

HOUSE BILL 3045

State of Washington 55th Legislature 1998 Regular Session

By Representative Sheahan

Read first time 01/28/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to a community sanction disposition alternative for
2 juvenile offenders; reenacting and amending RCW 13.40.0357 and
3 13.40.160; adding a new section to chapter 13.40 RCW; prescribing
4 penalties; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON

6 Sec. 1. RCW 13.40.0357 and 1997 c 338 s 12 and 1997 c 66 s 6 are
7 each reenacted amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

9	JUVENILE		JUVENILE DISPOSITION
10	DISPOSITION		CATEGORY FOR ATTEMPT,
11	OFFENSE		BAILJUMP, CONSPIRACY,
12	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
13		

Arson and Malicious Mischief

14			
15	A	Arson 1 (9A.48.020)	B+
16	B	Arson 2 (9A.48.030)	C
17	C	Reckless Burning 1 (9A.48.040)	D
18	D	Reckless Burning 2 (9A.48.050)	E

1	B	Malicious Mischief 1 (9A.48.070)	C
2	C	Malicious Mischief 2 (9A.48.080)	D
3	D	Malicious Mischief 3 (<\$50 is	
4		E class) (9A.48.090)	E
5	E	Tampering with Fire Alarm	
6		Apparatus (9.40.100)	E
7	A	Possession of Incendiary Device	
8		(9.40.120)	B+
9		Assault and Other Crimes	
10		Involving Physical Harm	
11	A	Assault 1 (9A.36.011)	B+
12	B+	Assault 2 (9A.36.021)	C+
13	C+	Assault 3 (9A.36.031)	D+
14	D+	Assault 4 (9A.36.041)	E
15	B+	Drive-By Shooting	
16		(9A.36.045)	C+
17	D+	Reckless Endangerment	
18		(9A.36.050)	E
19	C+	Promoting Suicide Attempt	
20		(9A.36.060)	D+
21	D+	Coercion (9A.36.070)	E
22	C+	Custodial Assault (9A.36.100)	D+
23		Burglary and Trespass	
24	B+	Burglary 1 (9A.52.020)	C+
25	B	Residential Burglary	
26		(9A.52.025)	C
27	B	Burglary 2 (9A.52.030)	C
28	D	Burglary Tools (Possession of)	
29		(9A.52.060)	E
30	D	Criminal Trespass 1 (9A.52.070)	E
31	E	Criminal Trespass 2 (9A.52.080)	E
32	C	Vehicle Prowling 1 (9A.52.095)	D
33	D	Vehicle Prowling 2 (9A.52.100)	E
34		Drugs	
35	E	Possession/Consumption of Alcohol	
36		(66.44.270)	E

1	C	Illegally Obtaining Legend Drug	
2		(69.41.020)	D
3	C+	Sale, Delivery, Possession of Legend	
4		Drug with Intent to Sell	
5		(69.41.030)	D+
6	E	Possession of Legend Drug	
7		(69.41.030)	E
8	B+	Violation of Uniform Controlled	
9		Substances Act - Narcotic or	
10		Methamphetamine Sale	
11		(69.50.401(a)(1)(i) or (ii))	B+
12	C	Violation of Uniform Controlled	
13		Substances Act - Nonnarcotic Sale	
14		(69.50.401(a)(1)(iii))	C
15	E	Possession of Marihuana <40 grams	
16		(69.50.401(e))	E
17	C	Fraudulently Obtaining Controlled	
18		Substance (69.50.403)	C
19	C+	Sale of Controlled Substance	
20		for Profit (69.50.410)	C+
21	E	Unlawful Inhalation (9.47A.020)	E
22	B	Violation of Uniform Controlled	
23		Substances Act - Narcotic or	
24		Methamphetamine	
25		Counterfeit Substances	
26		(69.50.401(b)(1)(i) or (ii))	B
27	C	Violation of Uniform Controlled	
28		Substances Act - Nonnarcotic	
29		Counterfeit Substances	
30		(69.50.401(b)(1) (iii), (iv), (v))	C
31	C	Violation of Uniform Controlled	
32		Substances Act - Possession of a	
33		Controlled Substance	
34		(69.50.401(d))	C
35	C	Violation of Uniform Controlled	
36		Substances Act - Possession of a	
37		Controlled Substance	
38		(69.50.401(c))	C

1		Firearms and Weapons	
2	B	Theft of Firearm (9A.56.300)	C
3	B	Possession of Stolen Firearm	
4		(9A.56.310)	C
5	E	Carrying Loaded Pistol Without	
6		Permit (9.41.050)	E
7	C	Possession of Firearms by Minor (<18)	
8		(9.41.040(1) (b) (iii))	C
9	D+	Possession of Dangerous Weapon	
10		(9.41.250)	E
11	D	Intimidating Another Person by use	
12		of Weapon (9.41.270)	E
13		Homicide	
14	A+	Murder 1 (9A.32.030)	A
15	A+	Murder 2 (9A.32.050)	B+
16	B+	Manslaughter 1 (9A.32.060)	C+
17	C+	Manslaughter 2 (9A.32.070)	D+
18	B+	Vehicular Homicide (46.61.520)	C+
19		Kidnapping	
20	A	Kidnap 1 (9A.40.020)	B+
21	B+	Kidnap 2 (9A.40.030)	C+
22	C+	Unlawful Imprisonment	
23		(9A.40.040)	D+
24		Obstructing Governmental Operation	
25	D	Obstructing a Law Enforcement	
26		Officer (9A.76.020)	E
27	E	Resisting Arrest (9A.76.040)	E
28	B	Introducing Contraband 1	
29		(9A.76.140)	C
30	C	Introducing Contraband 2	
31		(9A.76.150)	D
32	E	Introducing Contraband 3	
33		(9A.76.160)	E
34	B+	Intimidating a Public Servant	
35		(9A.76.180)	C+
36	B+	Intimidating a Witness	
37		(9A.72.110)	C+

1		Public Disturbance	
2	C+	Riot with Weapon (9A.84.010)	D+
3	D+	Riot Without Weapon	
4		(9A.84.010)	E
5	E	Failure to Disperse (9A.84.020)	E
6	E	Disorderly Conduct (9A.84.030)	E
7		Sex Crimes	
8	A	Rape 1 (9A.44.040)	B+
9	A-	Rape 2 (9A.44.050)	B+
10	C+	Rape 3 (9A.44.060)	D+
11	A-	Rape of a Child 1 (9A.44.073)	B+
12	B+	Rape of a Child 2 (9A.44.076)	C+
13	B	Incest 1 (9A.64.020(1))	C
14	C	Incest 2 (9A.64.020(2))	D
15	D+	Indecent Exposure	
16		(Victim <14) (9A.88.010)	E
17	E	Indecent Exposure	
18		(Victim 14 or over) (9A.88.010)	E
19	B+	Promoting Prostitution 1	
20		(9A.88.070)	C+
21	C+	Promoting Prostitution 2	
22		(9A.88.080)	D+
23	E	O & A (Prostitution) (9A.88.030)	E
24	B+	Indecent Liberties (9A.44.100)	C+
25	A-	Child Molestation 1 (9A.44.083)	B+
26	B	Child Molestation 2 (9A.44.086)	C+
27		Theft, Robbery, Extortion, and Forgery	
28	B	Theft 1 (9A.56.030)	C
29	C	Theft 2 (9A.56.040)	D
30	D	Theft 3 (9A.56.050)	E
31	B	Theft of Livestock (9A.56.080)	C
32	C	Forgery (9A.60.020)	D
33	A	Robbery 1 (9A.56.200)	B+
34	B+	Robbery 2 (9A.56.210)	C+
35	B+	Extortion 1 (9A.56.120)	C+
36	C+	Extortion 2 (9A.56.130)	D+
37	B	Possession of Stolen Property 1	
38		(9A.56.150)	C

1	C	Possession of Stolen Property 2	
2		(9A.56.160)	D
3	D	Possession of Stolen Property 3	
4		(9A.56.170)	E
5	C	Taking Motor Vehicle Without	
6		Owner's Permission (9A.56.070)	D
7		Motor Vehicle Related Crimes	
8	E	Driving Without a License	
9		(46.20.005)	E
10	C	Hit and Run - Injury	
11		(46.52.020(4))	D
12	D	Hit and Run-Attended	
13		(46.52.020(5))	E
14	E	Hit and Run-Unattended	
15		(46.52.010)	E
16	C	Vehicular Assault (46.61.522)	D
17	C	Attempting to Elude Pursuing	
18		Police Vehicle (46.61.024)	D
19	E	Reckless Driving (46.61.500)	E
20	D	Driving While Under the Influence	
21		(46.61.502 and 46.61.504)	E
22		Other	
23	B	Bomb Threat (9.61.160)	C
24	C	Escape 1 (9A.76.110)	C
25	C	Escape 2 (9A.76.120)	C
26	D	Escape 3 (9A.76.130)	E
27	E	Obscene, Harassing, Etc.,	
28		Phone Calls (9.61.230)	E
29	A	Other Offense Equivalent to an	
30		Adult Class A Felony	B+
31	B	Other Offense Equivalent to an	
32		Adult Class B Felony	C
33	C	Other Offense Equivalent to an	
34		Adult Class C Felony	D
35	D	Other Offense Equivalent to an	
36		Adult Gross Misdemeanor	E
37	E	Other Offense Equivalent to an	
38		Adult Misdemeanor	E

1 V Violation of Order of Restitution,
 2 Community Supervision, or
 3 Confinement (13.40.200) V

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

6 1st escape or attempted escape during 12-month period - 4 weeks
 7 confinement

8 2nd escape or attempted escape during 12-month period - 8 weeks
 9 confinement

10 3rd and subsequent escape or attempted escape during 12-month
 11 period - 12 weeks confinement

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

14 **JUVENILE SENTENCING STANDARDS**

15 This schedule must be used for juvenile offenders. The court may
 16 select sentencing option A, B, ~~(or)~~ C, or D.

17 **OPTION A**

18 **JUVENILE OFFENDER SENTENCING GRID**

19 **STANDARD RANGE**

20	<hr/>				
21	A+	180 WEEKS TO AGE 21 YEARS			
22	<hr/>				
23	A	103 WEEKS TO 129 WEEKS			
24	<hr/>				
25	A-	15-36	52-65	80-100	103-129
26		WEEKS	WEEKS	WEEKS	WEEKS
27		EXCEPT			
28		30-40			
29		WEEKS FOR			
30		15-17			
31		YEAR OLDS			
32	<hr/>				
33	Current	B+	15-36	52-65	80-100 103-129
34	Offense		WEEKS	WEEKS	WEEKS WEEKS
35	Category	<hr/>			
36		B	LOCAL	52-65	
37			SANCTIONS (LS)	15-36 WEEKS	WEEKS
38	<hr/>				

1	C+	LS							
2							15-36 WEEKS		
3							_____		
4	C	LS					15-36 WEEKS		
5			Local Sanctions:						
6			0 to 30 Days				_____		
7	D+	LS	0 to 12 Months Community Supervision						
8			0 to 150 Hours Community Service						
9	D	LS	\$0 to \$500 Fine						
10	E	LS							
11							_____		
12			0	1	2	3	4 or more		
13			PRIOR ADJUDICATIONS						

14 NOTE: References in the grid to days or weeks mean periods of
15 confinement.

16 (1) The vertical axis of the grid is the current offense category.
17 The current offense category is determined by the offense of
18 adjudication.

19 (2) The horizontal axis of the grid is the number of prior
20 adjudications included in the juvenile's criminal history. Each prior
21 felony adjudication shall count as one point. Each prior violation,
22 misdemeanor, and gross misdemeanor adjudication shall count as 1/4
23 point. Fractional points shall be rounded down.

24 (3) The standard range disposition for each offense is determined
25 by the intersection of the column defined by the prior adjudications
26 and the row defined by the current offense category.

27 (4) RCW 13.40.180 applies if the offender is being sentenced for
28 more than one offense.

29 (5) A current offense that is a violation is equivalent to an
30 offense category of E. However, a disposition for a violation shall
31 not include confinement.

32 OR

33 OPTION B
34 CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

35 If the juvenile offender is subject to a standard range
36 disposition of local sanctions or 15 to 36 weeks of confinement and has
37 not committed an A- or B+ offense, the court may impose a disposition
38 under RCW 13.40.160(5) and 13.40.165.

1 OR

2 OPTION C

3 MANIFEST INJUSTICE

4 If the court determines that a disposition under option A or B would
5 effectuate a manifest injustice, the court shall impose a disposition
6 outside the standard range under RCW 13.40.160(2).

7 OR

8 OPTION D

9 COMMUNITY SANCTION DISPOSITION ALTERNATIVE

10 If the juvenile offender has not been previously committed to a state
11 institution, but is presently subject to a standard range disposition
12 of confinement in a state institution and has not committed a sex or
13 serious violent offense as defined in RCW 9.94A.030, the court may
14 impose a disposition under RCW 13.40.160(6) and section 3 of this act.

15 **Sec. 2.** RCW 13.40.160 and 1997 c 338 s 25 and 1997 c 265 s 1 are
16 each reenacted and amended to read as follows:

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

19 (a) When the court sentences an offender to a local sanction as
20 provided in RCW 13.40.0357 option A, the court shall impose a
21 determinate disposition within the standard ranges, except as provided
22 in subsections (2), (4), ~~((and))~~ (5), and (6) of this section. The
23 disposition may be comprised of one or more local sanctions.

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

29 (2) If the court concludes, and enters reasons for its conclusion,
30 that 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 C of RCW 13.40.0357. The court's finding
33 of manifest injustice shall be supported by clear and convincing
34 evidence.

35 A disposition outside the standard range shall be determinate and
36 shall be comprised of confinement or community supervision, or a

1 combination thereof. When a judge finds a manifest injustice and
2 imposes a sentence of confinement exceeding thirty days, the court
3 shall sentence the juvenile to a maximum term, and the provisions of
4 RCW 13.40.030(2) shall be used to determine the range. A disposition
5 outside the standard range is appealable under RCW 13.40.230 by the
6 state or the respondent. A disposition within the standard range is
7 not appealable under RCW 13.40.230.

8 (3) Where a respondent is found to have committed an offense for
9 which the respondent declined to enter into a diversion agreement, the
10 court shall impose a term of community supervision limited to the
11 conditions allowed in a diversion agreement as provided in RCW
12 13.40.080(2).

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

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

26 The examiner shall assess and report regarding the respondent's
27 amenability to treatment and relative risk to the community. A
28 proposed treatment plan shall be provided and shall include, at a
29 minimum:

30 (a)(i) Frequency and type of contact between the offender and
31 therapist;

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

34 (iii) Monitoring plans, including any requirements regarding
35 living conditions, lifestyle requirements, and monitoring by family
36 members, legal guardians, or others;

37 (iv) Anticipated length of treatment; and

38 (v) Recommended crime-related prohibitions.

1 The court on its own motion may order, or on a motion by the state
2 shall order, a second examination regarding the offender's amenability
3 to treatment. The evaluator shall be selected by the party making the
4 motion. The defendant shall pay the cost of any second examination
5 ordered unless the court finds the defendant to be indigent in which
6 case the state shall pay the cost.

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

23 (b)(i) Devote time to a specific education, employment, or
24 occupation;

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

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

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

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

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

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

9 (viii) Comply with the conditions of any court-ordered probation
10 bond; or

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

24 The sex offender treatment provider shall submit quarterly reports
25 on the respondent's progress in treatment to the court and the parties.
26 The reports shall reference the treatment plan and include at a minimum
27 the following: Dates of attendance, respondent's compliance with
28 requirements, treatment activities, the respondent's relative progress
29 in treatment, and any other material specified by the court at the time
30 of the disposition.

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

33 Except as provided in this subsection (4), after July 1, 1991,
34 examinations and treatment ordered pursuant to this subsection shall
35 only be conducted by sex offender treatment providers certified by the
36 department of health pursuant to chapter 18.155 RCW. A sex offender
37 therapist who examines or treats a juvenile sex offender pursuant to
38 this subsection does not have to be certified by the department of
39 health pursuant to chapter 18.155 RCW if the court finds that: (A) The

1 offender has already moved to another state or plans to move to another
2 state for reasons other than circumventing the certification
3 requirements; (B) no certified providers are available for treatment
4 within a reasonable geographical distance of the offender's home; and
5 (C) the evaluation and treatment plan comply with this subsection (4)
6 and the rules adopted by the department of health.

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

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

22 A disposition entered under this subsection (4) is not appealable
23 under RCW 13.40.230.

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

28 (6) If the juvenile offender has not been previously committed to
29 a state institution, but is presently subject to a standard range
30 disposition of confinement in a state institution and has not committed
31 a sex offense or serious violent offense as defined in RCW 9.94A.030,
32 the court may impose a community sanction disposition alternative under
33 section 3 of this act.

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

38 ~~((+7))~~ (8) Whenever a juvenile offender is entitled to credit for
39 time spent in detention prior to a dispositional order, the

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

3 ~~((+8))~~ (9) Except as provided under subsection (4) or (5) of this
4 section or RCW 13.40.127, the court shall not suspend or defer the
5 imposition or the execution of the disposition.

6 ~~((+9))~~ (10) In no case shall the term of confinement imposed by
7 the court at disposition exceed that to which an adult could be
8 subjected for the same offense.

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

11 (1) When a juvenile offender is subject to a standard range
12 disposition of confinement to a state institution and has not been
13 previously committed to a state institution, the court, on its own
14 motion or on the motion of the state or the respondent may order a
15 community sanction disposition alternative in lieu of confinement in a
16 state institution provided the offender has not committed a sex offense
17 or a serious violent offense as defined in RCW 9.94A.030.

18 (2) If the court determines that a community sanction disposition
19 alternative is appropriate, the court shall impose the standard range
20 for the offense, suspend execution of the disposition, and place the
21 offender on community supervision for the term of the standard range
22 sentence.

23 (3) As a condition of the suspended disposition, the court shall
24 impose conditions of community supervision and other sanctions
25 including the requirement that the offender participate in community-
26 based programs such as school, employment, vocational programs, or
27 outpatient treatment. The court may also impose up to thirty days of
28 confinement, up to one hundred fifty hours of community service, and
29 payment of legal financial obligations and restitution.

30 (4) At the time of disposition, the court may set review hearings
31 as the court deems appropriate.

32 (5) If the offender violates any condition of the community
33 sanction disposition, the court may impose sanctions pursuant to RCW
34 13.40.200, or may revoke the suspended disposition and order execution
35 of the standard range disposition.

36 (6) If the court revokes the suspended sentence, the court shall
37 give credit for any confinement time previously served. Whenever a
38 juvenile offender is entitled to credit for time spent in detention,

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

3 NEW SECTION. **Sec. 4.** This act takes effect July 1, 1998.

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