
SUBSTITUTE HOUSE BILL 2454

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Carrell, Chandler, Mulliken, Boldt, Lambert, Mielke, Mitchell and Thompson)

Read first time 02/06/98. Referred to Committee on .

1 AN ACT Relating to offenders; amending RCW 13.40.160, 13.40.210,
2 13.40.215, 28A.225.225, and 28A.225.330; reenacting and amending RCW
3 13.40.160; adding a new section to chapter 9A.44 RCW; adding a new
4 section to chapter 28A.225 RCW; adding a new section to chapter 74.15
5 RCW; creating a new section; prescribing penalties; providing an
6 effective date; providing an expiration date; and declaring an
7 emergency.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.44 RCW
10 to read as follows:

11 (1) As used in this section:

12 (a) "Known sex offender" means a person who has, within the
13 knowledge of the arresting officer, been adjudicated or convicted
14 within the last twenty years in any court of a sex offense.

15 (b) "School" means a school as defined in RCW 9.94A.030.

16 (c) "Sex offense" means a sex offense as defined in RCW 9.94A.030
17 or any attempt to commit a sex offense.

18 (d) "Public place" is an area generally visible to public view and
19 includes, but is not limited to, schools, playgrounds, streets,

1 sidewalks, bridges, alleys, plazas, parks, driveways, parking lots,
2 transit stations, shelters and tunnels, automobiles visible to public
3 view whether moving or stationary, doorways and entrances to buildings
4 or dwellings and the grounds enclosing them, and buildings open to the
5 general public including those that serve food or drink, or provide
6 entertainment.

7 (2) A person is guilty of sex offender loitering if he or she
8 remains in a public place within one thousand feet of a school, or a
9 park or playground where children are present and intentionally
10 solicits, induces, entices, or procures another for the purpose of
11 committing a sex offense.

12 (3) The following circumstances do not by themselves constitute the
13 crime of sex offender loitering. Among the circumstances that may be
14 considered in determining whether the defendant is engaging in sex
15 offender loitering are that he or she:

16 (a) Is a known sex offender;

17 (b) Repeatedly beckons to, stops or attempts to stop children or
18 other pedestrians, or engages them in a conversation;

19 (c) Circles an area in a motor vehicle and repeatedly beckons to,
20 contacts, or attempts to stop children or pedestrians;

21 (d) Is the subject of any court order, which directs as a condition
22 of release from custody, a condition of parole, community placement, or
23 community supervision, the person to stay out of any specified area
24 that explicitly or impliedly includes schools, playgrounds, or parks
25 where children congregate;

26 (e) Is subject to conditions of release, supervision, community
27 placement, or parole, as established by the department of corrections
28 or the department of social and health services, that directs the
29 person to stay out of any specified area that explicitly or impliedly
30 includes schools, playgrounds, or parks where children congregate;

31 (f) In the case of a juvenile who is a known sex offender, does not
32 attend the school or is on school premises after hours or after school
33 functions;

34 (g) Is not an employee of the school; or

35 (h) Is on the grounds of the school, playground, or park when
36 children are present.

37 (4) A person convicted of sex offender loitering is guilty of a
38 gross misdemeanor if the trier of fact finds that the person has not
39 been classified at risk level II or III under the risk assessment

1 classification system under RCW 72.09.345, or is not subject to a court
2 order or terms of parole, community placement, or supervision that
3 directs the person to stay out of any specified area that explicitly or
4 impliedly includes schools, or parks or playgrounds where children
5 congregate. A person convicted of sex offender loitering is guilty of
6 a class C felony if the trier of fact finds that the person has been
7 classified at risk level II or III under RCW 72.09.345, and is subject
8 to a court order or terms of parole, community placement, or
9 supervision that directs the person to stay out of any specified area
10 that explicitly or impliedly includes schools, or parks or playgrounds
11 where children congregate.

12 (5) A law enforcement officer may not arrest a person for sex
13 offender loitering unless probable cause exists to believe that the
14 person has remained in a public place and has intentionally solicited,
15 induced, enticed, or procured another for the purpose of committing a
16 sex offense. Nothing in this subsection (5) prohibits a law
17 enforcement or community corrections officer from detaining a known sex
18 offender remaining within one thousand feet of a school, or a park or
19 playground where children are present to determine whether the known
20 sex offender is violating the terms of a court order or conditions of
21 release, supervision, community placement, or parole.

22 **Sec. 2.** RCW 13.40.160 and 1997 c 265 s 1 are each amended to read
23 as follows:

24 (1) When the respondent is found to be a serious offender, the
25 court shall commit the offender to the department for the standard
26 range of disposition for the offense, as indicated in option A of
27 schedule D-3, RCW 13.40.0357 except as provided in subsections (5) and
28 (6) of this section.

29 If the court concludes, and enters reasons for its conclusion, that
30 disposition within the standard range would effectuate a manifest
31 injustice the court shall impose a disposition outside the standard
32 range, as indicated in option B of schedule D-3, RCW 13.40.0357. The
33 court's finding of manifest injustice shall be supported by clear and
34 convincing evidence.

35 A disposition outside the standard range shall be determinate and
36 shall be comprised of confinement or community supervision, or a
37 combination thereof. When a judge finds a manifest injustice and
38 imposes a sentence of confinement exceeding thirty days, the court

1 shall sentence the juvenile to a maximum term, and the provisions of
2 RCW 13.40.030(2) shall be used to determine the range. A disposition
3 outside the standard range is appealable under RCW 13.40.230 by the
4 state or the respondent. A disposition within the standard range is
5 not appealable under RCW 13.40.230.

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

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

28 (3) Where a respondent is found to have committed an offense for
29 which the respondent declined to enter into a diversion agreement, the
30 court shall impose a term of community supervision limited to the
31 conditions allowed in a diversion agreement as provided in RCW
32 13.40.080(2).

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

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

1 (b) If the middle offender has less than 110 points, the court
2 shall impose a determinate disposition of community supervision and/or
3 up to thirty days confinement, as indicated in option B of schedule D-
4 2, RCW 13.40.0357 in which case, if confinement has been imposed, the
5 court shall state either aggravating or mitigating factors as set forth
6 in RCW 13.40.150. If the middle offender has 110 points or more, the
7 court may impose a disposition under option A and may suspend the
8 disposition on the condition that the offender serve up to thirty days
9 of confinement and follow all conditions of community supervision. If
10 the offender violates any condition of the disposition including
11 conditions of a probation bond, the court may impose sanctions pursuant
12 to RCW 13.40.200 or may revoke the suspension and order execution of
13 the disposition. The court shall give credit for any confinement time
14 previously served if that confinement was for the offense for which the
15 suspension is being revoked.

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

23 (d) A disposition pursuant to subsection (4)(c) of this section is
24 appealable under RCW 13.40.230 by the state or the respondent. A
25 disposition pursuant to subsection (4)(a) or (b) of this section is not
26 appealable under RCW 13.40.230.

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

33 The report of the examination shall include at a minimum the
34 following: The respondent's version of the facts and the official
35 version of the facts, the respondent's offense history, an assessment
36 of problems in addition to alleged deviant behaviors, the respondent's
37 social, educational, and employment situation, and other evaluation
38 measures used. The report shall set forth the sources of the
39 evaluator's information.

1 The examiner shall assess and report regarding the respondent's
2 amenability to treatment and relative risk to the community. A
3 proposed treatment plan shall be provided and shall include, at a
4 minimum:

5 (a)(i) Frequency and type of contact between the offender and
6 therapist;

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

9 (iii) Monitoring plans, including any requirements regarding living
10 conditions, lifestyle requirements, and monitoring by family members,
11 legal guardians, or others;

12 (iv) Anticipated length of treatment; and

13 (v) Recommended crime-related prohibitions.

14 The court on its own motion may order, or on a motion by the state
15 shall order, a second examination regarding the offender's amenability
16 to treatment. The evaluator shall be selected by the party making the
17 motion. The defendant shall pay the cost of any second examination
18 ordered unless the court finds the defendant to be indigent in which
19 case the state shall pay the cost.

20 After receipt of reports of the examination, the court shall then
21 consider whether the offender and the community will benefit from use
22 of this special sex offender disposition alternative and consider the
23 victim's opinion whether the offender should receive a treatment
24 disposition under this section. If the court determines that this
25 special sex offender disposition alternative is appropriate, then the
26 court shall impose a determinate disposition within the standard range
27 for the offense, and the court may suspend the execution of the
28 disposition and place the offender on community supervision for up to
29 two years. As a condition of the suspended disposition, the court may
30 impose the conditions of community supervision and other conditions,
31 including up to thirty days of confinement and requirements that the
32 offender do any one or more of the following:

33 (b)(i) Devote time to a specific education, employment, or
34 occupation;

35 (ii) Undergo available outpatient sex offender treatment for up to
36 two years, or inpatient sex offender treatment not to exceed the
37 standard range of confinement for that offense. A community mental
38 health center may not be used for such treatment unless it has an
39 appropriate program designed for sex offender treatment. The

1 respondent shall not change sex offender treatment providers or
2 treatment conditions without first notifying the prosecutor, the
3 probation counselor, and the court, and shall not change providers
4 without court approval after a hearing if the prosecutor or probation
5 counselor object to the change;

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

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

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

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

15 (vii) Make restitution to the victim for the cost of any counseling
16 reasonably related to the offense;

17 (viii) Comply with the conditions of any court-ordered probation
18 bond; ~~((or))~~

19 (ix) Refrain from sex offender loitering as prohibited in section
20 1 of this act; or

21 (x) The court shall order that the offender may not attend the
22 public or approved private elementary, middle, or high school attended
23 by the victim or the victim's siblings. The parents or legal guardians
24 of the offender are responsible for transportation or other costs
25 associated with the offender's change of school that would otherwise be
26 paid by the school district. The court shall send notice of the
27 disposition and restriction on attending the same school as the victim
28 or victim's siblings to the public or approved private school the
29 juvenile will attend, if known, or if unknown, to the approved private
30 schools and the public school district board of directors of the
31 district in which the juvenile resides or intends to reside. This
32 notice must be sent at the earliest possible date but not later than
33 ten calendar days after entry of the disposition.

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

1 in treatment, and any other material specified by the court at the time
2 of the disposition.

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

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

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

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

33 (6) RCW 13.40.193 shall govern the disposition of any juvenile
34 adjudicated of possessing a firearm in violation of RCW
35 9.41.040(1)(b)(iii) or any crime in which a special finding is entered
36 that the juvenile was armed with a firearm.

37 (7) Whenever a juvenile offender is entitled to credit for time
38 spent in detention prior to a dispositional order, the dispositional

1 order shall specifically state the number of days of credit for time
2 served.

3 (8) Except as provided for in subsection (4)(b) or (5) of this
4 section or RCW 13.40.125, the court shall not suspend or defer the
5 imposition or the execution of the disposition.

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

9 (10) As a mandatory condition of community supervision or parole of
10 a sex offender, the court shall order a sex offender to refrain from
11 sex offender loitering as prohibited in section 1 of this act.

12 **Sec. 3.** RCW 13.40.160 and 1997 c 338 s 25 and 1997 c 265 s 1 are
13 each reenacted and amended to read as follows:

14 (1) The standard range disposition for a juvenile adjudicated of an
15 offense is determined according to RCW 13.40.0357.

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

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

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

32 A disposition outside the standard range shall be determinate and
33 shall be comprised of confinement or community supervision, or a
34 combination thereof. When a judge finds a manifest injustice and
35 imposes a sentence of confinement exceeding thirty days, the court
36 shall sentence the juvenile to a maximum term, and the provisions of
37 RCW 13.40.030(2) shall be used to determine the range. A disposition
38 outside the standard range is appealable under RCW 13.40.230 by the

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

3 (3) Where a respondent is found to have committed an offense for
4 which the respondent declined to enter into a diversion agreement, the
5 court shall impose a term of community supervision limited to the
6 conditions allowed in a diversion agreement as provided in RCW
7 13.40.080(2).

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

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

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

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

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

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

32 (iv) Anticipated length of treatment; and

33 (v) Recommended crime-related prohibitions.

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

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

17 (b)(i) Devote time to a specific education, employment, or
18 occupation;

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

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

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

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

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

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

1 (viii) Comply with the conditions of any court-ordered probation
2 bond; (~~or~~)

3 (ix) Refrain from sex offender loitering as prohibited in section
4 1 of this act; or

5 (x) The court shall order that the offender may not attend the
6 public or approved private elementary, middle, or high school attended
7 by the victim or the victim's siblings. The parents or legal guardians
8 of the offender are responsible for transportation or other costs
9 associated with the offender's change of school that would otherwise be
10 paid by the school district. The court shall send notice of the
11 disposition and restriction on attending the same school as the victim
12 or victim's siblings to the public or approved private school the
13 juvenile will attend, if known, or if unknown, to the approved private
14 schools and the public school district board of directors of the
15 district in which the juvenile resides or intends to reside. This
16 notice must be sent at the earliest possible date but not later than
17 ten calendar days after entry of the disposition.

18 The sex offender treatment provider shall submit quarterly reports
19 on the respondent's progress in treatment to the court and the parties.
20 The reports shall reference the treatment plan and include at a minimum
21 the following: Dates of attendance, respondent's compliance with
22 requirements, treatment activities, the respondent's relative progress
23 in treatment, and any other material specified by the court at the time
24 of the disposition.

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

27 Except as provided in this subsection (4), after July 1, 1991,
28 examinations and treatment ordered pursuant to this subsection shall
29 only be conducted by sex offender treatment providers certified by the
30 department of health pursuant to chapter 18.155 RCW. A sex offender
31 therapist who examines or treats a juvenile sex offender pursuant to
32 this subsection does not have to be certified by the department of
33 health pursuant to chapter 18.155 RCW if the court finds that: (A) The
34 offender has already moved to another state or plans to move to another
35 state for reasons other than circumventing the certification
36 requirements; (B) no certified providers are available for treatment
37 within a reasonable geographical distance of the offender's home; and
38 (C) the evaluation and treatment plan comply with this subsection (4)
39 and the rules adopted by the department of health.

1 If the offender violates any condition of the disposition or the
2 court finds that the respondent is failing to make satisfactory
3 progress in treatment, the court may revoke the suspension and order
4 execution of the disposition or the court may impose a penalty of up to
5 thirty days' confinement for violating conditions of the disposition.
6 The court may order both execution of the disposition and up to thirty
7 days' confinement for the violation of the conditions of the
8 disposition. The court shall give credit for any confinement time
9 previously served if that confinement was for the offense for which the
10 suspension is being revoked.

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

16 A disposition entered under this subsection (4) is not appealable
17 under RCW 13.40.230.

18 (5) If the juvenile offender is subject to a standard range
19 disposition of local sanctions or 15 to 36 weeks of confinement and has
20 not committed an A- or B+ offense, the court may impose the disposition
21 alternative under RCW 13.40.165.

22 (6) RCW 13.40.193 shall govern the disposition of any juvenile
23 adjudicated of possessing a firearm in violation of RCW
24 9.41.040(1)(b)(iii) or any crime in which a special finding is entered
25 that the juvenile was armed with a firearm.

26 (7) Whenever a juvenile offender is entitled to credit for time
27 spent in detention prior to a dispositional order, the dispositional
28 order shall specifically state the number of days of credit for time
29 served.

30 (8) Except as provided under subsection (4) or (5) of this section
31 or RCW 13.40.127, the court shall not suspend or defer the imposition
32 or the execution of the disposition.

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

36 (10) As a mandatory condition of community supervision or parole of
37 a sex offender, the court shall order a sex offender to refrain from
38 sex offender loitering as prohibited in section 1 of this act.

1 **Sec. 4.** RCW 13.40.210 and 1997 c 338 s 32 are each amended to read
2 as follows:

3 (1) The secretary shall, except in the case of a juvenile committed
4 by a court to a term of confinement in a state institution outside the
5 appropriate standard range for the offense(s) for which the juvenile
6 was found to be guilty established pursuant to RCW 13.40.030, set a
7 release or discharge date for each juvenile committed to its custody.
8 The release or discharge date shall be within the prescribed range to
9 which a juvenile has been committed except as provided in RCW 13.40.320
10 concerning offenders the department determines are eligible for the
11 juvenile offender basic training camp program. Such dates shall be
12 determined prior to the expiration of sixty percent of a juvenile's
13 minimum term of confinement included within the prescribed range to
14 which the juvenile has been committed. The secretary shall release any
15 juvenile committed to the custody of the department within four
16 calendar days prior to the juvenile's release date or on the release
17 date set under this chapter. Days spent in the custody of the
18 department shall be tolled by any period of time during which a
19 juvenile has absented himself or herself from the department's
20 supervision without the prior approval of the secretary or the
21 secretary's designee.

22 (2) The secretary shall monitor the average daily population of the
23 state's juvenile residential facilities. When the secretary concludes
24 that in-residence population of residential facilities exceeds one
25 hundred five percent of the rated bed capacity specified in statute, or
26 in absence of such specification, as specified by the department in
27 rule, the secretary may recommend reductions to the governor. On
28 certification by the governor that the recommended reductions are
29 necessary, the secretary has authority to administratively release a
30 sufficient number of offenders to reduce in-residence population to one
31 hundred percent of rated bed capacity. The secretary shall release
32 those offenders who have served the greatest proportion of their
33 sentence. However, the secretary may deny release in a particular case
34 at the request of an offender, or if the secretary finds that there is
35 no responsible custodian, as determined by the department, to whom to
36 release the offender, or if the release of the offender would pose a
37 clear danger to society. The department shall notify the committing
38 court of the release at the time of release if any such early releases
39 have occurred as a result of excessive in-residence population. In no

1 event shall an offender adjudicated of a violent offense be granted
2 release under the provisions of this subsection.

3 (3)(a) Following the juvenile's release under subsection (1) of
4 this section, the secretary may require the juvenile to comply with a
5 program of parole to be administered by the department in his or her
6 community which shall last no longer than eighteen months, except that
7 in the case of a juvenile sentenced for rape in the first or second
8 degree, rape of a child in the first or second degree, child
9 molestation in the first degree, or indecent liberties with forcible
10 compulsion, the period of parole shall be twenty-four months and, in
11 the discretion of the secretary, may be up to thirty-six months when
12 the secretary finds that an additional period of parole is necessary
13 and appropriate in the interests of public safety or to meet the
14 ongoing needs of the juvenile. A parole program is mandatory for
15 offenders released under subsection (2) of this section. The decision
16 to place an offender on parole shall be based on an assessment by the
17 department of the offender's risk for reoffending upon release. The
18 department shall prioritize available parole resources to provide
19 supervision and services to offenders at moderate to high risk for
20 reoffending.

21 (b) The secretary shall, for the period of parole, facilitate the
22 juvenile's reintegration into his or her community and to further this
23 goal shall require the juvenile to refrain from possessing a firearm or
24 using a deadly weapon and refrain from committing new offenses and may
25 require the juvenile to: (i) Undergo available medical, psychiatric,
26 drug and alcohol, sex offender, mental health, and other offense-
27 related treatment services; (ii) report as directed to a parole officer
28 and/or designee; (iii) pursue a course of study, vocational training,
29 or employment; (iv) notify the parole officer of the current address
30 where he or she resides; (v) be present at a particular address during
31 specified hours; (vi) remain within prescribed geographical boundaries;
32 (vii) submit to electronic monitoring; (viii) refrain from using
33 illegal drugs and alcohol, and submit to random urinalysis when
34 requested by the assigned parole officer; (ix) refrain from contact
35 with specific individuals or a specified class of individuals; (x) meet
36 other conditions determined by the parole officer to further enhance
37 the juvenile's reintegration into the community; (xi) pay any court-
38 ordered fines or restitution; and (xii) perform community service.
39 Community service for the purpose of this section means compulsory

1 service, without compensation, performed for the benefit of the
2 community by the offender. Community service may be performed through
3 public or private organizations or through work crews.

4 (c) The secretary may further require up to twenty-five percent of
5 the highest risk juvenile offenders who are placed on parole to
6 participate in an intensive supervision program. Offenders
7 participating in an intensive supervision program shall be required to
8 comply with all terms and conditions listed in (b) of this subsection
9 and shall also be required to comply with the following additional
10 terms and conditions: (i) Obey all laws and refrain from any conduct
11 that threatens public safety; (ii) report at least once a week to an
12 assigned community case manager; and (iii) meet all other requirements
13 imposed by the community case manager related to participating in the
14 intensive supervision program. As a part of the intensive supervision
15 program, the secretary may require day reporting.

16 (d) If the juvenile is a sex offender, the secretary shall require
17 the offender to refrain from sex offender loitering as prohibited in
18 section 1 of this act.

19 (e) After termination of the parole period, the juvenile shall be
20 discharged from the department's supervision.

21 (4)(a) The department may also modify parole for violation thereof.
22 If, after affording a juvenile all of the due process rights to which
23 he or she would be entitled if the juvenile were an adult, the
24 secretary finds that a juvenile has violated a condition of his or her
25 parole, the secretary shall order one of the following which is
26 reasonably likely to effectuate the purpose of the parole and to
27 protect the public: (i) Continued supervision under the same
28 conditions previously imposed; (ii) intensified supervision with
29 increased reporting requirements; (iii) additional conditions of
30 supervision authorized by this chapter; (iv) except as provided in
31 (a)(v) of this subsection, imposition of a period of confinement not to
32 exceed thirty days in a facility operated by or pursuant to a contract
33 with the state of Washington or any city or county for a portion of
34 each day or for a certain number of days each week with the balance of
35 the days or weeks spent under supervision; and (v) the secretary may
36 order any of the conditions or may return the offender to confinement
37 for the remainder of the sentence range if the offense for which the
38 offender was sentenced is rape in the first or second degree, rape of
39 a child in the first or second degree, child molestation in the first

1 degree, indecent liberties with forcible compulsion, or a sex offense
2 that is also a serious violent offense as defined by RCW 9.94A.030.

3 (b) If the department finds that any juvenile in a program of
4 parole has possessed a firearm or used a deadly weapon during the
5 program of parole, the department shall modify the parole under (a) of
6 this subsection and confine the juvenile for at least thirty days.
7 Confinement shall be in a facility operated by or pursuant to a
8 contract with the state or any county.

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

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

16 **Sec. 5.** RCW 13.40.215 and 1997 c 265 s 2 are each amended to read
17 as follows:

18 (1)(a) Except as provided in subsection (2) of this section, at the
19 earliest possible date, and in no event later than thirty days before
20 discharge, parole, or any other authorized leave or release, or before
21 transfer to a community residential facility, the secretary shall send
22 written notice of the discharge, parole, authorized leave or release,
23 or transfer of a juvenile found to have committed a violent offense, a
24 sex offense, or stalking, to the following:

25 (i) The chief of police of the city, if any, in which the juvenile
26 will reside;

27 (ii) The sheriff of the county in which the juvenile will reside;
28 and

29 (iii) The approved private schools and the common school district
30 board of directors of the district in which the juvenile intends to
31 reside or the approved private school or public school district in
32 which the juvenile last attended school, whichever is appropriate,
33 except when it has been determined by the department that the juvenile
34 is twenty-one years old(~~(i is not required to return to school under~~
35 ~~chapter 28A.225 RCW;)) or will be in the community for less than seven~~
36 consecutive days on approved leave and will not be attending school
37 during that time.

1 (b) After July 27, 1997, the department shall send a written notice
2 to approved private and public schools under the same conditions
3 identified in subsection (1)(a)(iii) of this section when a juvenile
4 adjudicated of any offense is transferred to a community residential
5 facility. The community residential facility shall provide written
6 notice of the offender's criminal history to any school that the
7 offender attends while residing at the community residential facility
8 and to any employer that employs the offender while residing at the
9 community residential facility.

10 (c) The same notice as required by (a) of this subsection shall be
11 sent to the following, if such notice has been requested in writing
12 about a specific juvenile:

13 (i) The victim of the offense for which the juvenile was found to
14 have committed or the victim's next of kin if the crime was a homicide;

15 (ii) Any witnesses who testified against the juvenile in any court
16 proceedings involving the offense; and

17 (iii) Any person specified in writing by the prosecuting attorney.
18 Information regarding victims, next of kin, or witnesses requesting the
19 notice, information regarding any other person specified in writing by
20 the prosecuting attorney to receive the notice, and the notice are
21 confidential and shall not be available to the juvenile. The notice to
22 the chief of police or the sheriff shall include the identity of the
23 juvenile, the residence where the juvenile will reside, the identity of
24 the person, if any, responsible for supervising the juvenile, and the
25 time period of any authorized leave.

26 (d) The thirty-day notice requirements contained in this subsection
27 shall not apply to emergency medical furloughs.

28 (e) The existence of the notice requirements in this subsection
29 will not require any extension of the release date in the event the
30 release plan changes after notification.

31 (2)(a) If a juvenile found to have committed a violent offense, a
32 sex offense, or stalking escapes from a facility of the department, the
33 secretary shall immediately notify, by the most reasonable and
34 expedient means available, the chief of police of the city and the
35 sheriff of the county in which the juvenile resided immediately before
36 the juvenile's arrest. If previously requested, the secretary shall
37 also notify the witnesses and the victim of the offense which the
38 juvenile was found to have committed or the victim's next of kin if the
39 crime was a homicide. If the juvenile is recaptured, the secretary

1 shall send notice to the persons designated in this subsection as soon
2 as possible but in no event later than two working days after the
3 department learns of such recapture.

4 (b) The secretary may authorize a leave, for a juvenile found to
5 have committed a violent offense, a sex offense, or stalking, which
6 shall not exceed forty-eight hours plus travel time, to meet an
7 emergency situation such as a death or critical illness of a member of
8 the juvenile's family. The secretary may authorize a leave, which
9 shall not exceed the time medically necessary, to obtain medical care
10 not available in a juvenile facility maintained by the department.
11 Prior to the commencement of an emergency or medical leave, the
12 secretary shall give notice of the leave to the appropriate law
13 enforcement agency in the jurisdiction in which the juvenile will be
14 during the leave period. The notice shall include the identity of the
15 juvenile, the time period of the leave, the residence of the juvenile
16 during the leave, and the identity of the person responsible for
17 supervising the juvenile during the leave. If previously requested,
18 the department shall also notify the witnesses and victim of the
19 offense which the juvenile was found to have committed or the victim's
20 next of kin if the offense was a homicide.

21 In case of an emergency or medical leave the secretary may waive
22 all or any portion of the requirements for leaves pursuant to RCW
23 13.40.205 (2)(a), (3), (4), and (5).

24 (3) If the victim, the victim's next of kin, or any witness is
25 under the age of sixteen, the notice required by this section shall be
26 sent to the parents or legal guardian of the child.

27 (4) The secretary shall send the notices required by this chapter
28 to the last address provided to the department by the requesting party.
29 The requesting party shall furnish the department with a current
30 address.

31 (5) Upon discharge, parole, transfer to a community residential
32 facility, or other authorized leave or release, a convicted juvenile
33 sex offender shall not attend a public or approved private elementary,
34 middle, or high school that is attended by a victim or a sibling of a
35 victim of the sex offender. The parents or legal guardians of the
36 convicted juvenile sex offender shall be responsible for transportation
37 or other costs associated with or required by the sex offender's change
38 in school that otherwise would be paid by a school district. Upon
39 discharge, parole, transfer to a community residential facility, or

1 other authorized leave or release of a convicted juvenile sex offender,
2 the secretary shall send written notice of the discharge, parole,
3 transfer, or other authorized leave or release and the requirements of
4 this subsection to the common school district board of directors of the
5 district in which the sex offender intends to reside or the district in
6 which the sex offender last attended school, whichever is appropriate.
7 The secretary shall send a similar notice to any approved private
8 school the juvenile will attend, if known, or if unknown, to the
9 approved private schools within the district the juvenile resides or
10 intends to reside.

11 (6) For purposes of this section the following terms have the
12 following meanings:

13 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

14 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

15 (c) "Stalking" means the crime of stalking as defined in RCW
16 9A.46.110;

17 (d) "Next of kin" means a person's spouse, parents, siblings, and
18 children.

19 **Sec. 6.** RCW 28A.225.225 and 1997 c 265 s 3 are each amended to
20 read as follows:

21 (1) All districts accepting applications from nonresident students
22 or from students receiving home-based instruction for admission to the
23 district's schools shall consider equally all applications received.
24 Each school district shall adopt a policy establishing rational, fair,
25 and equitable standards for acceptance and rejection of applications by
26 June 30, 1990. The policy may include rejection of a nonresident
27 student if:

28 (a) Acceptance of a nonresident student would result in the
29 district experiencing a financial hardship;

30 (b) The student's disciplinary records indicate a history of
31 convictions for offenses or crimes, violent or disruptive behavior, or
32 gang membership; ~~((or))~~

33 (c) The student has been expelled or suspended from a public school
34 for more than ten consecutive days. Any policy allowing for
35 readmission of expelled or suspended students under this subsection
36 (1)(c) must apply uniformly to both resident and nonresident
37 applicants; or

1 (d) Acceptance of the student would result in the district
2 violating section 1 of this act.

3 For purposes of subsection (1)(b) of this section, "gang" means a
4 group which: (i) Consists of three or more persons; (ii) has
5 identifiable leadership; and (iii) on an ongoing basis, regularly
6 conspires and acts in concert mainly for criminal purposes.

7 (2) The district shall provide to applicants written notification
8 of the approval or denial of the application in a timely manner. If
9 the application is rejected, the notification shall include the reason
10 or reasons for denial and the right to appeal under RCW 28A.225.230(3).

11 **Sec. 7.** RCW 28A.225.330 and 1997 c 266 s 4 are each amended to
12 read as follows:

13 (1) When enrolling a student who has attended school in another
14 school district, the school enrolling the student (~~may~~) shall request
15 the parent and the student to briefly indicate in writing whether or
16 not the student has:

- 17 (a) Any history of placement in special educational programs;
- 18 (b) Any past, current, or pending disciplinary action;
- 19 (c) Any history of violent behavior, or behavior listed in RCW
20 13.04.155;
- 21 (d) Any unpaid fines or fees imposed by other schools; and
- 22 (e) Any health conditions affecting the student's educational
23 needs.

24 (2) The school enrolling the student shall request the school the
25 student previously attended to send the student's permanent record
26 including records of disciplinary action and behavior listed in RCW
27 13.04.155, attendance, immunization records, and academic performance.
28 If the student has not paid a fine or fee under RCW 28A.635.060, or
29 tuition, fees, or fines at approved private schools the school may
30 withhold the student's official transcript, but shall transmit
31 information about the student's academic performance, special
32 placement, immunization records, and records of disciplinary action and
33 behavior listed in RCW 13.04.155. If the official transcript is not
34 sent due to unpaid tuition, fees, or fines, the enrolling school shall
35 notify both the student and parent or guardian that the official
36 transcript will not be sent until the obligation is met, and failure to
37 have an official transcript may result in exclusion from
38 extracurricular activities or failure to graduate.

1 (3) If information is requested under subsection (2) of this
2 section, the information shall be transmitted within two school days
3 after receiving the request and the records shall be sent as soon as
4 possible. Any school district or district employee who releases the
5 information in compliance with this section is immune from civil
6 liability for damages unless it is shown that the school district
7 employee acted with gross negligence or in bad faith. The state board
8 of education shall provide by rule for the discipline under chapter
9 28A.410 RCW of a school principal or other chief administrator of a
10 public school building who fails to make a good faith effort to assure
11 compliance with this subsection.

12 (4) Any school district or district employee who releases the
13 information in compliance with federal and state law is immune from
14 civil liability for damages unless it is shown that the school district
15 or district employee acted with gross negligence or in bad faith.

16 NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.225
17 RCW to read as follows:

18 (1) Any school district, educational service district, or
19 consortium of school districts may create specialized schools for
20 students who have been adjudicated or convicted of offenses and who
21 pose a danger to themselves, other students, and staff. The schools
22 may be designed to address the special educational needs of those
23 students and the security needs of the students and staff. The schools
24 may give priority in placement to adjudicated or convicted youth who
25 are violent or chronically disruptive of the educational process and
26 who would otherwise be subject to suspension or expulsion.

27 (2) The superintendent of public instruction is directed to assist
28 school districts, educational service districts, and consortiums that
29 intend to create specialized schools.

30 NEW SECTION. **Sec. 9.** A new section is added to chapter 74.15 RCW
31 to read as follows:

32 The secretary shall require any agency that receives juveniles who
33 have been adjudicated or convicted to provide written notice of the
34 offender's criminal history to any school that the offender attends
35 while the offender resides at the agency's facility, home, or center,
36 and to any employer who employs the offender while the offender resides
37 at the facility, home, or center. The secretary shall, at a minimum,

1 suspend the license of an agency for one year if the agency violates
2 this section two or more times within one year.

3 NEW SECTION. **Sec. 10.** Section 2 of this act expires July 1, 1998.

4 NEW SECTION. **Sec. 11.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 12.** If any part of this act is found to be in
9 conflict with federal requirements, the conflicting part of this act is
10 hereby declared to be inoperative solely to the extent of the conflict,
11 and such finding or determination does not affect the operation of the
12 remainder of this act. Rules adopted under this act must meet federal
13 requirements.

14 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and takes effect
17 immediately except for section 3 of this act which takes effect July 1,
18 1998.

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