progress  
4 in treatment, and any other material specified by the court at the time  
5 of the disposition.

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

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

21 If the offender violates any condition of the disposition or the  
22 court finds that the respondent is failing to make satisfactory  
23 progress in treatment, the court may revoke the suspension and order  
24 execution of the ~~((sentence))~~ disposition or the court may impose a  
25 penalty of up to thirty days' confinement for violating conditions of  
26 the disposition. The court may order both execution of the disposition  
27 and up to thirty days' confinement for the violation of the conditions  
28 of the disposition, in which case the term of confinement imposed for  
29 violating conditions of the disposition shall run consecutively to the  
30 term of confinement imposed under the disposition. The court shall  
31 give credit for any confinement time previously served if that  
32 confinement was for the offense for which the suspension is being  
33 revoked.

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

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

5 (7) Except as provided for in subsection (5) of this section,  
6 section 712 of this act, and RCW 13.40.0357, the court shall not  
7 suspend or defer the imposition or the execution of the disposition.

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

11 (9) If a court does not exercise a disposition option available  
12 under this chapter due to a lack of available funds, services, or bed  
13 space, the court shall enter a finding in the disposition that an  
14 alternative disposition was not ordered due to the lack of available  
15 funds, services, or bed space.

16 **Sec. 716.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to  
17 read as follows:

18 Where a disposition is imposed on a youth for two or more offenses,  
19 the terms shall run consecutively(~~(, subject to the following~~  
20 ~~limitations:~~

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

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

28 ~~(3) The aggregate of all consecutive terms of community supervision~~  
29 ~~shall not exceed two years in length, or require payment of more than~~  
30 ~~two hundred dollars in fines or the performance of more than two~~  
31 ~~hundred hours of community service)) or concurrently in the court's~~  
32 ~~discretion.~~

33 **Sec. 717.** RCW 13.40.190 and 1987 c 281 s 5 are each amended to  
34 read as follows:

35 (1) In its dispositional order, the court shall require the  
36 respondent and may require his or her parents, guardians, or custodians  
37 to make restitution to any persons who have suffered loss or damage as

1 a result of the offense committed by the respondent. In addition,  
2 restitution may be ordered for loss or damage if the offender pleads  
3 guilty to a lesser offense or fewer offenses and agrees with the  
4 prosecutor's recommendation that the offender be required to pay  
5 restitution to a victim of an offense or offenses which, pursuant to a  
6 plea agreement, are not prosecuted. The payment of restitution shall  
7 be in addition to any punishment which is imposed pursuant to the other  
8 provisions of this chapter. The court may determine the amount, terms,  
9 and conditions of the restitution. Restitution may include the costs  
10 of counseling reasonably related to the offense. If the respondent  
11 participated in the crime with another person or other persons, all  
12 such participants shall be jointly and severally responsible for the  
13 payment of restitution. The court may not require the respondent or  
14 parent, guardian, or custodian to pay full or partial restitution if  
15 the respondent or parent, guardian, or custodian reasonably satisfies  
16 the court that he or she does not have the means to make full or  
17 partial restitution and could not reasonably acquire the means to pay  
18 such restitution. In cases where an offender has been committed to the  
19 department for a period of confinement exceeding fifteen weeks,  
20 restitution may be waived.

21 (2) If an order includes restitution as one of the monetary  
22 assessments, the county clerk shall make disbursements to victims named  
23 in the order. The restitution to victims named in the order shall be  
24 paid prior to any payment for other penalties or monetary assessments.

25 (3) A respondent under obligation to pay restitution may petition  
26 the court for modification of the restitution order.

27 **Sec. 718.** RCW 13.40.200 and 1986 c 288 s 5 are each amended to  
28 read as follows:

29 (1) When a respondent fails to comply with an order of restitution,  
30 community supervision, penalty assessments, or confinement of less than  
31 thirty days, the court upon motion of the prosecutor or its own motion,  
32 may modify the order after a hearing on the violation.

33 (2) The hearing shall afford the respondent the same due process of  
34 law as would be afforded an adult probationer. The court may issue a  
35 summons or a warrant to compel the respondent's appearance. The state  
36 shall have the burden of proving by a preponderance of the evidence the  
37 fact of the violation. The respondent shall have the burden of showing  
38 that the violation was not a wilful refusal to comply with the terms of

1 the order. If a respondent has failed to pay a fine, penalty  
2 assessments, or restitution or to perform community service hours, as  
3 required by the court, it shall be the respondent's burden to show that  
4 he or she did not have the means and could not reasonably have acquired  
5 the means to pay the fine, penalty assessments, or restitution or  
6 perform community service.

7 (3)(a) If the court finds that a respondent has wilfully violated  
8 the terms of an order pursuant to subsections (1) and (2) of this  
9 section, it may impose a penalty of up to thirty days' confinement or  
10 other conditions of community supervision the court considers  
11 appropriate. If the court finds that the juvenile has violated the  
12 terms of a community supervision order by committing a new offense, the  
13 court may impose thirty days' confinement as a penalty for the  
14 violation. This term of confinement may be in addition to any term of  
15 confinement imposed as a disposition for the new offense. Penalties  
16 for multiple violations occurring prior to the hearing shall not be  
17 aggregated to exceed thirty days' confinement. Regardless of the  
18 number of times a respondent is brought to court for violations of the  
19 terms of a single disposition order, the combined total number of days  
20 spent by the respondent in detention shall never exceed the maximum  
21 term to which an adult could be sentenced for the underlying offense.

22 (b) If the violation of the terms of the order under (a) of this  
23 subsection is failure to pay fines, penalty assessments, complete  
24 community service, or make restitution, the term of confinement imposed  
25 under (a) of this subsection shall be assessed at a rate of one day of  
26 confinement for each twenty-five dollars or eight hours owed.

27 (4) If a respondent has been ordered to pay a fine or monetary  
28 penalty and due to a change of circumstance cannot reasonably comply  
29 with the order, the court, upon motion of the respondent, may order  
30 that the unpaid fine or monetary penalty be converted to community  
31 service. The number of hours of community service in lieu of a  
32 monetary penalty or fine shall be converted at the rate of the  
33 prevailing state minimum wage per hour. The monetary penalties or  
34 fines collected shall be deposited in the county general fund. A  
35 failure to comply with an order under this subsection shall be deemed  
36 a failure to comply with an order of community supervision and may be  
37 proceeded against as provided in this section.

1       **Sec. 719.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to  
2 read as follows:

3       (1) Dispositions reviewed pursuant to RCW 13.40.160(~~(, as now or~~  
4 ~~hereafter amended,)~~) shall be reviewed in the appropriate division of  
5 the court of appeals.

6       An appeal under this section shall be heard solely upon the record  
7 that was before the disposition court. No written briefs may be  
8 required, and the appeal shall be heard within thirty days following  
9 the date of sentencing and a decision rendered within fifteen days  
10 following the argument. The supreme court shall promulgate any  
11 necessary rules to effectuate the purposes of this section.

12       (2) To uphold a disposition outside the standard range, or which  
13 imposes confinement for a minor (~~(or first)~~) offender, the court of  
14 appeals must find (a) that the reasons supplied by the disposition  
15 judge are supported by the record which was before the judge and that  
16 those reasons clearly and convincingly support the conclusion that a  
17 disposition within the range, or nonconfinement for a minor (~~(or~~  
18 ~~first)~~) offender, would constitute a manifest injustice, and (b) that  
19 the sentence imposed was neither clearly excessive nor clearly too  
20 lenient.

21       (3) If the court does not find subsection (2)(a) of this section it  
22 shall remand the case for disposition within the standard range or for  
23 community supervision without confinement as would otherwise be  
24 appropriate pursuant to this chapter.

25       (4) If the court finds subsection (2)(a) but not subsection (2)(b)  
26 of this section it shall remand the case with instructions for further  
27 proceedings consistent with the provisions of this chapter.

28       (5) Pending appeal, a respondent may not be committed or detained  
29 for a period of time in excess of the standard range for the offense(s)  
30 committed or sixty days, whichever is longer. The disposition court  
31 may impose conditions on release pending appeal as provided in RCW  
32 13.40.040(4) and 13.40.050(6). Upon the expiration of the period of  
33 commitment or detention specified in this subsection, the court may  
34 also impose such conditions on the respondent's release pending  
35 disposition of the appeal.

36       (6) Appeal of a disposition under this section does not affect the  
37 finality or appeal of the underlying adjudication of guilt.

38       **PART VIII. JUVENILE JUSTICE PROVISIONS, EFFECTIVE JULY 1, 1995**

1        NEW SECTION.    **Sec. 801.**    The legislature finds that the juvenile  
2 justice act of 1977, chapter 13.40 RCW, requires substantial revision.  
3 The legislature reaffirms the goals of the act, including the dual  
4 goals of punishment and rehabilitation of juvenile offenders.    The  
5 legislature finds, however, that the substantive provisions of the act  
6 are too structured to achieve fully the act's goals.

7        The framework created by the act has diminishing relevance to  
8 today's violent and chronic offenders.    Juveniles are committing  
9 increasingly violent crimes, and they are committing these violent  
10 crimes at an increasingly younger age.    Simultaneously, juveniles  
11 habitually commit minor offenses.    Dispositions prescribed by the act  
12 are not long enough to permit substantial rehabilitation of violent  
13 offenders, and minor offenders receive no meaningful intervention.    The  
14 fixed system established by the act restricts the judiciary's efforts  
15 to tailor punishment and rehabilitation to the juvenile's individual  
16 needs.    Additionally, substantial delays occur before the juvenile  
17 offender is held accountable for criminal acts.

18        Juvenile offenders must learn personal accountability and must  
19 accept responsibility for their criminal behavior.    To this end, the  
20 juvenile system must provide a swift response, meaningful punishment,  
21 and effective rehabilitation.    Therefore, sections 801 through 809 of  
22 this act seek to accomplish the following goals:    (1) Increasing the  
23 speed of the juvenile justice system's response to juvenile offenders'  
24 criminal behavior; (2) increasing the certainty of punishment and  
25 intervention; (3) increasing judicial discretion and permitting judges  
26 to tailor dispositions to the juvenile's offense; (4) expanding the  
27 range of disposition alternatives to permit meaningful punishment and  
28 effective rehabilitation; (5) increasing the likelihood that juveniles  
29 will comply with the terms of their dispositions by creating compliance  
30 incentives and, if necessary, placing the juveniles in supportive out-  
31 of-home placements; and (6) reducing the complexity of the system.

32        The legislature intends chapter . . . , Laws of 1994 (this act) to  
33 substantially reform the manner in which juvenile offenders are held  
34 accountable for their actions.    The legislature further intends the  
35 early intervention provisions of chapter . . . , Laws of 1994 (this act)  
36 to address the underlying problems that lead juvenile offenders toward  
37 a criminal career.    Chapter . . . , Laws of 1994 (this act) provides a  
38 policy foundation that forms the first steps toward reforming the  
39 juvenile justice system.    The legislature recognizes the need, however,

1 for continued study in the 1995 regular legislative session of the new  
2 policies and disposition options created by chapter . . . , Laws of 1994  
3 (this act). To this end, the legislature finds that prior to the 1995  
4 regular legislative session it will require briefing on the use and  
5 effect of the new policies and disposition options of chapter . . . ,  
6 Laws of 1994 (this act), so that it may continue to refine chapter  
7 . . . , Laws of 1994 (this act), if necessary.

8 **Sec. 802.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to  
9 read as follows:

10 For the purposes of this chapter:

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

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

15 ~~(b) Manslaughter in the first degree; or~~

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

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

28 ~~((3))~~ (2) "Community supervision" means an order of disposition  
29 by the court of an adjudicated youth not committed to the department  
30 and an order granting a deferred adjudication pursuant to section 712  
31 of this act. A community supervision order for a single offense may be  
32 for a period of up to two years for a sex offense as defined by RCW  
33 9.94A.030 and up to one year for other offenses. As a mandatory  
34 condition of any term of community supervision, the court shall order  
35 the juvenile to refrain from committing new offenses. As a mandatory  
36 condition of community supervision, the court shall order the juvenile  
37 to comply with the mandatory school attendance provisions of chapter  
38 28A.225 RCW and to inform the school of the existence of this

1 requirement. Community supervision is an individualized program  
2 comprised of one or more of the following:

3 (a) Community-based sanctions;  
4 (b) Community-based rehabilitation;  
5 (c) Monitoring and reporting requirements;

6 (~~(4)~~) (3) Community-based sanctions may include one or more of  
7 the following:

8 (a) A fine, not to exceed one hundred dollars;  
9 (b) Community service not to exceed one hundred fifty hours of  
10 service;

11 (~~(5)~~) (4) "Community-based rehabilitation" means one or more of  
12 the following: Attendance of information classes; counseling,  
13 outpatient substance abuse treatment programs, outpatient mental health  
14 programs, anger management classes, or other services; or attendance at  
15 school or other educational programs appropriate for the juvenile as  
16 determined by the school district. Placement in community-based  
17 rehabilitation programs is subject to available funds;

18 (~~(6)~~) (5) "Monitoring and reporting requirements" means one or  
19 more of the following: Curfews; requirements to remain at home,  
20 school, work, or court-ordered treatment programs during specified  
21 hours; restrictions from leaving or entering specified geographical  
22 areas; requirements to report to the (~~probation~~) community  
23 supervision officer as directed and to remain under the (~~probation~~)  
24 community supervision officer's supervision; and other conditions or  
25 limitations as the court may require which may not include confinement;

26 (~~(7)~~) (6) "Confinement" means physical custody by the department  
27 of social and health services in a facility operated by or pursuant to  
28 a contract with the state, or physical custody in a detention facility  
29 operated by or pursuant to a contract with any county. The county may  
30 operate or contract with vendors to operate county detention  
31 facilities. The department may operate or contract to operate  
32 detention facilities for juveniles committed to the department.  
33 Pretrial confinement or confinement of less than thirty-one days  
34 imposed as part of a disposition or modification order may be served  
35 consecutively or intermittently, in the discretion of the court and may  
36 be served in a detention group home, detention foster home, or with  
37 electronic monitoring. Detention group homes and detention foster  
38 homes used for confinement shall not also be used for the placement of



1 dependent children. Confinement in detention group homes and detention  
2 foster homes and electronic monitoring are subject to available funds;  
3 ~~((8))~~ (7) "Court", when used without further qualification, means  
4 the juvenile court judge(s) or commissioner(s);  
5 ~~((9))~~ (8) "Criminal history" includes all criminal complaints  
6 against the respondent for which, prior to the commission of a current  
7 offense(~~(a)~~), the allegations were found correct by a court(~~(. If~~  
8 ~~a respondent is convicted of two or more charges arising out of the~~  
9 ~~same course of conduct, only the highest charge from among these shall~~  
10 ~~count as an offense for the purposes of this chapter)~~); or ~~((b))~~ the  
11 criminal complaint was diverted by a prosecutor pursuant to the  
12 provisions of this chapter on agreement of the respondent and after an  
13 advisement to the respondent that the criminal complaint would be  
14 considered as part of the respondent's criminal history. Successfully  
15 completed deferred adjudications shall not be considered part of the  
16 respondent's criminal history;  
17 ~~((10))~~ (9) "Department" means the department of social and health  
18 services;  
19 ~~((11))~~ (10) "Detention facility" means a county facility for the  
20 physical confinement of a juvenile alleged to have committed an offense  
21 or an adjudicated offender subject to a disposition or modification  
22 order;  
23 ~~((12))~~ (11) "Diversion unit" means any ~~(probation)~~ community  
24 supervision counselor who enters into a diversion agreement with an  
25 alleged youthful offender, or any other person, community  
26 accountability board, or other entity except a law enforcement official  
27 or entity, with whom the juvenile court administrator has contracted to  
28 arrange and supervise such agreements pursuant to RCW 13.40.080, or any  
29 person, community accountability board, or other entity specially  
30 funded by the legislature to arrange and supervise diversion agreements  
31 in accordance with the requirements of this chapter. For purposes of  
32 this subsection, "community accountability board" means a board  
33 comprised of members of the local community in which the juvenile  
34 offender resides. The superior court shall appoint the members. The  
35 boards shall consist of at least three and not more than seven members.  
36 If possible, the board should include a variety of representatives from  
37 the community, such as a law enforcement officer, teacher or school  
38 administrator, high school student, parent, and business owner, and  
39 should represent the cultural diversity of the local community;

1       (~~(13)~~) (12) "Institution" means a juvenile facility established  
2 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

3       (~~(14)~~) (13) "Juvenile," "youth," and "child" mean any individual  
4 who is under the chronological age of eighteen years and who has not  
5 been previously transferred to adult court pursuant to RCW 13.40.110 or  
6 who is otherwise under adult court jurisdiction;

7       (~~(15)~~) (14) "Juvenile offender" means any juvenile who has been  
8 found by the juvenile court to have committed an offense, including a  
9 person eighteen years of age or older over whom jurisdiction has been  
10 extended under RCW 13.40.300;

11       (~~(16)~~) (15) "Manifest injustice" means a disposition that would  
12 either impose an excessive penalty on the juvenile, would fail to  
13 promote the juvenile's best rehabilitative interest, or would impose a  
14 serious, and clear danger to society in light of the purposes of this  
15 chapter;

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

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

22       ~~(a) Four misdemeanors;~~  
23       ~~(b) Two misdemeanors and one gross misdemeanor;~~  
24       ~~(c) One misdemeanor and two gross misdemeanors;~~  
25       ~~(d) Three gross misdemeanors;~~  
26       ~~(e) One class C felony except manslaughter in the second degree and~~  
27 ~~one misdemeanor or gross misdemeanor;~~  
28       ~~(f) One class B felony except: Any felony which constitutes an~~  
29 ~~attempt to commit a class A felony; manslaughter in the first degree;~~  
30 ~~assault in the second degree; extortion in the first degree; indecent~~  
31 ~~liberties; kidnapping in the second degree; robbery in the second~~  
32 ~~degree; burglary in the second degree; residential burglary; vehicular~~  
33 ~~homicide; or arson in the second degree.~~

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

36       (~~(19)~~) (16) "Offense" means an act designated a violation or a  
37 crime if committed by an adult under the law of this state, under any  
38 ordinance of any city or county of this state, under any federal law,  
39 or under the law of another state if the act occurred in that state;

1       ~~((20))~~ (17) "Placement out of the home" means placement for  
2 twenty-four hour residential care in foster or group care, or with a  
3 court-approved custodian. Placement out of the home in county or  
4 state-funded placements is subject to available funds and beds;

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

7       ~~((21))~~ (19) "Restitution" means financial reimbursement by the  
8 offender to the victim, and shall be limited to easily ascertainable  
9 damages for injury to or loss of property, actual expenses incurred for  
10 medical treatment for physical injury to persons, lost wages resulting  
11 from physical injury, and costs of the victim's counseling reasonably  
12 related to the offense if the offense is a sex offense. Restitution  
13 shall not include reimbursement for damages for mental anguish, pain  
14 and suffering, or other intangible losses. Nothing in this chapter  
15 shall limit or replace civil remedies or defenses available to the  
16 victim or offender;

17       ~~((22))~~ (20) "Secretary" means the secretary of the department of  
18 social and health services;

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

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

25       ~~((25))~~ (23) "Sexual motivation" means that one of the purposes  
26 for which the respondent committed the offense was for the purpose of  
27 his or her sexual gratification;

28       ~~((26))~~ (24) "Foster care" means temporary physical care in a  
29 foster family home or group care facility as defined in RCW 74.15.020  
30 and licensed by the department, or other legally authorized care;

31       ~~((27))~~ (25) "Violation" means an act or omission, which if  
32 committed by an adult, must be proven beyond a reasonable doubt, and is  
33 punishable by sanctions which do not include incarceration.

34       **Sec. 803.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to  
35 read as follows:

36       (1) In disposition hearings all relevant and material evidence,  
37 including oral and written reports, may be received by the court and  
38 may be relied upon to the extent of its probative value, even though

1 such evidence may not be admissible in a hearing on the information.  
2 The youth or the youth's counsel and the prosecuting attorney shall be  
3 afforded an opportunity to examine and controvert written reports so  
4 received and to cross-examine individuals making reports when such  
5 individuals are reasonably available, but sources of confidential  
6 information need not be disclosed. The prosecutor and counsel for the  
7 juvenile may submit recommendations for disposition.

8 (2) For purposes of disposition:

9 (a) ~~((Violations which are current offenses count as misdemeanors))~~

10 Prior to disposition, the county shall conduct a predisposition  
11 evaluation of the juvenile and shall prepare a report of the  
12 evaluation. The county shall provide this report to the court. The  
13 evaluation shall include an assessment of the juvenile's rehabilitative  
14 needs including but not limited to the juvenile's needs for treatment,  
15 therapy, and education. The evaluation shall also include a  
16 preliminary assessment of the security risks posed by the juvenile;

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

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

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

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

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

28 (c) Consider any predisposition reports;

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

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

35 (f) Determine the amount of restitution owing to the victim, if  
36 any;

37 (g) ~~((Determine whether the respondent is a serious offender, a~~  
38 ~~middle offender, or a minor or first offender))~~ Consider the types of

1 treatment, therapy, education, and other rehabilitative services that  
2 would be most effective at rehabilitating the offender;

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

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

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

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

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

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

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

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

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

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

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

28 (v) The current offense included a finding of sexual motivation  
29 pursuant to RCW 9.94A.127;

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

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

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

37 (a) The sex of the respondent;

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

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

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

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

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

10 **Sec. 804.** RCW 13.40.160 and 1992 c 45 s 6 are each amended to read  
11 as follows:

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

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

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

33 ~~(2) Where the respondent is found to be a minor or first offender,  
34 the court shall order that the respondent serve a term of community  
35 supervision as indicated in option A or option B of schedule D-1, RCW  
36 13.40.0357 except as provided in subsection (5) of this section. If  
37 the court determines that a disposition of community supervision would  
38 effectuate a manifest injustice the court may impose another~~

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

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

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

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

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

30 (b) The court shall impose a determinate disposition of community  
31 supervision and/or up to thirty days confinement, as indicated in  
32 option B of schedule D-2, RCW 13.40.0357 in which case, if confinement  
33 has been imposed, the court shall state either aggravating or  
34 mitigating factors as set forth in RCW 13.40.150 as now or hereafter  
35 amended.

36 (c) Only if the court concludes, and enters reasons for its  
37 conclusions, that disposition as provided in subsection (4)(a) or (b)  
38 of this section would effectuate a manifest injustice, the court shall  
39 sentence the juvenile to a maximum term, and the provisions of RCW

1 13.40.030(2), as now or hereafter amended, shall be used to determine  
2 the range. The court's finding of manifest injustice shall be  
3 supported by clear and convincing evidence.

4 (d) A disposition pursuant to subsection (4)(c) of this section is  
5 appealable under RCW 13.40.230, as now or hereafter amended, by the  
6 state or the respondent. A disposition pursuant to subsection (4) (a)  
7 or (b) of this section is not appealable under RCW 13.40.230 as now or  
8 hereafter amended.

9 (5)) The court may impose a disposition as provided in this  
10 section for any juvenile adjudicated for an offense.

11 (2) The court shall consider various factors, including but not  
12 limited to the following, when determining a disposition:

13 (a) The juvenile's age and maturity;

14 (b) The juvenile's criminal history and the recency of that  
15 criminal history;

16 (c) Whether the juvenile has had prior deferrals of adjudications;

17 (d) Whether the juvenile complied with the terms of the disposition  
18 imposed for prior offenses;

19 (e) The seriousness of the offense;

20 (f) Whether the juvenile's adjudication resulted from accomplice  
21 liability; and

22 (g) Whether any aggravating or mitigating factors apply.

23 (3)(a) For a juvenile adjudicated for a misdemeanor or a gross  
24 misdemeanor, the court shall impose a disposition comprised of any of  
25 the following:

26 0 - 12 Months of community supervision;

27 0 - 150 Hours of community service;

28 0 - \$100 Fine;

29 0 - 30 Days in confinement if the juvenile has prior criminal  
30 history or a prior deferred adjudication.

31 (b) The court shall not commit a juvenile adjudicated of a  
32 misdemeanor or gross misdemeanor to the department unless the court  
33 enters a finding that a disposition under (a) of this subsection would  
34 effectuate a manifest injustice.

35 (4)(a) For a juvenile adjudicated of a class C or B felony that is  
36 not: A violent offense, a crime against persons as defined in RCW  
37 9.94A.440(2), or a crime of harassment as defined in RCW 9A.46.060, the  
38 court shall impose a disposition comprised of any of the following:

39 0 - 12 Months of community supervision;



1       0 - 150 Hours of community service;

2       0 - \$100 Fine;

3       5 - 60 days of confinement or commitment to the department.

4       (b) The court shall not commit a juvenile adjudicated under this  
5 subsection (4) to the department for more than sixty days unless (i)  
6 the court enters a finding that a disposition under (a) of this  
7 subsection would effectuate a manifest injustice; or (ii) the juvenile  
8 has a significant criminal history that would support a finding of an  
9 aggravating factor under RCW 13.40.150(3) if the criminal history was  
10 more recent.

11       (c) The court may suspend all or a portion of any term of  
12 confinement or commitment imposed under this subsection (4). In  
13 addition to the suspended confinement or commitment, the court shall  
14 impose community supervision, community service, or a fine as provided  
15 in (a) of this subsection.

16       (5)(a) For a juvenile adjudicated of a class C or B felony that is  
17 a crime against persons or a crime of harassment but is not a violent  
18 offense, the court shall impose a disposition comprised of the  
19 following:

20       0 - 12 Months community supervision;

21       0 - 150 Hours community service;

22       0 - \$100 Fine;

23       5 Days to 129 weeks in confinement or commitment to the department.

24       (b) The court shall not commit a juvenile adjudicated under this  
25 subsection (5) to the department in excess of one hundred twenty-nine  
26 weeks unless the court enters a finding that a disposition under this  
27 subsection (5) would effect a manifest injustice. The basis for the  
28 manifest injustice must be a basis other than the offender's criminal  
29 history as described in RCW 13.40.150(3)(i)(iv).

30       (c) The court may suspend all or a portion of any term of  
31 confinement or commitment imposed under this subsection (5). In  
32 addition to the suspended confinement or commitment, the court shall  
33 impose community supervision, community service, or a fine as provided  
34 in (a)(i) of this subsection.

35       (6)(a) If a juvenile is adjudicated of a class A felony, an  
36 attempt to commit a class A felony, or a sex or violent offense, the  
37 court shall impose a disposition of the following:

38       52 - 224 Weeks committed to the department.

1       (b) The court shall not impose a disposition under this subsection  
2 (6) outside the standard range unless the court finds that imposition  
3 of the standard range would effectuate a manifest injustice.

4       (c) If the juvenile is adjudicated of a sex offense, other than a  
5 sex offense that is also a serious violent offense as defined by RCW  
6 9.94A.030, the court need not impose a disposition under this  
7 subsection (6). The court may instead order a treatment disposition  
8 option under subsection (11) of this section.

9       (d) When a court adjudicates a juvenile of a sex offense, the  
10 court shall impose a disposition as provided in this subsection (6), as  
11 modified by this subsection (6)(d), unless the court orders a  
12 disposition under subsection (11) of this section. In addition to the  
13 term of commitment imposed under this subsection (6), the court shall  
14 impose a term of postrelease supervision not to exceed five years. The  
15 department shall provide the postrelease supervision. If the juvenile  
16 receives treatment while committed, the court, as a condition of  
17 postrelease supervision, may order the juvenile to continue with a  
18 particular treatment program for all or a portion of the term of  
19 postrelease supervision. The department may recommend to the  
20 sentencing court whether the option of continuing treatment is  
21 appropriate. Upon the recommendation of the department, the court may  
22 either reduce the term of postrelease supervision or impose additional  
23 or more restrictive terms of postrelease supervision. The postrelease  
24 supervision required by this section shall be in addition to any term  
25 of parole imposed by the department.

26       (7) In all cases, the court shall impose a determinate  
27 disposition.

28       (8) If the court concludes, and enters reasons for its conclusion,  
29 that disposition within the standard range would effectuate a manifest  
30 injustice, the court shall impose a determinate disposition outside the  
31 standard range. If the court imposes a disposition below the standard  
32 range due to a manifest injustice, the disposition shall be comprised  
33 of community supervision or confinement, or both. The court's finding  
34 of manifest injustice shall be supported by clear and convincing  
35 evidence. A disposition outside the standard range shall be appealable  
36 under RCW 13.40.230, by the state or respondent. A disposition within  
37 the standard range is not appealable.

38       (9) In all cases, the court shall enter an order for restitution,  
39 if any is due to the victim, according to RCW 13.40.190.

1       (10) In all disposition orders that include commitment to the  
2 department, the court shall make a finding of reasonable rehabilitative  
3 goals to be achieved by the juvenile during the commitment term. These  
4 goals may include, by way of example and not limitation, completion of  
5 substance abuse treatment, completion of anger management courses, and  
6 achievement of academic, educational, or vocational goals, such as  
7 grade-level reading or GED completion.

8       (11) When (~~a serious, middle, or minor first~~) an offender is  
9 found to have committed a sex offense, other than a sex offense that is  
10 also a serious violent offense as defined by RCW 9.94A.030, and has no  
11 history of a prior sex offense, the court, on its own motion or the  
12 motion of the state or the respondent, may order an examination to  
13 determine whether the respondent is amenable to treatment.

14       The report of the examination shall include at a minimum the  
15 following: The respondent's version of the facts and the official  
16 version of the facts, the respondent's offense history, an assessment  
17 of problems in addition to alleged deviant behaviors, the respondent's  
18 social, educational, and employment situation, and other evaluation  
19 measures used. The report shall set forth the sources of the  
20 evaluator's information.

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

25       (a)(i) Frequency and type of contact between the offender and  
26 therapist;

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

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

32       (iv) Anticipated length of treatment; and

33       (v) Recommended crime-related prohibitions.

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

1 After receipt of reports of the examination, the court shall then  
2 consider whether the offender and the community will benefit from use  
3 of this special sex offender disposition alternative and consider the  
4 victim's opinion whether the offender should receive a treatment  
5 disposition under this section. If the court determines that this  
6 special sex offender disposition alternative is appropriate, then the  
7 court shall impose a determinate disposition within the standard range  
8 for the offense, and the court may suspend the execution of the  
9 disposition and place the offender on community supervision for up to  
10 two years. As a condition of the suspended disposition, the court may  
11 impose the conditions of community supervision and other conditions,  
12 including up to thirty days of confinement and requirements that the  
13 offender do any one or more of the following:

14 (b)(i) Devote time to a specific education, employment, or  
15 occupation;

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

27 (iii) Remain within prescribed geographical boundaries and notify  
28 the court or the (~~probation~~) community supervision counselor prior to  
29 any change in the offender's address, educational program, or  
30 employment;

31 (iv) Report to the prosecutor and the (~~probation~~) community  
32 supervision counselor prior to any change in a sex offender treatment  
33 provider. This change shall have prior approval by the court;

34 (v) Report as directed to the court and a (~~probation~~) community  
35 supervision counselor;

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

38 (vii) Make restitution to the victim for the cost of any  
39 counseling reasonably related to the offense.

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

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

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

24 If the offender violates any condition of the disposition or the  
25 court finds that the respondent is failing to make satisfactory  
26 progress in treatment, the court may revoke the suspension and order  
27 execution of the (~~(sentence)~~) disposition or the court may impose a  
28 penalty of up to thirty days' confinement for violating conditions of  
29 the disposition. The court may order both execution of the disposition  
30 and up to thirty days' confinement for the violation of the conditions  
31 of the disposition, in which case the term of confinement imposed for  
32 violating conditions of the disposition shall run consecutively to the  
33 term of confinement imposed under the disposition. The court shall  
34 give credit for any confinement time previously served if that  
35 confinement was for the offense for which the suspension is being  
36 revoked.

37 For purposes of this section, "victim" means any person who has  
38 sustained emotional, psychological, physical, or financial injury to  
39 person or property as a direct result of the crime charged. "Victim"

1 may also include a known parent or guardian of a victim who is a minor  
2 child unless the parent or guardian is the perpetrator of the offense.  
3 ~~((+6))~~ (12) Whenever a juvenile offender is entitled to credit  
4 for time spent in detention prior to a dispositional order, the  
5 dispositional order shall specifically state the number of days of  
6 credit for time served.

7 ~~((+7) Except as provided for in subsection (5) of this section,~~  
8 ~~the court shall not suspend or defer the imposition or the execution of~~  
9 ~~the disposition.~~

10 ~~(+8))~~ (13) In no case shall the term of confinement imposed by the  
11 court at disposition exceed that to which an adult could be subjected  
12 for the same offense.

13 (14) Whenever a dispositional order requires a juvenile to  
14 participate in a treatment program, the court may require the  
15 juvenile's parents, guardians, or custodians to participate in the  
16 treatment program with the juvenile.

17 (15) If a court does not exercise a disposition option available  
18 under this chapter due to a lack of available funds, services, or bed  
19 space, the court shall enter a finding in the disposition that an  
20 alternative disposition was not ordered due to the lack of available  
21 funds, services, or bed space.

22 **Sec. 805.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to  
23 read as follows:

24 Unless otherwise provided in this chapter, where a disposition is  
25 imposed on a youth for two or more offenses, the terms shall run  
26 consecutively(, subject to the following limitations:

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

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

34 ~~(3) The aggregate of all consecutive terms of community~~  
35 ~~supervision shall not exceed two years in length, or require payment of~~  
36 ~~more than two hundred dollars in fines or the performance of more than~~  
37 ~~two hundred hours of community service)) or concurrently in the court's~~  
38 discretion.

1           **Sec. 806.** RCW 13.40.205 and 1990 c 3 s 103 are each amended to  
2 read as follows:

3           (1) A juvenile sentenced to a term of confinement to be served  
4 under the supervision of the department shall not be released from the  
5 physical custody of the department prior to the release date  
6 established under RCW 13.40.210 except as otherwise provided in this  
7 section.

8           (2) A juvenile serving a term of confinement under the supervision  
9 of the department may be released on authorized leave from the physical  
10 custody of the department only if consistent with public safety and if:

11           (a) Sixty percent of the ((minimum)) term of confinement has been  
12 served; and

13           (b) The purpose of the leave is to enable the juvenile:

14           (i) To visit the juvenile's family for the purpose of  
15 strengthening or preserving family relationships;

16           (ii) To make plans for parole or release which require the  
17 juvenile's personal appearance in the community and which will  
18 facilitate the juvenile's reintegration into the community; or

19           (iii) To make plans for a residential placement out of the  
20 juvenile's home which requires the juvenile's personal appearance in  
21 the community.

22           (3) No authorized leave may exceed seven consecutive days. The  
23 total of all pre-minimum term authorized leaves granted to a juvenile  
24 prior to final discharge from confinement shall not exceed thirty days.

25           (4) Prior to authorizing a leave, the secretary shall require a  
26 written leave plan, which shall detail the purpose of the leave and how  
27 it is to be achieved, the address at which the juvenile shall reside,  
28 the identity of the person responsible for supervising the juvenile  
29 during the leave, and a statement by such person acknowledging  
30 familiarity with the leave plan and agreeing to supervise the juvenile  
31 and to notify the secretary immediately if the juvenile violates any  
32 terms or conditions of the leave. The leave plan shall include such  
33 terms and conditions as the secretary deems appropriate and shall be  
34 signed by the juvenile.

35           (5) Upon authorizing a leave, the secretary shall issue to the  
36 juvenile an authorized leave order which shall contain the name of the  
37 juvenile, the fact that the juvenile is on leave from a designated  
38 facility, the time period of the leave, and the identity of an  
39 appropriate official of the department to contact when necessary. The

1 authorized leave order shall be carried by the juvenile at all times  
2 while on leave.

3 (6) Prior to the commencement of any authorized leave, the  
4 secretary shall give notice of the leave to the appropriate law  
5 enforcement agency in the jurisdiction in which the juvenile will  
6 reside during the leave period. The notice shall include the identity  
7 of the juvenile, the time period of the leave, the residence of the  
8 juvenile during the leave, and the identity of the person responsible  
9 for supervising the juvenile during the leave.

10 (7) The secretary may authorize a leave, which shall not exceed  
11 forty-eight hours plus travel time, to meet an emergency situation such  
12 as a death or critical illness of a member of the juvenile's family.  
13 The secretary may authorize a leave, which shall not exceed the period  
14 of time medically necessary, to obtain medical care not available in a  
15 juvenile facility maintained by the department. In cases of emergency  
16 or medical leave the secretary may waive all or any portions of  
17 subsections (2)(a), (3), (4), (5), and (6) of this section.

18 (8) If requested by the juvenile's victim or the victim's  
19 immediate family, the secretary shall give notice of any leave to the  
20 victim or the victim's immediate family.

21 (9) A juvenile who violates any condition of an authorized leave  
22 plan may be taken into custody and returned to the department in the  
23 same manner as an adult in identical circumstances.

24 (10) Notwithstanding the provisions of this section, a juvenile  
25 placed in minimum security status may participate in work, educational,  
26 community service, or treatment programs in the community up to twelve  
27 hours a day if approved by the secretary. Such a release shall not be  
28 deemed a leave of absence.

29 (11) Subsections (6), (7), and (8) of this section do not apply to  
30 juveniles covered by RCW 13.40.215.

31 **Sec. 807.** RCW 13.40.210 and 1990 c 3 s 304 are each amended to  
32 read as follows:

33 (1) ~~((The secretary shall, except in the case of a juvenile  
34 committed by a court to a term of confinement in a state institution  
35 outside the appropriate standard range for the offense(s) for which the  
36 juvenile was found to be guilty established pursuant to RCW 13.40.030,  
37 as now or hereafter amended, set a release or discharge date for each  
38 juvenile committed to its custody which shall be within the prescribed~~



1 range to which a juvenile has been committed. — 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.)) (a) When a juvenile is  
5 committed to a term of confinement in a state institution, the  
6 secretary shall review the sentencing court's finding of the  
7 rehabilitative goals to be achieved by the juvenile during the term of  
8 confinement. The department shall provide rehabilitative resources,  
9 including but not limited to education, vocational training, substance  
10 abuse treatment, and counseling, to permit the juvenile to achieve  
11 these rehabilitative goals.

12 (b) After expiration of no more than sixty percent of the  
13 juvenile's commitment term, the department shall provide a report  
14 containing an evaluation of the juvenile's behavior and performance  
15 during commitment. This report shall specifically describe the  
16 juvenile's progress toward achieving the designated rehabilitative  
17 goals.

18 (c) The department shall provide this report to the committing  
19 court. The court, after considering the department's report, shall  
20 determine a release or discharge date for the juvenile, which date  
21 shall fall on or before expiration of the original term of commitment.  
22 If the court sets a release date prior to expiration of the original  
23 term, the court may suspend the remainder of the term.

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

26 (e) The department shall establish by rule standards of good  
27 behavior, good performance, and progress toward rehabilitative goals.

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

36 (2) The secretary shall monitor the average daily population of  
37 the state's juvenile residential facilities. When the secretary  
38 concludes that in-residence population of residential facilities  
39 exceeds one hundred five percent of the rated bed capacity specified in

1 statute, or in absence of such specification, as specified by the  
2 department in rule, the secretary may recommend reductions to the  
3 governor. On certification by the governor that the recommended  
4 reductions are necessary, the secretary has authority to  
5 administratively release a sufficient number of offenders to reduce in-  
6 residence population to one hundred percent of rated bed capacity. The  
7 secretary shall release those offenders who have served the greatest  
8 proportion of their sentence. However, the secretary may deny release  
9 in a particular case at the request of an offender, or if the secretary  
10 finds that there is no responsible custodian, as determined by the  
11 department, to whom to release the offender, or if the release of the  
12 offender would pose a clear danger to society. The department shall  
13 notify the committing court of the release at the ~~((end of each~~  
14 ~~calendar year))~~ time of release if any such early releases have  
15 occurred ~~((during that year))~~ as a result of excessive in-residence  
16 population. In no event shall ~~((a serious))~~ an offender ~~((, as defined~~  
17 ~~in RCW 13.40.020(1))~~ adjudicated of a violent offense be granted  
18 release under the provisions of this subsection.

19 (3) Following the juvenile's release pursuant to subsection (1) of  
20 this section, the secretary may require the juvenile to comply with a  
21 program of parole to be administered by the department in his or her  
22 community which shall last no longer than eighteen months, except that  
23 in the case of a juvenile sentenced for rape in the first or second  
24 degree, rape of a child in the first or second degree, child  
25 molestation in the first degree, or indecent liberties with forcible  
26 compulsion, the period of parole shall be twenty-four months. A parole  
27 program is mandatory for offenders released under subsection (2) of  
28 this section. The secretary shall, for the period of parole,  
29 facilitate the juvenile's reintegration into his or her community and  
30 to further this goal may require the juvenile to: (a) Undergo  
31 available medical or psychiatric treatment; (b) report as directed to  
32 a parole officer; (c) pursue a course of study or vocational training;  
33 and (d) remain within prescribed geographical boundaries and notify the  
34 department of any change in his or her address ~~((; and (e)))~~. As a  
35 mandatory condition of any term of parole, the secretary shall require  
36 the juvenile to refrain from committing new offenses. As a mandatory  
37 condition of parole, the secretary shall order the juvenile to comply  
38 with the mandatory school attendance provisions of chapter 28A.225 RCW  
39 and to inform the school of the existence of this requirement. After

1 termination of the parole period, the juvenile shall be discharged from  
2 the department's supervision.

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

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

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

36 **Sec. 808.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to  
37 read as follows:

1 (1) Dispositions reviewed pursuant to RCW 13.40.160(~~(, as now or~~  
2 ~~hereafter amended,~~) shall be reviewed in the appropriate division of  
3 the court of appeals.

4 An appeal under this section shall be heard solely upon the record  
5 that was before the disposition court. No written briefs may be  
6 required, and the appeal shall be heard within thirty days following  
7 the date of sentencing and a decision rendered within fifteen days  
8 following the argument. The supreme court shall promulgate any  
9 necessary rules to effectuate the purposes of this section.

10 (2) To uphold a disposition outside the standard range, (~~or which~~  
11 ~~imposes confinement for a minor or first offender,~~) the court of  
12 appeals must find (a) that the reasons supplied by the disposition  
13 judge are supported by the record which was before the judge and that  
14 those reasons clearly and convincingly support the conclusion that a  
15 disposition within the range(~~, or nonconfinement for a minor or first~~  
16 ~~offender,~~) would constitute a manifest injustice, and (b) that the  
17 sentence imposed was neither clearly excessive nor clearly too lenient.

18 (3) If the court does not find subsection (2)(a) of this section  
19 it shall remand the case for disposition within the standard range or  
20 for community supervision without confinement as would otherwise be  
21 appropriate pursuant to this chapter.

22 (4) If the court finds subsection (2)(a) but not subsection (2)(b)  
23 of this section it shall remand the case with instructions for further  
24 proceedings consistent with the provisions of this chapter.

25 (5) Pending appeal, a respondent may not be committed or detained  
26 for a period of time in excess of the standard range for the offense(s)  
27 committed or sixty days, whichever is longer. The disposition court  
28 may impose conditions on release pending appeal as provided in RCW  
29 13.40.040(4) and 13.40.050(6). Upon the expiration of the period of  
30 commitment or detention specified in this subsection, the court may  
31 also impose such conditions on the respondent's release pending  
32 disposition of the appeal.

33 (6) Appeal of a disposition under this section does not affect the  
34 finality or appeal of the underlying adjudication of guilt.

35 NEW SECTION. **Sec. 809.** The following acts or parts of acts are  
36 each repealed:

37 (1) RCW 13.40.0354 and 1989 c 407 s 6; and

1 (2) RCW 13.40.0357 and 1994 c . . . s 714 (section 714 of this  
2 act) & 1989 c 407 s 7.

3 **PART IX. TECHNICAL PROVISIONS**

4 NEW SECTION. **Sec. 901.** If any provision of this act or its  
5 application to any person or circumstance is held invalid, the  
6 remainder of the act or the application of the provision to other  
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 902.** (1) Sections 701 through 719 of this act  
9 shall take effect July 1, 1994.

10 (2) Sections 801 through 809 of this act shall take effect July 1,  
11 1995.

12 NEW SECTION. **Sec. 903.** Sections 705, 715, 716, and 719 of this  
13 act shall expire July 1, 1995.

14 NEW SECTION. **Sec. 904.** (1) Sections 701 through 719 of this act  
15 shall apply to offenses committed on or after July 1, 1994.

16 (2) Sections 801 through 809 of this act shall apply to offenses  
17 committed on or after July 1, 1995."

18 Renumber the parts and sections consecutively and correct the  
19 table of contents and any internal references accordingly.

20 **E2SHB 2319** - S AMD TO S AMD (S-5375.4/94)  
21 By Senator

22  
23 On page 159, beginning on line 25 of the title amendment, after  
24 "13.04.030," strike the remainder of the title and insert "13.40.300,  
25 82.04.250, 9A.46.050, 10.14.080, 10.99.040, 10.99.045, 26.09.050,  
26 26.09.060, 26.10.040, 26.10.115, 26.26.137, 26.50.070, 77.12.720,  
27 9.94A.150, 10.99.030, 28A.300.130, 28A.320.205, 28A.610.030,  
28 28A.610.060, 28A.620.020, 9A.36.031, 28A.600.475, 13.50.050,  
29 28A.190.030, 28A.190.040, 28A.650.015, 13.50.010, 72.09.300, 13.40.020,  
30 13.40.025, 13.40.027, 13.40.030, 13.40.070, 13.40.080, 13.40.0357,  
31 13.40.160, 13.40.180, 13.40.190, 13.40.200, 13.40.230, 13.40.020,

1 13.40.150, 13.40.160, 13.40.180, 13.40.205, 13.40.210, 13.40.230,  
2 66.24.210, 66.24.290, 82.08.150, 82.24.020, 82.64.020, and 69.50.520;  
3 amending 1993 sp.s. c 24 s 501 (uncodified); reenacting and amending  
4 RCW 9.41.010, 9.41.040, 26.28.080, 26.26.130, 26.50.060, 10.31.100, and  
5 28A.630.885; adding new sections to chapter 43.70 RCW; adding new  
6 sections to chapter 70.190 RCW; adding a new section to chapter 74.14A  
7 RCW; adding a new section to Title 28A RCW; adding a new section to  
8 chapter 43.63A RCW; adding a new section to chapter 43.101 RCW; adding  
9 new sections to chapter 43.41 RCW; adding a new section to chapter  
10 43.20A RCW; adding a new section to chapter 35.21 RCW; adding a new  
11 section to chapter 35A.11 RCW; adding a new section to chapter 36.32  
12 RCW; adding new sections to chapter 9.41 RCW; adding new sections to  
13 chapter 9.94A RCW; adding a new section to chapter 13.06 RCW; adding a  
14 new section to chapter 28A.310 RCW; adding a new section to chapter  
15 28A.405 RCW; adding a new section to chapter 28A.600 RCW; adding a new  
16 section to chapter 13.16 RCW; adding a new section to chapter 72.02  
17 RCW; adding a new section to chapter 28A.650 RCW; adding a new section  
18 to chapter 43.19 RCW; adding a new section to chapter 43.33A RCW;  
19 adding a new section to chapter 13.40 RCW; adding a new section to  
20 chapter 44.28 RCW; adding a new chapter to Title 19 RCW; creating new  
21 sections; recodifying RCW 9.41.160; repealing RCW 70.190.900, 9.41.030,  
22 9.41.093, 9.41.100, 9.41.130, 9.41.200, 9.41.210, 9.41.230, 13.40.0354,  
23 13.40.0357, and 82.64.900; prescribing penalties; providing effective  
24 dates; providing contingent effective dates; providing an expiration  
25 date; providing for submission of certain sections of this act to a  
26 vote of the people; and declaring an emergency."

--- END ---