
SUBSTITUTE HOUSE BILL 2747

State of Washington**53rd Legislature****1994 Regular Session**

By House Committee on Corrections (originally sponsored by Representatives Conway, Lemmon, Morris, Long, Campbell, Forner, Van Luven, Talcott, Brough, Holm, Roland, Shin, Johanson, Pruitt, Rayburn, Moak, Valle, Jones, L. Johnson, Karahalios, Springer, Ogden and Quall)

Read first time 02/04/94.

1 AN ACT Relating to juveniles; amending RCW 13.06.050, 13.40.020,
2 13.40.025, 13.40.027, 13.40.030, 13.40.070, 13.40.080, 13.40.150,
3 13.40.160, 13.40.180, 13.40.190, 13.40.205, 13.40.210, 13.40.230,
4 13.50.010, and 72.09.300; adding new sections to chapter 13.40 RCW;
5 creating new sections; repealing RCW 13.40.0354 and 13.40.0357;
6 prescribing penalties; and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that the juvenile
9 justice act of 1977, chapter 13.40 RCW, requires substantial revision.
10 The legislature reaffirms the goals of the act, including the dual
11 goals of punishment and rehabilitation of juvenile offenders. The
12 legislature finds, however, that the substantive provisions of the act
13 are too structured to achieve fully the act's goals.

14 The framework created by the act has diminishing relevance to
15 today's violent and chronic offenders. Juveniles are committing
16 increasingly violent crimes, and they are committing these violent
17 crimes at an increasingly younger age. Simultaneously, juveniles
18 habitually commit minor offenses. Dispositions prescribed by the act
19 are not long enough to permit substantial rehabilitation of violent

1 offenders, and minor offenders receive no meaningful intervention. The
2 fixed system established by the act restricts the judiciary's efforts
3 to tailor punishment and rehabilitation to the juvenile's individual
4 needs. Additionally, substantial delays occur before the juvenile
5 offender is held accountable for criminal acts.

6 Juvenile offenders must learn personal accountability and must
7 accept responsibility for their criminal behavior. To this end, the
8 juvenile system must provide a swift response, meaningful punishment,
9 and effective rehabilitation. Therefore, this act seeks to accomplish
10 the following goals: (1) Increasing the speed of the juvenile justice
11 system's response to juvenile offenders' criminal behavior; (2)
12 increasing the certainty of punishment and intervention; (3) increasing
13 judicial discretion and permitting judges to tailor dispositions to the
14 juvenile's offense; (4) expanding the range of disposition alternatives
15 to permit meaningful punishment and effective rehabilitation; (5)
16 increasing the likelihood that juveniles will comply with the terms of
17 their dispositions by creating compliance incentives and, if necessary,
18 placing the juveniles in supportive out-of-home placements; and (6)
19 reducing the complexity of the system.

20 NEW SECTION. **Sec. 2.** The office of the administrator for the
21 courts shall convene a work group to recommend to the legislature
22 standards to guide the court's discretion at significant stages of the
23 juvenile justice process. The work group shall consist of two juvenile
24 court judges, two juvenile court administrators, two prosecuting
25 attorneys or deputy prosecuting attorneys actively practicing in
26 juvenile court, and two defense attorneys actively practicing in
27 juvenile court. The work group shall, by December 1, 1994, recommend
28 to the legislature standards to guide:

- 29 (1) The decision to defer adjudication;
30 (2) The decision to suspend a sentence;
31 (3) The setting of rehabilitative goals in a disposition order that
32 includes commitment to the department of social and health services;
33 (4) The determination that a juvenile has or has not met the
34 rehabilitative goals during the term of commitment to the department of
35 social and health services; and
36 (5) The decision to set a date for a juvenile's release from the
37 department of social and health services' custody.

1 **Sec. 3.** RCW 13.06.050 and 1993 c 415 s 7 are each amended to read
2 as follows:

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

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

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

31 (3) The secretary will reimburse a county upon presentation and
32 approval of a valid claim pursuant to the provisions of this chapter
33 based on actual performance in meeting the terms and conditions of the
34 approved plan and contract. Funds received by participating counties
35 under this chapter shall not be used to replace local funds for
36 existing programs.

37 ~~((+3+))~~ (4) The secretary, in conjunction with the human rights
38 commission, shall evaluate the effectiveness of programs funded under
39 this chapter in reducing racial disproportionality. The secretary

1 shall investigate whether implementation of such programs has reduced
2 disproportionality in counties with initially high levels of
3 disproportionality. The analysis shall indicate which programs are
4 cost-effective in reducing disproportionality in such areas as
5 alternatives to detention, intake and risk assessment standards
6 pursuant to RCW 13.40.038, alternatives to incarceration, and in the
7 prosecution and adjudication of juveniles. The secretary shall report
8 his or her findings to the legislature by December 1, 1994, and
9 December 1 of each year thereafter.

10 **Sec. 4.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to read
11 as follows:

12 For the purposes of this chapter:

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

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

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

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

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

30 ~~((3))~~ (2) "Community supervision" means an order of disposition
31 by the court of an adjudicated youth not committed to the department.
32 A community supervision order for a single offense may be for a period
33 of up to two years for a sex offense as defined by RCW 9.94A.030 and up
34 to one year for other offenses. Community supervision is an
35 individualized program comprised of one or more of the following:

36 (a) Community-based sanctions;

37 (b) Community-based rehabilitation;

38 (c) Monitoring and reporting requirements;

1 ~~((4))~~ (3) Community-based sanctions may include one or more of
2 the following:

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

4 (b) Community service not to exceed one hundred fifty hours of
5 service;

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

14 ~~((6))~~ (5) "Monitoring and reporting requirements" means one or
15 more of the following: Curfews; requirements to remain at home,
16 school, work, or court-ordered treatment programs during specified
17 hours; restrictions from leaving or entering specified geographical
18 areas; requirements to report to the ~~((probation))~~ community
19 supervision officer as directed and to remain under the ~~((probation))~~
20 community supervision officer's supervision; and other conditions or
21 limitations as the court may require which may not include confinement;

22 ~~((7))~~ (6) "Confinement" means physical custody by the department
23 of social and health services in a facility operated by or pursuant to
24 a contract with the state, or physical custody in a detention facility
25 operated by or pursuant to a contract with any county. The county may
26 operate or contract with vendors to operate county detention
27 facilities. Confinement includes state and county group homes, foster
28 care homes, inpatient substance abuse programs, juvenile boot camps and
29 electronic monitoring. The department may operate or contract to
30 operate detention facilities for juveniles committed to the department.
31 Pretrial confinement or confinement of less than thirty-one days
32 imposed as part of a disposition or modification order may be served
33 consecutively or intermittently, in the discretion of the court and may
34 be served in a detention group home, detention foster home, or with
35 electronic monitoring. Detention group homes and detention foster
36 homes used for confinement shall not also be used for the placement of
37 dependent children(~~(-~~ ~~Confinement in detention group homes and~~
38 ~~detention foster homes and electronic monitoring are subject to~~
39 ~~available funds)~~);

1 ~~((8))~~ (7) "Court", when used without further qualification, means
2 the juvenile court judge(s) or commissioner(s);

3 ~~((9))~~ (8) "Criminal history" includes all criminal complaints
4 against the respondent for which, prior to the commission of a current
5 offense(~~(a)~~), the allegations were found correct by a court(~~.—If~~
6 ~~a respondent is convicted of two or more charges arising out of the~~
7 ~~same course of conduct, only the highest charge from among these shall~~
8 ~~count as an offense for the purposes of this chapter~~); or ~~((b))~~ the
9 criminal complaint was diverted by a prosecutor pursuant to the
10 provisions of this chapter on agreement of the respondent and after an
11 advisement to the respondent that the criminal complaint would be
12 considered as part of the respondent's criminal history. Deferred
13 adjudications shall not be considered part of the respondent's criminal
14 history;

15 ~~((10))~~ (9) "Department" means the department of social and health
16 services;

17 ~~((11))~~ (10) "Detention facility" means a county facility for the
18 physical confinement of a juvenile alleged to have committed an offense
19 or an adjudicated offender subject to a disposition or modification
20 order;

21 ~~((12))~~ (11) "Diversion unit" means any ~~(probation)~~ community
22 supervision counselor who enters into a diversion agreement with an
23 alleged youthful offender, or any other person, community
24 accountability board, or other entity except a law enforcement official
25 or entity, with whom the juvenile court administrator has contracted to
26 arrange and supervise such agreements pursuant to RCW 13.40.080, or any
27 person, community accountability board, or other entity specially
28 funded by the legislature to arrange and supervise diversion agreements
29 in accordance with the requirements of this chapter;

30 ~~((13))~~ (12) "Institution" means a juvenile facility established
31 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

32 ~~((14))~~ (13) "Juvenile," "youth," and "child" mean any individual
33 who is under the chronological age of eighteen years and who has not
34 been previously transferred to adult court;

35 ~~((15))~~ (14) "Juvenile offender" means any juvenile who has been
36 found by the juvenile court to have committed an offense, including a
37 person eighteen years of age or older over whom jurisdiction has been
38 extended under RCW 13.40.300;

1 (~~(16)~~) (15) "Manifest injustice" means a disposition that would
2 either impose an excessive penalty on the juvenile, would fail to
3 promote the juvenile's best rehabilitative interest, or would impose a
4 serious, and clear danger to society in light of the purposes of this
5 chapter;

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

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

12 (a) Four misdemeanors;

13 (b) Two misdemeanors and one gross misdemeanor;

14 (c) One misdemeanor and two gross misdemeanors;

15 (d) Three gross misdemeanors;

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

18 (f) One class B felony except: Any felony which constitutes an
19 attempt to commit a class A felony; manslaughter in the first degree;
20 assault in the second degree; extortion in the first degree; indecent
21 liberties; kidnapping in the second degree; robbery in the second
22 degree; burglary in the second degree; residential burglary; vehicular
23 homicide; or arson in the second degree.

24 For purposes of this definition, current violations shall be
25 counted as misdemeanors;

26 (~~(19)~~) (16) "Offense" means an act designated a violation or a
27 crime if committed by an adult under the law of this state, under any
28 ordinance of any city or county of this state, under any federal law,
29 or under the law of another state if the act occurred in that state;

30 (~~(20)~~) (17) "Placement out of the home" means placement for
31 twenty-four hour residential care in foster or group care, or with a
32 court-approved custodian;

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

35 (~~(21)~~) (19) "Restitution" means financial reimbursement by the
36 offender to the victim, and shall be limited to easily ascertainable
37 damages for injury to or loss of property, actual expenses incurred for
38 medical treatment for physical injury to persons, lost wages resulting
39 from physical injury, and costs of the victim's counseling reasonably

1 related to the offense if the offense is a sex offense. Restitution
2 shall not include reimbursement for damages for mental anguish, pain
3 and suffering, or other intangible losses. Nothing in this chapter
4 shall limit or replace civil remedies or defenses available to the
5 victim or offender;

6 ~~((22))~~ (20) "Secretary" means the secretary of the department of
7 social and health services;

8 ~~((23))~~ (21) "Services" mean services which provide alternatives
9 to incarceration for those juveniles who have pleaded or been
10 adjudicated guilty of an offense or have signed a diversion agreement
11 pursuant to this chapter;

12 ~~((24))~~ (22) "Sex offense" means an offense defined as a sex
13 offense in RCW 9.94A.030;

14 ~~((25))~~ (23) "Sexual motivation" means that one of the purposes
15 for which the respondent committed the offense was for the purpose of
16 his or her sexual gratification;

17 ~~((26))~~ (24) "Foster care" means temporary physical care in a
18 foster family home or group care facility as defined in RCW 74.15.020
19 and licensed by the department, or other legally authorized care;

20 ~~((27))~~ (25) "Violation" means an act or omission, which if
21 committed by an adult, must be proven beyond a reasonable doubt, and is
22 punishable by sanctions which do not include incarceration;

23 (26) "Violent offense" means a violent offense as defined in RCW
24 9.94A.030.

25 **Sec. 5.** RCW 13.40.025 and 1986 c 288 s 8 are each amended to read
26 as follows:

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

31 (2) The commission shall be composed of the secretary or the
32 secretary's designee and the following ~~((nine))~~ members appointed by
33 the governor, subject to confirmation by the senate: (a) ~~((A))~~ Two
34 superior court judges; (b) ~~((a))~~ two prosecuting ~~((attorney))~~
35 prosecuting attorneys; (c) a law enforcement officer; (d) an
36 administrator of juvenile court services; (e) ~~((a))~~ two public
37 defenders actively practicing in juvenile court; (f) a county
38 legislative official or county executive; ~~((and))~~ (g) three other

1 persons who have demonstrated significant interest in the adjudication
2 and disposition of juvenile offenders; and (h) one member from each of
3 the two largest caucuses of both the senate and the house of
4 representatives, who shall be nonvoting members. In making the
5 appointments, the governor shall seek the recommendations of the
6 association of superior court judges in respect to the members who ~~((is~~
7 ~~a))~~ are superior court judges; of Washington prosecutors in respect to
8 the prosecuting ~~((attorney))~~ or deputy prosecuting attorney members; of
9 the Washington association of sheriffs and police chiefs in respect to
10 the member who is a law enforcement officer; of juvenile court
11 administrators in respect to the member who is a juvenile court
12 administrator; and of the state bar association in respect to the
13 public defender member; and of the Washington association of counties
14 in respect to the member who is either a county legislative official or
15 county executive.

16 (3) The ~~((secretary or the secretary's designee))~~ governor shall
17 ~~((serve as chairman))~~ designate the chair of the commission.

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

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

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

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

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

34 (a)(i) Evaluate the effectiveness of existing disposition standards
35 and related statutes in implementing policies set forth in RCW
36 13.40.010 generally~~((7))~~;

37 (ii) ~~((specifically))~~ Review ~~((the guidelines relating to the~~
38 ~~confinement of minor and first offenders as well as))~~ the use of

1 diversion, ~~((and))~~ deferred adjudications, and suspended confinement or
2 commitment;

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

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

8 (b) Solicit the comments and suggestions of the juvenile justice
9 community, including juvenile justice advisory committees of local law
10 and justice councils, concerning disposition standards, effectiveness,
11 and proportionality; ((and))

12 (c) Make recommendations to the legislature regarding revisions or
13 modifications of the disposition standards in accordance with RCW
14 13.40.030;

15 (d) Implement a comprehensive tracking program to analyze
16 recidivism among juvenile offenders, particularly among offenders who
17 receive alternatives such as diversion, deferred adjudication, and
18 suspended confinement or commitment. The commission shall include
19 information and statistics about juvenile recidivism in the
20 commission's annual report; and

21 (e) If the commission identifies racial or other
22 disproportionalities at any stage of administration of juvenile
23 justice, identify the disproportionalities in the annual report and
24 make recommendations for corrective measures.

25 The evaluations shall be submitted to the legislature on December
26 1 of each ~~((even-numbered))~~ year ~~((thereafter))~~.

27 (2) ~~((It is the responsibility of the department to: (a) Provide~~
28 ~~the commission with available data concerning the implementation of the~~
29 ~~disposition standards and related statutes and their effect on the~~
30 ~~performance of the department's responsibilities relating to juvenile~~
31 ~~offenders; (b) at the request of the commission, provide technical and~~
32 ~~administrative assistance to the commission in the performance of its~~
33 ~~responsibilities; and (c) provide the commission and legislature with~~
34 ~~recommendations for modification of the disposition standards.))~~ The
35 office of financial management shall determine the appropriate staffing
36 level for the commission to provide a research staff of sufficient size
37 and with sufficient resources to accomplish its duties. The salary for
38 a full-time executive officer, if any, shall be fixed by the governor
39 under RCW 43.03.040.

1 (3) The commission may request from the office of financial
2 management, the administrator for the courts, local law and justice
3 councils, and the department such data, information, and data
4 processing assistance as it may need to accomplish its duties, and the
5 services shall be provided without cost to the commission. The
6 department and other organizations or individuals shall provide the
7 commission and the legislature with recommendations for modification of
8 the disposition standards. The commission shall have rule-making
9 authority to develop a system for fulfilling its identified data needs.

10 (4) The commission shall conduct a study to determine the capacity
11 of rehabilitative facilities and programs that are or will be
12 available. While the commission need not consider the capacity in
13 arriving at its recommendations, the commission shall project whether
14 the implementation of its recommendations would result in exceeding the
15 capacity. If the commission finds that this result would probably
16 occur, then the commission shall prepare an additional list of standard
17 sentences that shall be consistent with the capacity.

18 (5) The commission shall study the existing juvenile justice code
19 and make recommendations to the legislature for modification.

20 (6) The commission shall adopt its own bylaws.

21 **Sec. 7.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read
22 as follows:

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

1 of confinement which may be proposed may relate only to the length of
2 the proposed terms and not to the nature of the security to be imposed.
3 In developing recommended disposition standards, the commission shall
4 consider the capacity of the state juvenile facilities and the
5 projected impact of the proposed standards on that capacity.

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

24 ((2) In developing recommendations for the permissible ranges of
25 confinement under this section the commission shall be subject to the
26 following limitations:

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

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

33 (c) Where the maximum term in the range is more than one year, the
34 minimum term in the range may be no less than eighty percent of the
35 maximum term in the range.))

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

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

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

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

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

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

23 (4) An information shall be a plain, concise, and definite written
24 statement of the essential facts constituting the offense charged. It
25 shall be signed by the prosecuting attorney and conform to chapter
26 10.37 RCW.

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

29 (a) An alleged offender is accused of a class A felony, a class B
30 felony, an attempt to commit a class B felony, or a class C felony
31 listed in RCW 9.94A.440(2) as a crime against persons(~~(7)~~) or (~~any~~
32 ~~other offense listed in RCW 13.40.020(1) (b) or (c))~~) in RCW 9A.46.060
33 as a crime of harassment; or

34 (b) An alleged offender is accused of a felony and has a criminal
35 history of (~~at least one class A or class B felony, or two class C~~
36 ~~felonies)) any felony, or at least two gross misdemeanors, or at least
37 two misdemeanors (~~and one additional misdemeanor or gross misdemeanor,~~
38 ~~or at least one class C felony and one misdemeanor or gross~~
39 ~~misdemeanor)); or~~~~

1 (c) An alleged offender has previously been committed to the
2 department; or

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

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

7 (6) Where a case is legally sufficient the prosecutor shall divert
8 the case if the alleged offense is a misdemeanor or gross misdemeanor
9 or violation and the alleged offense(~~((s) in combination with the~~
10 ~~alleged offender's criminal history do not exceed two offenses or~~
11 ~~violations and do not include any felonies: PROVIDED, That~~) is the
12 offender's first offense or violation. If the alleged offender is
13 charged with a related offense that must or may be filed under
14 subsections (5) and (7) of this section, a case under this subsection
15 may also be filed.

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

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

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

37 (10) The prosecutor, juvenile court (~~(probation)~~) community
38 supervision counselor, or diversion unit may, in exercising their
39 authority under this section or RCW 13.40.080, refer juveniles to

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

4 **Sec. 9.** RCW 13.40.080 and 1992 c 205 s 108 are each amended to
5 read as follows:

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

15 (2) A diversion agreement shall be limited to:

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

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

21 (c) Attendance at up to ten hours of counseling and/or up to twenty
22 hours of educational or informational sessions at a community agency:
23 PROVIDED, That the state shall not be liable for costs resulting from
24 the diversionary unit exercising the option to permit diversion
25 agreements to mandate attendance at up to ten hours of counseling and/
26 or up to twenty hours of educational or informational sessions; ((and))

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

33 (e) Requirements that the juvenile remain at a home, work, or
34 school during specified hours; and

35 (f) Prohibitions on leaving or entering specified geographical
36 areas.

37 (3) In assessing periods of community service to be performed and
38 restitution to be paid by a juvenile who has entered into a diversion

1 agreement, the court officer to whom this task is assigned shall
2 consult with the juvenile's custodial parent or parents or guardian,
3 with victims who have contacted the diversionary unit and, to the
4 extent possible, involve members of the community. Such members of the
5 community shall meet with the juvenile and advise the court officer as
6 to the terms of the diversion agreement and shall supervise the
7 juvenile in carrying out its terms.

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

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

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

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

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

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

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

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

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

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

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

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

37 (iv) Demonstration by evidence that the diverttee has substantially
38 violated the terms of his or her diversion agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (e) The facts of the alleged offense.

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

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

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

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

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

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

18 NEW SECTION. Sec. 10. A new section is added to chapter 13.40 RCW
19 to read as follows:

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

26 (2) Any juvenile granted a deferral of adjudication under this
27 section shall be placed under community supervision. The court may
28 impose any conditions of supervision that it deems appropriate.
29 Payment of restitution, as provided in RCW 13.40.190 shall also be a
30 condition of community supervision under this section.

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

33 (4) If the juvenile fails to comply with the terms of supervision,
34 the court shall enter an order of adjudication and proceed to
35 disposition. The juvenile's lack of compliance shall be determined by
36 the judge upon written motion by the prosecutor or the juvenile's
37 juvenile court probation counselor. The state shall bear the burden to

1 prove by a preponderance of the evidence that the juvenile has failed
2 to comply with the terms of community supervision.

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

5 (a) To a speedy trial and disposition;

6 (b) To call and confront witnesses; and

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

9 (6)(a) In addition to imposing conditions of community supervision,
10 the court may order that the juvenile be placed in a placement out of
11 the home if the court finds that the child is in need of supervision
12 and that placement of the child out of the home is in the child's best
13 interests. The court shall consider the following factors, among
14 others, when determining whether to place the child out of the home:

15 (i) The age of the youth;

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

21 (iii) The community supervision officer's report concerning the
22 family environment;

23 (iv) Assessment of the child's chances of successfully complying
24 with the terms of community supervision if the child remains in the
25 home; and

26 (v) The wishes of the parents, the parent's willingness and ability
27 to assist the child in complying with the terms of community
28 supervision, and the parent's willingness and ability to voluntarily
29 attend counseling or parenting seminars, or to seek treatment if the
30 parent, in the court's determination, has drug or alcohol problems,
31 mental health problems, or anger management problems.

32 (b) If the court finds that placement out of the home is necessary
33 and is in the best interests of the juvenile and community and that
34 reasonable efforts have been made to prevent out-of-home placement, the
35 court shall order an out-of-home placement. The order shall be
36 directed to the receiving agency or person. In determining the
37 location of the out-of-home placement the court shall consider the
38 needs of the juvenile, the juvenile's family, and the community. The
39 court shall first consider placement with a relative and shall accord

1 great weight to the juvenile's community supervision officer's
2 placement recommendation.

3 (c) A placement out of the home shall not exceed one year. The
4 court shall review the placement every ninety days. The juvenile's
5 community supervision officer shall request from the receiving agency
6 or person information on the placement, and the community supervision
7 officer shall include this information and other relevant information
8 in a report to be presented to the court at the placement review. The
9 review shall be conducted administratively.

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

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

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

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

21 **Sec. 11.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to
22 read as follows:

23 (1) In disposition hearings all relevant and material evidence,
24 including oral and written reports, may be received by the court and
25 may be relied upon to the extent of its probative value, even though
26 such evidence may not be admissible in a hearing on the information.
27 The youth or the youth's counsel and the prosecuting attorney shall be
28 afforded an opportunity to examine and controvert written reports so
29 received and to cross-examine individuals making reports when such
30 individuals are reasonably available, but sources of confidential
31 information need not be disclosed. The prosecutor and counsel for the
32 juvenile may submit recommendations for disposition.

33 (2) For purposes of disposition:

34 (a) ~~((Violations which are current offenses count as misdemeanors))~~
35 Prior to disposition, the county shall conduct a predisposition
36 diagnostic evaluation of the juvenile and shall prepare a report of the
37 evaluation. The county shall provide this report to the court. The
38 evaluation shall include an assessment of the juvenile's rehabilitative

1 needs including but not limited to the juvenile's needs for treatment,
2 therapy, and education. The evaluation shall also include a
3 preliminary assessment of the security risks posed by the juvenile;

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

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

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

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

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

15 (c) Consider (~~any predisposition reports~~) the predisposition
16 evaluation report;

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

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

23 (f) Determine the amount of restitution owing to the victim, if
24 any;

25 (g) (~~Determine whether the respondent is a serious offender, a~~
26 ~~middle offender, or a minor or first offender~~) Consider the types of
27 treatment, therapy, education, and other rehabilitative services that
28 would be most effective at rehabilitating the offender;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (a) The sex of the respondent;

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

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

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

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

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

37 **Sec. 12.** RCW 13.40.160 and 1992 c 45 s 6 are each amended to read
38 as follows:

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

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

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

22 (2) ~~Where the respondent is found to be a minor or first offender,~~
23 ~~the court shall order that the respondent serve a term of community~~
24 ~~supervision as indicated in option A or option B of schedule D-1, RCW~~
25 ~~13.40.0357 except as provided in subsection (5) of this section. If~~
26 ~~the court determines that a disposition of community supervision would~~
27 ~~effectuate a manifest injustice the court may impose another~~
28 ~~disposition under option C of schedule D-1, RCW 13.40.0357. Except as~~
29 ~~provided in subsection (5) of this section, a disposition other than a~~
30 ~~community supervision may be imposed only after the court enters~~
31 ~~reasons upon which it bases its conclusions that imposition of~~
32 ~~community supervision would effectuate a manifest injustice. When a~~
33 ~~judge finds a manifest injustice and imposes a sentence of confinement~~
34 ~~exceeding thirty days, the court shall sentence the juvenile to a~~
35 ~~maximum term, and the provisions of RCW 13.40.030(2), as now or~~
36 ~~hereafter amended, shall be used to determine the range. The court's~~
37 ~~finding of manifest injustice shall be supported by clear and~~
38 ~~convincing evidence.~~

1 Except for disposition of community supervision or a disposition
2 imposed pursuant to subsection (5) of this section, a disposition may
3 be appealed as provided in RCW 13.40.230, as now or hereafter amended,
4 by the state or the respondent. A disposition of community supervision
5 or a disposition imposed pursuant to subsection (5) of this section may
6 not be appealed under RCW 13.40.230 as now or hereafter amended.

7 (3) Where a respondent is found to have committed an offense for
8 which the respondent declined to enter into a diversion agreement, the
9 court shall impose a term of community supervision limited to the
10 conditions allowed in a diversion agreement as provided in RCW
11 13.40.080(2) as now or hereafter amended.

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

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

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

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

32 (d) A disposition pursuant to subsection (4)(c) of this section is
33 appealable under RCW 13.40.230, as now or hereafter amended, by the
34 state or the respondent. A disposition pursuant to subsection (4) (a)
35 or (b) of this section is not appealable under RCW 13.40.230 as now or
36 hereafter amended.

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

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

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

4 (b) The juvenile's criminal history and the recency of that
5 criminal history;

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

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

9 (e) The seriousness of the offense;

10 (f) Whether the juvenile's adjudication resulted from accomplice
11 liability; and

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

13 (3)(a) For a juvenile adjudicated for a misdemeanor or a gross
14 misdemeanor, the court shall impose a disposition comprised of any of
15 the following:

16 0 - 12 Months of community supervision;

17 0 - 150 Hours of community service;

18 0 - \$100 Fine;

19 0 - 30 Days in confinement if the juvenile has prior criminal
20 history or a prior deferred adjudication.

21 (b) The court shall not commit a juvenile adjudicated of a
22 misdemeanor or gross misdemeanor to the department unless the court
23 enters a finding that a disposition under (a) of this subsection would
24 effectuate a manifest injustice.

25 (4)(a) For a juvenile adjudicated of a class C or B felony that is
26 not: A violent offense, a crime against persons as defined in RCW
27 9.94A.440(2), or a crime of harassment as defined in RCW 9A.46.060, the
28 court shall impose a disposition comprised of any of the following:

29 0 - 12 Months of community supervision;

30 0 - 150 Hours of community service;

31 0 - \$100 Fine;

32 5 - 60 days of confinement or commitment to the department.

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

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

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

10 0 - 12 Months community supervision;

11 0 - 150 Hours community service;

12 0 - \$100 Fine;

13 5 Days to 129 weeks in confinement or commitment to the department.

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

20 (c) The court may suspend all or a portion of any term of
21 confinement or commitment imposed under this subsection (5). In
22 addition to the suspended confinement or commitment, the court shall
23 impose community supervision, community service, or a fine as provided
24 in (a)(i) of this subsection.

25 (6)(a) If a juvenile is adjudicated of a class A felony, an
26 attempt to commit a class A felony, a sex or violent offense, or an
27 offense in which a finding was entered that the offender was armed with
28 a deadly weapon as defined in RCW 9.94A.125 when the offense was
29 committed, the court shall impose a disposition of the following:

30 52 - 224 Weeks committed to the department.

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

34 (c) If the juvenile is adjudicated of a sex offense, other than a
35 sex offense that is also a serious violent offense as defined by RCW
36 9.94A.030, the court need not impose a disposition under this
37 subsection (6). The court may instead order a treatment disposition
38 option under subsection (11) of this section.

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

18 (7) In all cases, the court shall impose a determinate
19 disposition.

20 (8) If the court concludes, and enters reasons for its conclusion,
21 that disposition within the standard range would effectuate a manifest
22 injustice, the court shall impose a determinate disposition outside the
23 standard range. If the court imposes a disposition below the standard
24 range due to a manifest injustice, the disposition shall be comprised
25 of community supervision or confinement, or both. The court's finding
26 of manifest injustice shall be supported by clear and convincing
27 evidence. A disposition outside the standard range shall be appealable
28 under RCW 13.40.230, by the state or respondent. A disposition within
29 the standard range is not appealable.

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

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

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

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

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

18 (a)(i) Frequency and type of contact between the offender and
19 therapist;

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

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

25 (iv) Anticipated length of treatment; and

26 (v) Recommended crime-related prohibitions.

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

33 After receipt of reports of the examination, the court shall then
34 consider whether the offender and the community will benefit from use
35 of this special sex offender disposition alternative and consider the
36 victim's opinion whether the offender should receive a treatment
37 disposition under this section. If the court determines that this
38 special sex offender disposition alternative is appropriate, then the
39 court shall impose a determinate disposition within the standard range

1 for the offense, and the court may suspend the execution of the
2 disposition and place the offender on community supervision for ((up
3 to)) not less than two years. As a condition of the suspended
4 disposition, the court may impose the conditions of community
5 supervision and other conditions, including up to thirty days of
6 confinement and requirements that the offender do any one or more of
7 the following:

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

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

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

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

27 (v) Report as directed to the court and a ((probation)) community
28 supervision counselor;

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

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

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

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

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

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

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

28 (~~((+6))~~) (12) Whenever a juvenile offender is entitled to credit
29 for time spent in detention prior to a dispositional order, the
30 dispositional order shall specifically state the number of days of
31 credit for time served.

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

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

38 (13) Whenever a dispositional order requires a juvenile to
39 participate in a treatment program, the court may require the

1 juvenile's parents, guardians, or custodians to participate in the
2 treatment program with the juvenile.

3 **Sec. 13.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to
4 read as follows:

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

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

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

15 ~~(3) The aggregate of all consecutive terms of community~~
16 ~~supervision shall not exceed two years in length, or require payment of~~
17 ~~more than two hundred dollars in fines or the performance of more than~~
18 ~~two hundred hours of community service)) or concurrently.~~

19 **Sec. 14.** RCW 13.40.190 and 1987 c 281 s 5 are each amended to
20 read as follows:

21 (1) In its dispositional order, the court shall require the
22 respondent and may require his or her parents, guardians, or custodians
23 to make restitution to any persons who have suffered loss or damage as
24 a result of the offense committed by the respondent. In addition,
25 restitution may be ordered for loss or damage if the offender pleads
26 guilty to a lesser offense or fewer offenses and agrees with the
27 prosecutor's recommendation that the offender be required to pay
28 restitution to a victim of an offense or offenses which, pursuant to a
29 plea agreement, are not prosecuted. The payment of restitution shall
30 be in addition to any punishment which is imposed pursuant to the other
31 provisions of this chapter. The court may determine the amount, terms,
32 and conditions of the restitution. Restitution may include the costs
33 of counseling reasonably related to the offense. If the respondent
34 participated in the crime with another person or other persons, all
35 such participants shall be jointly and severally responsible for the
36 payment of restitution. The court may not require the respondent or
37 parent, guardian, or custodian to pay full or partial restitution if

1 the respondent or parent, guardian, or custodian reasonably satisfies
2 the court that he or she does not have the means to make full or
3 partial restitution and could not reasonably acquire the means to pay
4 such restitution. In cases where an offender has been committed to the
5 department for a period of confinement exceeding fifteen weeks,
6 restitution may be waived.

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

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

13 **Sec. 15.** RCW 13.40.205 and 1990 c 3 s 103 are each amended to
14 read as follows:

15 (1) A juvenile sentenced to a term of confinement to be served
16 under the supervision of the department shall not be released from the
17 physical custody of the department prior to the release date
18 established under RCW 13.40.210 except as otherwise provided in this
19 section.

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

23 (a) Sixty percent of the ((minimum)) term of confinement has been
24 served; and

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

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

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

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

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

37 (4) Prior to authorizing a leave, the secretary shall require a
38 written leave plan, which shall detail the purpose of the leave and how

1 it is to be achieved, the address at which the juvenile shall reside,
2 the identity of the person responsible for supervising the juvenile
3 during the leave, and a statement by such person acknowledging
4 familiarity with the leave plan and agreeing to supervise the juvenile
5 and to notify the secretary immediately if the juvenile violates any
6 terms or conditions of the leave. The leave plan shall include such
7 terms and conditions as the secretary deems appropriate and shall be
8 signed by the juvenile.

9 (5) Upon authorizing a leave, the secretary shall issue to the
10 juvenile an authorized leave order which shall contain the name of the
11 juvenile, the fact that the juvenile is on leave from a designated
12 facility, the time period of the leave, and the identity of an
13 appropriate official of the department to contact when necessary. The
14 authorized leave order shall be carried by the juvenile at all times
15 while on leave.

16 (6) Prior to the commencement of any authorized leave, the
17 secretary shall give notice of the leave to the appropriate law
18 enforcement agency in the jurisdiction in which the juvenile will
19 reside during the leave period. The notice shall include the identity
20 of the juvenile, the time period of the leave, the residence of the
21 juvenile during the leave, and the identity of the person responsible
22 for supervising the juvenile during the leave.

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

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

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

37 (10) Notwithstanding the provisions of this section, a juvenile
38 placed in minimum security status may participate in work, educational,
39 community service, or treatment programs in the community up to twelve

1 hours a day if approved by the secretary. Such a release shall not be
2 deemed a leave of absence.

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

5 **Sec. 16.** RCW 13.40.210 and 1990 c 3 s 304 are each amended to
6 read as follows:

7 ~~(1) ((The secretary shall, except in the case of a juvenile
8 committed by a court to a term of confinement in a state institution
9 outside the appropriate standard range for the offense(s) for which the
10 juvenile was found to be guilty established pursuant to RCW 13.40.030,
11 as now or hereafter amended, set a release or discharge date for each
12 juvenile committed to its custody which shall be within the prescribed
13 range to which a juvenile has been committed. Such dates shall be
14 determined prior to the expiration of sixty percent of a juvenile's
15 minimum term of confinement included within the prescribed range to
16 which the juvenile has been committed.))~~ (a) When a juvenile is
17 committed to a term of confinement in a state institution, the
18 secretary shall review the sentencing court's finding of the
19 rehabilitative goals to be achieved by the juvenile during the term of
20 confinement. The department shall provide rehabilitative resources,
21 including but not limited to education, vocational training, substance
22 abuse treatment, and counseling, to permit the juvenile to achieve
23 these rehabilitative goals.

24 (b) After expiration of no more than sixty percent of the
25 juvenile's commitment term, the department shall provide a report
26 containing an evaluation of the juvenile's behavior and performance
27 during commitment. This report shall specifically describe the
28 juvenile's progress toward achieving the designated rehabilitative
29 goals.

30 (c) The department shall provide this report to the committing
31 court. The court, after considering the department's report, shall
32 determine a release or discharge date for the juvenile, which date
33 shall fall on or before expiration of the original term of commitment.
34 If the court sets a release date prior to expiration of the original
35 term, the court may suspend the remainder of the term.

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

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

3 (f) After the court determines a release date, the secretary shall
4 release any juvenile committed to the custody of the department within
5 four calendar days prior to the juvenile's release date or on the
6 release date set under this chapter(~~(:—PROVIDED, That))~~). Days spent
7 in the custody of the department shall be tolled by any period of time
8 during which a juvenile has absented himself or herself from the
9 department's supervision without the prior approval of the secretary or
10 the secretary's designee.

11 (2) The secretary shall monitor the average daily population of
12 the state's juvenile residential facilities. When the secretary
13 concludes that in-residence population of residential facilities
14 exceeds one hundred five percent of the rated bed capacity specified in
15 statute, or in absence of such specification, as specified by the
16 department in rule, the secretary may recommend reductions to the
17 governor. On certification by the governor that the recommended
18 reductions are necessary, the secretary has authority to
19 administratively release a sufficient number of offenders to reduce in-
20 residence population to one hundred percent of rated bed capacity. The
21 secretary shall release those offenders who have served the greatest
22 proportion of their sentence. However, the secretary may deny release
23 in a particular case at the request of an offender, or if the secretary
24 finds that there is no responsible custodian, as determined by the
25 department, to whom to release the offender, or if the release of the
26 offender would pose a clear danger to society. The department shall
27 notify the committing court of the release at the ~~((end of each~~
28 ~~calendar year))~~ time of release if any such early releases have
29 occurred ~~((during that year))~~ as a result of excessive in-residence
30 population. In no event shall ~~((a serious))~~ an offender~~((, as defined~~
31 ~~in RCW 13.40.020(1))~~ adjudicated of a violent offense be granted
32 release under the provisions of this subsection.

33 (3) Following the juvenile's release pursuant to subsection (1) of
34 this section, the secretary may require the juvenile to comply with a
35 program of parole to be administered by the department in his or her
36 community which shall last no longer than eighteen months, except that
37 in the case of a juvenile sentenced for rape in the first or second
38 degree, rape of a child in the first or second degree, child
39 molestation in the first degree, or indecent liberties with forcible

1 compulsion, the period of parole shall be twenty-four months. A parole
2 program is mandatory for offenders released under subsection (2) of
3 this section. The secretary shall, for the period of parole,
4 facilitate the juvenile's reintegration into his or her community and
5 to further this goal may require the juvenile to: (a) Undergo
6 available medical or psychiatric treatment; (b) report as directed to
7 a parole officer; (c) pursue a course of study or vocational training;
8 (d) remain within prescribed geographical boundaries and notify the
9 department of any change in his or her address; and (e) refrain from
10 committing new offenses. After termination of the parole period, the
11 juvenile shall be discharged from the department's supervision.

12 (4) The department may also modify parole for violation thereof.
13 If, after affording a juvenile all of the due process rights to which
14 he or she would be entitled if the juvenile were an adult, the
15 secretary finds that a juvenile has violated a condition of his or her
16 parole, the secretary shall order one of the following which is
17 reasonably likely to effectuate the purpose of the parole and to
18 protect the public: (a) Continued supervision under the same
19 conditions previously imposed; (b) intensified supervision with
20 increased reporting requirements; (c) additional conditions of
21 supervision authorized by this chapter; (d) except as provided in (e)
22 of this subsection, imposition of a period of confinement not to exceed
23 thirty days in a facility operated by or pursuant to a contract with
24 the state of Washington or any city or county for a portion of each day
25 or for a certain number of days each week with the balance of the days
26 or weeks spent under supervision; and (e) the secretary may order any
27 of the conditions or may return the offender to confinement in an
28 institution for the remainder of the sentence range if the offense for
29 which the offender was sentenced is rape in the first or second degree,
30 rape of a child in the first or second degree, child molestation in the
31 first degree, indecent liberties with forcible compulsion, or a sex
32 offense that is also a serious violent offense as defined by RCW
33 9.94A.030.

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

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

4 **Sec. 17.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to
5 read as follows:

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

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

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

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

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

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

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

3 NEW SECTION. **Sec. 18.** A new section is added to chapter 13.40
4 RCW to read as follows:

5 The designation in statute or ordinance of a violation or crime as
6 an infraction, misdemeanor, gross misdemeanor, or class A, B, or C
7 felony shall determine the class of offense for purposes of this
8 chapter.

9 **Sec. 19.** RCW 13.50.010 and 1993 c 374 s 1 are each amended to
10 read as follows:

11 (1) For purposes of this chapter:

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

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

22 (c) "Social file" means the juvenile court file containing the
23 records and reports of the probation counselor;

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

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

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

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

1 inaccurate shall be corrected or expunged from such records by the
2 agency;

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

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

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

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

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

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

32 (8) The court may permit inspection of records by, or release of
33 information to, any clinic, hospital, or agency which has the subject
34 person under care or treatment, or to individuals or agencies engaged
35 in legitimate research for educational, scientific, or public purposes,
36 including juvenile justice advisory committees of county law and
37 justice councils. The court may also permit inspection of, or release
38 of information from, records which have been sealed pursuant to RCW
39 13.50.050(11). Access to records or information for research purposes

1 shall be permitted only if the anonymity of all persons mentioned in
2 the records or information will be preserved. Each person granted
3 permission to inspect juvenile justice or care agency records for
4 research purposes shall present a notarized statement to the court
5 stating that the names of juveniles and parents will remain
6 confidential.

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

12 **Sec. 20.** RCW 72.09.300 and 1993 sp.s. c 21 s 8 are each amended
13 to read as follows:

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

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

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

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

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

4 (c) A description of current jail resources;

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

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

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

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

14 (h) A proposed plan to collect, synthesize, and disseminate
15 technical information concerning local criminal justice activities,
16 facilities, and procedures;

17 (i) A description of existing and potential services for offenders
18 including employment services, substance abuse treatment, mental health
19 services, and housing referral services.

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

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

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

30 (7) The secretary may adopt rules for the submittal, review, and
31 approval of all requests for assistance made to the department. The
32 secretary may also appoint an advisory committee of local and state
33 government officials to recommend policies and procedures relating to
34 the state and local correctional systems and to assist the department
35 in providing technical assistance to local governments. The committee
36 shall include representatives of the county sheriffs, the police
37 chiefs, the county prosecuting attorneys, the county and city
38 legislative authorities, and the jail administrators. The secretary

1 may contract with other state and local agencies and provide funding in
2 order to provide the assistance requested by counties.

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

8 (9) The council shall establish an advisory committee on juvenile
9 justice proportionality. The council shall appoint the county juvenile
10 court administrator and at least five citizens as ex advisory committee
11 members. The citizen advisory committee members shall be
12 representative of the county's ethnic and geographic diversity. The
13 advisory committee members shall serve two-year terms and may be
14 reappointed. The duties of the advisory committee include:

15 (a) Monitoring and reporting to the juvenile disposition standards
16 commission on the proportionality, effectiveness, and cultural
17 relevance of:

18 (i) The rehabilitative goals required by juvenile offender
19 dispositions;

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

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

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

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

29 NEW SECTION. Sec. 21. The following acts or parts of acts are
30 each repealed:

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

32 (2) RCW 13.40.0357 and 1989 c 407 s 7.

33 NEW SECTION. Sec. 22. This act shall apply to offenses committed
34 on or after the effective date of this act.

35 NEW SECTION. Sec. 23. If any provision of this act or its
36 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 24.** This act shall take effect January 1,
4 1996.

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