

1 **3SHB 3900 - H AMD 261 FAILED 3-17-97**

2 By Representative Dickerson

3 Beginning on page 76, line 10, strike section 24 and insert:

4 "Sec. 24. RCW 13.40.160 and 1995 c 395 s 7 are each amended
5 to read as follows:

6 (1) (~~When the respondent is found to be a serious offender,~~
7 ~~the court shall commit the offender to the department for the~~
8 ~~standard range of disposition for the offense, as indicated in~~
9 ~~option A of schedule D-3, RCW 13.40.0357 except as provided in~~
10 ~~subsections (5) and (6) of this section.~~) The standard range
11 disposition for a juvenile adjudicated of an offense is determined
12 according to RCW 13.40.0357.

13 (a) When the court sentences an offender to a local sanction
14 as provided in RCW 13.40.0357 Option A, the court shall impose a
15 determinate disposition within the standard ranges, except as
16 provided in subsections (2), (4), (5) and (6) of this section. The
17 disposition may be comprised of one or more local sanctions.

18 (b) When the court sentences an offender to a standard range
19 as provided in RCW 13.40.0357 Option A that includes a term of
20 confinement exceeding thirty days, commitment shall be to the
21 department for the standard range of confinement, except as
22 provided in subsections (2), (4), (5) and (6) of this section.

23 (2) If the court concludes, and enters reasons for its
24 conclusion, that disposition within the standard range would
25 effectuate a manifest injustice the court shall impose a
26 disposition outside the standard range, as indicated in option
27 ((B)) C of (~~schedule D-3,~~) RCW 13.40.0357. The court's finding
28 of manifest injustice shall be supported by clear and convincing
29 evidence.

30 A disposition outside the standard range shall be determinate
31 and shall be comprised of confinement or community supervision, or
32 a combination thereof. When a judge finds a manifest injustice and
33 imposes a sentence of confinement exceeding thirty days, the court
34 shall sentence the juvenile to a maximum term, and the provisions
35 of RCW 13.40.030(2) shall be used to determine the range. A
36 disposition outside the standard range is appealable under RCW

1 13.40.230 by the state or the respondent. A disposition within the
2 standard range is not appealable under RCW 13.40.230.

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

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

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

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

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

1 ~~(b))~~ If the ~~((middle))~~ juvenile offender ~~((has less than 110~~
2 ~~points, the court shall impose a determinate disposition of~~
3 ~~community supervision and/or up to thirty days confinement, as~~
4 ~~indicated in option B of schedule D-2, RCW 13.40.0357 in which~~
5 ~~case, if confinement has been imposed, the court shall state either~~
6 ~~aggravating or mitigating factors as set forth in RCW 13.40.150.~~
7 ~~If the middle offender has 110 points or more))~~ is subject to a
8 standard range disposition of up to 36 weeks of confinement and is
9 not a violent offender, the court may impose a disposition under
10 option A and may suspend the disposition on the condition that the
11 offender serve up to thirty days of confinement and follow all
12 conditions of community supervision. If the offender violates any
13 condition of the disposition including conditions of a probation
14 bond, the court may impose sanctions pursuant to RCW 13.40.200 or
15 may revoke the suspension and order execution of the disposition.
16 The court shall give credit for any confinement time previously
17 served if that confinement was for the offense for which the
18 suspension is being revoked.

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

26 ~~(d))~~ A disposition ~~((pursuant to))~~ entered under this
27 subsection (4)~~((c) of this section is appealable under RCW~~
28 ~~13.40.230 by the state or the respondent. A disposition pursuant~~
29 ~~to subsection (4) (a) or (b) of this section))~~ is not appealable
30 under RCW 13.40.230.

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

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

8 The examiner shall assess and report regarding the
9 respondent's amenability to treatment and relative risk to the
10 community. A proposed treatment plan shall be provided and shall
11 include, at a minimum:

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

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

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

19 (iv) Anticipated length of treatment; and

20 (v) Recommended crime-related prohibitions.

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

27 After receipt of reports of the examination, the court shall
28 then consider whether the offender and the community will benefit
29 from use of this special sex offender disposition alternative and
30 consider the victim's opinion whether the offender should receive
31 a treatment disposition under this section. If the court
32 determines that this special sex offender disposition alternative
33 is appropriate, then the court shall impose a determinate
34 disposition within the standard range for the offense, or if the
35 court concludes, and enters reasons for its conclusions, that such
36 disposition would cause a manifest injustice, the court shall
37 impose a disposition under option C, and the court may suspend the
38 execution of the disposition and place the offender on community

1 supervision for (~~up to~~) at least two years. As a condition of
2 the suspended disposition, the court may impose the conditions of
3 community supervision and other conditions, including up to thirty
4 days of confinement and requirements that the offender do any one
5 or more of the following:

6 (b)(i) Devote time to a specific education, employment, or
7 occupation;

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

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

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

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

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

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

29 (viii) Comply with the conditions of any court-ordered
30 probation bond.

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

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

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

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

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

33 ~~((+6))~~ A disposition entered under this subsection (5) is not
34 appealable under RCW 13.40.230.

35 (6) If the juvenile offender is subject to a standard range
36 disposition of local sanctions or 24 to 36 weeks of confinement and
37 has not committed an A- or B+ offense, the court may impose the
38 disposition alternative under section 25 of this act.

1 (7) RCW 13.40.193 shall govern the disposition of any juvenile
2 adjudicated of possessing a firearm in violation of RCW
3 9.41.040(1)((+e+)) (b)(iii) or any crime in which a special finding
4 is entered that the juvenile was armed with a firearm.

5 ((+7+)) (8) Whenever a juvenile offender is entitled to credit
6 for time spent in detention prior to a dispositional order, the
7 dispositional order shall specifically state the number of days of
8 credit for time served.

9 ((+8+)) (9) Except as provided ((for in)) under subsection
10 (4)((+b+or)), (5), or (6) of this section ((or)), RCW 13.40.125,
11 or section 25 of this act, the court shall not suspend or defer the
12 imposition or the execution of the disposition.

13 ((+9+)) (10) In no case shall the term of confinement imposed
14 by the court at disposition exceed that to which an adult could be
15 subjected for the same offense."

16 Correct internal references.

EFFECT: Adds back the "Option B" disposition alternative that is available under current law to certain juvenile offenders. If the juvenile offender is subject to a standard range disposition of up to 36 weeks of confinement and is not a violent offender, that court may suspend the standard range disposition of commitment to JRA and impose conditions of community supervision and up to thirty days of confinement at the local level.