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SENATE BILL 5201

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State of Washington

55th Legislature

1997 Regular Session

By Senators Roach, Kohl, Long, Fairley, Winsley and McAuliffe; by request of Sentencing Guidelines Commission

Read first time 01/20/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to juvenile offender sentencing; amending RCW  
2 13.40.0354, 13.40.0357, 13.40.077, 13.40.160, and 13.40.193; reenacting  
3 and amending RCW 13.40.020; adding a new section to chapter 13.40 RCW;  
4 creating a new section; prescribing penalties; providing an effective  
5 date; and declaring an emergency.

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

7 **Sec. 1.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are  
8 each reenacted and amended to read as follows:

9 For the purposes of this chapter:

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

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

13 (b) Manslaughter in the first degree; or

14 (c) Assault in the second degree, extortion in the first degree,  
15 child molestation in the second degree, kidnapping in the second  
16 degree, robbery in the second degree, residential burglary, or burglary  
17 in the second degree, where such offenses include the infliction of  
18 bodily harm upon another or where during the commission of or immediate

1 withdrawal from such an offense the perpetrator is armed with a deadly  
2 weapon;

3 (2) "Community service" means compulsory service, without  
4 compensation, performed for the benefit of the community by the  
5 offender as punishment for committing an offense. Community service  
6 may be performed through public or private organizations or through  
7 work crews;

8 (3) "Community supervision" means an order of disposition by the  
9 court of an adjudicated youth not committed to the department or an  
10 order granting a deferred adjudication pursuant to RCW 13.40.125. A  
11 community supervision order for a single offense may be for a period of  
12 up to two years for a sex offense as defined by RCW 9.94A.030 and up to  
13 one year for other offenses. As a mandatory condition of any term of  
14 community supervision, the court shall order the juvenile to refrain  
15 from committing new offenses. As a mandatory condition of community  
16 supervision, the court shall order the juvenile to comply with the  
17 mandatory school attendance provisions of chapter 28A.225 RCW and to  
18 inform the school of the existence of this requirement. Community  
19 supervision is an individualized program comprised of one or more of  
20 the following:

21 (a) Community-based sanctions;

22 (b) Community-based rehabilitation;

23 (c) Monitoring and reporting requirements;

24 (d) Posting of a probation bond imposed pursuant to RCW 13.40.0357;

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

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

28 (b) Community service not to exceed one hundred fifty hours of  
29 service;

30 (5) "Community-based rehabilitation" means one or more of the  
31 following: Attendance of information classes; counseling, outpatient  
32 substance abuse treatment programs, outpatient mental health programs,  
33 anger management classes, education or outpatient treatment programs to  
34 prevent animal cruelty, or other services; or attendance at school or  
35 other educational programs appropriate for the juvenile as determined  
36 by the school district. Placement in community-based rehabilitation  
37 programs is subject to available funds;

38 (6) "Monitoring and reporting requirements" means one or more of  
39 the following: Curfews; requirements to remain at home, school, work,

1 or court-ordered treatment programs during specified hours;  
2 restrictions from leaving or entering specified geographical areas;  
3 requirements to report to the probation officer as directed and to  
4 remain under the probation officer's supervision; and other conditions  
5 or limitations as the court may require which may not include  
6 confinement;

7 (7) "Confinement" means physical custody by the department of  
8 social and health services in a facility operated by or pursuant to a  
9 contract with the state, or physical custody in a detention facility  
10 operated by or pursuant to a contract with any county. The county may  
11 operate or contract with vendors to operate county detention  
12 facilities. The department may operate or contract to operate  
13 detention facilities for juveniles committed to the department.  
14 Pretrial confinement or confinement of less than thirty-one days  
15 imposed as part of a disposition or modification order may be served  
16 consecutively or intermittently, in the discretion of the court;

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

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

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

25 (b) The criminal complaint was diverted by a prosecutor pursuant to  
26 the provisions of this chapter on agreement of the respondent and after  
27 an advisement to the respondent that the criminal complaint would be  
28 considered as part of the respondent's criminal history. A  
29 successfully completed deferred adjudication shall not be considered  
30 part of the respondent's criminal history;

31 (10) "Department" means the department of social and health  
32 services;

33 (11) "Detention facility" means a county facility, paid for by the  
34 county, for the physical confinement of a juvenile alleged to have  
35 committed an offense or an adjudicated offender subject to a  
36 disposition or modification order. "Detention facility" includes  
37 county group homes, inpatient substance abuse programs, juvenile basic  
38 training camps, and electronic monitoring;

1 (12) "Diversion unit" means any probation counselor who enters into  
2 a diversion agreement with an alleged youthful offender, or any other  
3 person, community accountability board, or other entity except a law  
4 enforcement official or entity, with whom the juvenile court  
5 administrator has contracted to arrange and supervise such agreements  
6 pursuant to RCW 13.40.080, or any person, community accountability  
7 board, or other entity specially funded by the legislature to arrange  
8 and supervise diversion agreements in accordance with the requirements  
9 of this chapter. For purposes of this subsection, "community  
10 accountability board" means a board comprised of members of the local  
11 community in which the juvenile offender resides. The superior court  
12 shall appoint the members. The boards shall consist of at least three  
13 and not more than seven members. If possible, the board should include  
14 a variety of representatives from the community, such as a law  
15 enforcement officer, teacher or school administrator, high school  
16 student, parent, and business owner, and should represent the cultural  
17 diversity of the local community;

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

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

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

28 (16) "Manifest injustice" means a disposition that would either  
29 impose an excessive penalty on the juvenile or would impose a serious,  
30 and clear danger to society in light of the purposes of this chapter;

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

33 (18) "Minor or first offender" means a person:

34 (a) Whose current offense(s) and criminal history fall entirely  
35 within one of the following categories:

36 ~~((a))~~ (i) Four misdemeanors;

37 ~~((b))~~ (ii) Two misdemeanors and one gross misdemeanor;

38 ~~((c))~~ (iii) One misdemeanor and two gross misdemeanors; ~~((and))~~

39 or

1       (~~(d)~~) (iv) Three gross misdemeanors; and  
2       (b) Whose current offense or offenses and criminal history include  
3 no more than one of the following offenses:

4       (i) Assault 4 (RCW 9A.36.041);

5       (ii) Coercion (RCW 9A.36.070);

6       (iii) Attempted rape 3 (RCW 9A.44.060);

7       (iv) Attempted rape of a child 3 (RCW 9A.44.079);

8       (v) Attempted sexual misconduct (RCW 9A.44.096);

9       (vi) Resisting arrest (RCW 9A.76.040, 9A.76.200);

10       (vii) Harassment (RCW 9A.46.020);

11       (viii) Obscene/harassing telephone call (RCW 9.61.230);

12       (ix) Discharge of a dangerous weapon (RCW 9.41.230);

13       (x) Carrying a weapon on school premises (RCW 9.41.280);

14       (xi) Possession of a concealed pistol (RCW 9.41.050);

15       (xii) Possession of a firearm by a person under age twenty-one (RCW  
16 9.41.240);

17       (xiii) Carry/display a dangerous weapon (RCW 9.41.270); or

18       (xiv) Obstructing a public servant (RCW 9A.76.020).

19       For purposes of this definition, current violations shall be  
20 counted as misdemeanors;

21       (19) "Offense" means an act designated a violation or a crime if  
22 committed by an adult under the law of this state, under any ordinance  
23 of any city or county of this state, under any federal law, or under  
24 the law of another state if the act occurred in that state;

25       (20) "Respondent" means a juvenile who is alleged or proven to have  
26 committed an offense;

27       (21) "Restitution" means financial reimbursement by the offender to  
28 the victim, and shall be limited to easily ascertainable damages for  
29 injury to or loss of property, actual expenses incurred for medical  
30 treatment for physical injury to persons, lost wages resulting from  
31 physical injury, and costs of the victim's counseling reasonably  
32 related to the offense if the offense is a sex offense. Restitution  
33 shall not include reimbursement for damages for mental anguish, pain  
34 and suffering, or other intangible losses. Nothing in this chapter  
35 shall limit or replace civil remedies or defenses available to the  
36 victim or offender;

37       (22) "Secretary" means the secretary of the department of social  
38 and health services. "Assistant secretary" means the assistant  
39 secretary for juvenile rehabilitation for the department;

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

5 (24) "Sex offense" means an offense defined as a sex offense in RCW  
6 9.94A.030;

7 (25) "Sexual motivation" means that one of the purposes for which  
8 the respondent committed the offense was for the purpose of his or her  
9 sexual gratification;

10 (26) "Foster care" means temporary physical care in a foster family  
11 home or group care facility as defined in RCW 74.15.020 and licensed by  
12 the department, or other legally authorized care;

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

16 (28) "Violent offense" means a violent offense as defined in RCW  
17 9.94A.030;

18 (29) "Probation bond" means a bond, posted with sufficient security  
19 by a surety justified and approved by the court, to secure the  
20 offender's appearance at required court proceedings and compliance with  
21 court-ordered community supervision or conditions of release ordered  
22 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of  
23 cash or posting of other collateral in lieu of a bond if approved by  
24 the court;

25 (30) "Surety" means an entity licensed under state insurance laws  
26 or by the state department of licensing, to write corporate, property,  
27 or probation bonds within the state, and justified and approved by the  
28 superior court of the county having jurisdiction of the case.

29 **Sec. 2.** RCW 13.40.0354 and 1994 sp.s. c 7 s 521 are each amended  
30 to read as follows:

31 The total current offense points for use in the standards range  
32 matrix of schedule(~~s D-1, D-2, and D-3~~) D are computed as follows:

33 (1) The disposition offense category is determined by the offense  
34 of conviction. Offenses are divided into ten levels of seriousness,  
35 ranging from low (seriousness level E) to high (seriousness level A+),  
36 see schedule A, RCW 13.40.0357.

37 (2) The prior offense increase factor is summarized in schedule B,  
38 RCW 13.40.0357. The increase factor is determined for each prior

1 offense by using the ((~~time span and the~~)) offense category in the  
 2 prior offense increase factor grid. ((~~Time span is computed from the~~  
 3 ~~date of the prior offense to the date of the current offense.~~)) The  
 4 total increase factor is determined by totalling the increase factors  
 5 for each prior offense and adding a constant factor of 1.0.

6 (3) The current offense points are summarized in schedule C, RCW  
 7 13.40.0357. The current offense points are determined for each current  
 8 offense by locating the juvenile's age on the horizontal axis and using  
 9 the offense category on the vertical axis. The juvenile's age is  
 10 determined as of the time of the current offense and is rounded down to  
 11 the nearest whole number.

12 (4) The total current offense points are determined for each  
 13 current offense by multiplying the total increase factor by the current  
 14 offense points. The total current offense points are rounded down to  
 15 the nearest whole number.

16 (5) All current offense points calculated in schedule(~~(s D-1, D-2,~~  
 17 ~~and D-3))~~ D shall be increased by a factor of five percent if the  
 18 offense is committed by a juvenile who is in a program of parole under  
 19 this chapter.

20 **Sec. 3.** RCW 13.40.0357 and 1996 c 205 s 6 are each amended to read  
 21 as follows:

22 **SCHEDULE A**

23 **DESCRIPTION AND OFFENSE CATEGORY**

24	JUVENILE		JUVENILE DISPOSITION
25	DISPOSITION		CATEGORY FOR ATTEMPT,
26	OFFENSE		BAILJUMP, CONSPIRACY,
27	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
28	.....		

29 **Arson and Malicious Mischief**

30	A	Arson 1 (9A.48.020)	B+
31	B	Arson 2 (9A.48.030)	C
32	C	Reckless Burning 1 (9A.48.040)	D
33	D	Reckless Burning 2 (9A.48.050)	E
34	B	Malicious Mischief 1 (9A.48.070)	C
35	C	Malicious Mischief 2 (9A.48.080)	D

1	D	Malicious Mischief 3 (<\$50 is	
2		E class) (9A.48.090)	E
3	E	Tampering with Fire Alarm	
4		Apparatus (9.40.100)	E
5	A	Possession of Incendiary Device	
6		(9.40.120)	B+
7		<b>Assault and Other Crimes</b>	
8		<b>Involving Physical Harm</b>	
9	A	Assault 1 (9A.36.011)	B+
10	B+	Assault 2 (9A.36.021)	C+
11	C+	Assault 3 (9A.36.031)	D+
12	D+	Assault 4 (9A.36.041)	E
13	<u>B+</u>	<u>Reckless Endangerment 1 (9A.36.045)</u>	<u>C+</u>
14	D+	Reckless Endangerment <u>2</u>	
15		(9A.36.050)	E
16	C+	Promoting Suicide Attempt	
17		(9A.36.060)	D+
18	D+	Coercion (9A.36.070)	E
19	C+	Custodial Assault (9A.36.100)	D+
20		<b>Burglary and Trespass</b>	
21	B+	Burglary 1 (9A.52.020)	C+
22	<u>B</u>	<u>Residential Burglary (9A.52.025)</u>	<u>C</u>
23	B	Burglary 2 (9A.52.030)	C
24	D	Burglary Tools (Possession of)	
25		(9A.52.060)	E
26	D	Criminal Trespass 1 (9A.52.070)	E
27	E	Criminal Trespass 2 (9A.52.080)	E
28	D	Vehicle Prowling (9A.52.100)	E
29		<b>Drugs</b>	
30	E	Possession/Consumption of Alcohol	
31		(66.44.270)	E
32	C	Illegally Obtaining Legend Drug	
33		(69.41.020)	D
34	C+	Sale, Delivery, Possession of Legend	
35		Drug with Intent to Sell	
36		(69.41.030)	D+



1	E	Possession of Legend Drug	
2		(69.41.030)	E
3	B+	Violation of Uniform Controlled	
4		Substances Act - Narcotic or	
5		Methamphetamine Sale	
6		(69.50.401(a)(1)(i) or (ii))	B+
7	C	Violation of Uniform Controlled	
8		Substances Act - Nonnarcotic Sale	
9		(69.50.401(a)(1)(iii))	C
10	E	Possession of Marihuana <40 grams	
11		(69.50.401(e))	E
12	C	Fraudulently Obtaining Controlled	
13		Substance (69.50.403)	C
14	C+	Sale of Controlled Substance	
15		for Profit (69.50.410)	C+
16	E	Unlawful Inhalation (9.47A.020)	E
17	B	Violation of Uniform Controlled	
18		Substances Act - Narcotic or	
19		Methamphetamine	
20		Counterfeit Substances	
21		(69.50.401(b)(1)(i) or (ii))	B
22	C	Violation of Uniform Controlled	
23		Substances Act - Nonnarcotic	
24		Counterfeit Substances	
25		(69.50.401(b)(1) (iii), (iv),	
26		(v))	C
27	C	Violation of Uniform Controlled	
28		Substances Act - Possession of a	
29		Controlled Substance	
30		(69.50.401(d))	C
31	C	Violation of Uniform Controlled	
32		Substances Act - Possession of a	
33		Controlled Substance	
34		(69.50.401(c))	C
35		<b>Firearms and Weapons</b>	
36	E	Carrying Loaded Pistol Without	
37		Permit (9.41.050)	E

1	C	Possession of Firearms by	
2		Minor (<18) (9.41.040(1)	
3		(b)((iv)) (iii))	C
4	D+	Possession of Dangerous Weapon	
5		(9.41.250)	E
6	D	Intimidating Another Person by use	
7		of Weapon (9.41.270)	E
8	<u>B</u>	<u>Possession of a Stolen Firearm</u>	
9		(9A.56.310)	<u>C</u>
10	<u>B</u>	<u>Unlawful Possession of a Firearm 1</u>	
11		(9.41.040(1)(a))	<u>C</u>
12	<u>C</u>	<u>Unlawful Possession of a Firearm 2</u>	
13		(9.41.040(1)(b))	<u>D</u>
14		<b>Homicide</b>	
15	A+	Murder 1 (9A.32.030)	A
16	A+	Murder 2 (9A.32.050)	B+
17	B+	Manslaughter 1 (9A.32.060)	C+
18	C+	Manslaughter 2 (9A.32.070)	D+
19	B+	Vehicular Homicide (46.61.520)	C+
20		<b>Kidnapping</b>	
21	A	Kidnap 1 (9A.40.020)	B+
22	B+	Kidnap 2 (9A.40.030)	C+
23	C+	Unlawful Imprisonment	
24		(9A.40.040)	D+
25		<b>Obstructing Governmental Operation</b>	
26	((E)) <u>D</u>	Obstructing a Law Enforcement	
27		Officer (9A.76.020)	E
28	E	Resisting Arrest (9A.76.040)	E
29	B	Introducing Contraband 1	
30		(9A.76.140)	C
31	C	Introducing Contraband 2	
32		(9A.76.150)	D
33	E	Introducing Contraband 3	
34		(9A.76.160)	E
35	B+	Intimidating a Public Servant	
36		(9A.76.180)	C+

1	B+	Intimidating a Witness	
2		(9A.72.110)	C+
3		<b>Public Disturbance</b>	
4	C+	Riot with Weapon (9A.84.010)	D+
5	D+	Riot Without Weapon	
6		(9A.84.010)	E
7	E	Failure to Disperse (9A.84.020)	E
8	E	Disorderly Conduct (9A.84.030)	E
9		<b>Sex Crimes</b>	
10	A	Rape 1 (9A.44.040)	B+
11	A-	Rape 2 (9A.44.050)	B+
12	C+	Rape 3 (9A.44.060)	D+
13	A-	Rape of a Child 1 (9A.44.073)	B+
14	<del>(B)</del> B+	Rape of a Child 2 (9A.44.076)	C+
15	B	Incest 1 (9A.64.020(1))	C
16	C	Incest 2 (9A.64.020(2))	D
17	D+	Indecent Exposure	
18		(Victim <14) (9A.88.010)	E
19	E	Indecent Exposure	
20		(Victim 14 or over) (9A.88.010)	E
21	B+	Promoting Prostitution 1	
22		(9A.88.070)	C+
23	C+	Promoting Prostitution 2	
24		(9A.88.080)	D+
25	E	O & A (Prostitution) (9A.88.030)	E
26	B+	Indecent Liberties (9A.44.100)	C+
27	<del>(B+)</del> A-	Child Molestation 1	
28		(9A.44.083)	<del>((C+))</del> B+
29	<del>((C+))</del> B	Child Molestation 2 (9A.44.086)	C
30	C	<u>Failure to Register as a Class A</u>	
31		<u>Felony Sex Offender (9A.44.130)</u>	D
32	D	<u>Failure to Register as an Other Than</u>	
33		<u>Class A Sex Offender (9A.44.130)</u>	E
34		<b>Theft, Robbery, Extortion, and Forgery</b>	
35	B	Theft 1 (9A.56.030)	C
36	C	Theft 2 (9A.56.040)	D
37	D	Theft 3 (9A.56.050)	E
38	B	<u>Theft of Firearm (9A.56.300)</u>	C

1	B	Theft of Livestock (9A.56.080)	C
2	C	Forgery (9A.60.020)	D
3	A	Robbery 1 (9A.56.200)	B+
4	B+	Robbery 2 (9A.56.210)	C+
5	B+	Extortion 1 (9A.56.120)	C+
6	C+	Extortion 2 (9A.56.130)	D+
7	B	Possession of Stolen Property 1	
8		(9A.56.150)	C
9	C	Possession of Stolen Property 2	
10		(9A.56.160)	D
11	D	Possession of Stolen Property 3	
12		(9A.56.170)	E
13	C	Taking Motor Vehicle Without	
14		Owner's Permission (9A.56.070)	D
15		<b>Motor Vehicle Related Crimes</b>	
16	E	Driving Without a License	
17		(46.20.021)	E
18	C	Hit and Run - Injury	
19		(46.52.020(4))	D
20	D	Hit and Run-Attended	
21		(46.52.020(5))	E
22	E	Hit and Run-Unattended	
23		(46.52.010)	E
24	C	Vehicular Assault (46.61.522)	D
25	C	Attempting to Elude Pursuing	
26		Police Vehicle (46.61.024)	D
27	E	Reckless Driving (46.61.500)	E
28	D	Driving While Under the Influence	
29		(46.61.502 and 46.61.504)	E
30	D	Vehicle Prowling (9A.52.100)	E
31	C	Taking Motor Vehicle Without	
32		Owner's Permission (9A.56.070)	D
33		<b>Other</b>	
34	<u>C</u>	<u>Animal Cruelty (16.52.205)</u>	<u>D</u>
35	B	Bomb Threat (9.61.160)	C
36	C	Escape 1 (9A.76.110)	C
37	C	Escape 2 (9A.76.120)	C
38	D	Escape 3 (9A.76.130)	E

1	E	Obscene, Harassing, Etc.,	
2		Phone Calls (9.61.230)	E
3	<u>D</u>	<u>Stalking (9A.46.110)</u>	<u>E</u>
4	<u>C</u>	<u>Stalking (Repeat) (9A.46.110)</u>	<u>D</u>
5	<u>D</u>	<u>Harassment (9A.46.020)</u>	<u>E</u>
6	<u>C</u>	<u>Harassment (Repeat) (9A.46.020)</u>	<u>D</u>
7	A	Other Offense Equivalent to an	
8		Adult Class A Felony	B+
9	B	Other Offense Equivalent to an	
10		Adult Class B Felony	C
11	C	Other Offense Equivalent to an	
12		Adult Class C Felony	D
13	D	Other Offense Equivalent to an	
14		Adult Gross Misdemeanor	E
15	E	Other Offense Equivalent to an	
16		Adult Misdemeanor	E
17	V	Violation of Order of Restitution,	
18		Community Supervision, or	
19		Confinement (13.40.200)	V
20	<u>V</u>	<u>Violation of Special Sex Offender</u>	
21		<u>Disposition Alternative Conditions</u>	
22		<u>(13.40.160)</u>	<u>V</u>

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

25 1st escape or attempted escape during 12-month period - 4 weeks  
26 confinement

27 2nd escape or attempted escape during 12-month period - 8 weeks  
28 confinement

29 3rd and subsequent escape or attempted escape during 12-month  
30 period - 12 weeks confinement

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

33 **SCHEDULE B**

34 **PRIOR OFFENSE INCREASE FACTOR**

35 For use with all CURRENT OFFENSES occurring on or after July 1,  
36 ((1989)) 1997.

1  
2 ((TIME SPAN

3 OFFENSE — 0-12 — 13-24 — 25 Months  
4 CATEGORY — Months — Months — or More

---

A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
C+	.6	.3	.2
C	.5	.2	.2
D+	.3	.2	.1
D	.2	.1	.1
E	.1	.1	.1))

<u>OFFENSE</u>	<u>INCREASE</u>
<u>CATEGORY</u>	<u>FACTOR</u>
<u>A+</u>	<u>.9</u>
<u>A or A-</u>	<u>.8</u>
<u>B+ or B</u>	<u>.6</u>
<u>C+ or C</u>	<u>.3</u>
<u>D+ or D</u>	<u>.2</u>
<u>E</u>	<u>.1</u>

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

28 SCHEDULE C

29 CURRENT OFFENSE POINTS

30 For use with all CURRENT OFFENSES occurring on or after July 1,  
31 ((1989)) 1997.

32 (( AGE

33 OFFENSE — 12 &  
34 CATEGORY — Under — 13 — 14 — 15 — 16 — 17

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.....						
A+	STANDARD RANGE 180-224 WEEKS					
A	250	300	350	375	375	375
A-	150	150	150	200	200	200
B+	110	110	120	130	140	150
B	45	45	50	50	57	57
C+	44	44	49	49	55	55
C	40	40	45	45	50	50
D+	16	18	20	22	24	26
D	14	16	18	20	22	24
E	4	4	4	6	8	10))

AGE            AGE  
14 and Under 15 and Over

.....		
<u>OFFENSE</u>		
<u>CATEGORY</u>	<u>POINTS</u>	<u>POINTS</u>
.....		
<u>A+</u>	<u>180-224 WEEKS</u>	
<u>A</u>	<u>300</u>	<u>375</u>
<u>A-</u>	<u>150</u>	<u>200</u>
<u>B+</u>	<u>110</u>	<u>140</u>
<u>B</u>	<u>45</u>	<u>57</u>
<u>C+</u>	<u>44</u>	<u>55</u>
<u>C</u>	<u>40</u>	<u>50</u>
<u>D+ or D</u>	<u>16</u>	<u>22</u>
<u>E</u>	<u>4</u>	<u>8</u>

**JUVENILE SENTENCING STANDARDS**  
**SCHEDULE ((D-1)) D**

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

**MINOR/FIRST OFFENDER**  
  
**OPTION A**  
**STANDARD RANGE**

Community  
Community—Service

	Points	Supervision	Hours	Fine
1				
2	.....			
3	1-9	0-3 months	and/or 0-8	and/or 0-\$10
4	10-19	0-3 months	and/or 0-8	and/or 0-\$10
5	20-29	0-3 months	and/or 0-16	and/or 0-\$10
6	30-39	0-3 months	and/or 8-24	and/or 0-\$25
7	40-49	3-6 months	and/or 16-32	and/or 0-\$25
8	50-59	3-6 months	and/or 24-40	and/or 0-\$25
9	60-69	6-9 months	and/or 32-48	and/or 0-\$50
10	70-79	6-9 months	and/or 40-56	and/or 0-\$50
11	80-89	9-12 months	and/or 48-64	and/or 10-\$100
12	90-109	9-12 months	and/or 56-72	and/or 10-\$100

13 **OR**

14 **OPTION B**  
15 **STATUTORY OPTION**

- 16 ~~0-12 Months Community Supervision~~
- 17 ~~0-150 Hours Community Service~~
- 18 ~~0-100 Fine~~
- 19 ~~Posting of a Probation Bond~~
- 20 ~~A term of community supervision with a maximum of 150 hours, \$100.00~~
- 21 ~~fine, and 12 months supervision.~~

22 **OR**

23 **OPTION C**  
24 **MANIFEST INJUSTICE**

25 ~~When a term of community supervision would effectuate a manifest~~  
26 ~~injustice, another disposition may be imposed. When a judge imposes a~~  
27 ~~sentence of confinement exceeding 30 days, the court shall sentence the~~  
28 ~~juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall~~  
29 ~~be used to determine the range.~~



**JUVENILE SENTENCING STANDARDS**

**SCHEDULE D-2**

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

**MIDDLE OFFENDER**

**OPTION A**

**STANDARD RANGE**

Points	Community		Fine	Confinement	
	Supervision	Service Hours		Days	Weeks
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0	
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4	
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4	
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10	
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10	
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20	
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20	
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30	
110-129				8-12	
130-149				13-16	
150-199				21-28	
200-249				30-40	
250-299				52-65	
300-374				80-100	
375+				103-129	

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

**OR**

**OPTION B**

**STATUTORY OPTION**

0-12 Months Community Supervision  
0-150 Hours Community Service

1 ~~0-100 Fine~~

2 ~~Posting of a Probation Bond~~

3 ~~If the offender has less than 110 points, the court may impose a~~  
4 ~~determinate disposition of community supervision and/or up to 30 days~~  
5 ~~confinement; in which case, if confinement has been imposed, the court~~  
6 ~~shall state either aggravating or mitigating factors as set forth in~~  
7 ~~RCW 13.40.150.~~

8 ~~If the middle offender has 110 points or more, the court may impose~~  
9 ~~a disposition under option A and may suspend the disposition on the~~  
10 ~~condition that the offender serve up to thirty days of confinement and~~  
11 ~~follow all conditions of community supervision. If the offender fails~~  
12 ~~to comply with the terms of community supervision, the court may impose~~  
13 ~~sanctions pursuant to RCW 13.40.200 or may revoke the suspended~~  
14 ~~disposition and order execution of the disposition. If the court~~  
15 ~~imposes confinement for offenders with 110 points or more, the court~~  
16 ~~shall state either aggravating or mitigating factors set forth in RCW~~  
17 ~~13.40.150.~~

18 ~~OR~~

19 ~~OPTION C~~

20 ~~MANIFEST INJUSTICE~~

21 ~~If the court determines that a disposition under A or B would~~  
22 ~~effectuate a manifest injustice, the court shall sentence the juvenile~~  
23 ~~to a maximum term and the provisions of RCW 13.40.030(2) shall be used~~  
24 ~~to determine the range.~~

25 ~~JUVENILE SENTENCING STANDARDS~~

26 ~~SCHEDULE D-3~~

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

**SERIOUS OFFENDER**

**OPTION A**

**STANDARD RANGE**

Points ----- Institution Time

.....

0-129 ----- 8-12 weeks

130-149 ----- 13-16 weeks

150-199 ----- 21-28 weeks

200-249 ----- 30-40 weeks

250-299 ----- 52-65 weeks

300-374 ----- 80-100 weeks

375+ ----- 103-129 weeks

All A+ Offenses ----- 180-224 weeks

**OR**

**OPTION B**

**MANIFEST INJUSTICE**

A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision including posting a probation bond or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range.)

OFFENDER CATEGORY

DISPOSITION

.....

Divertees

Diversion

.....

Minor/First

Community Supervision

0-12 Months Community Supervision

0-\$100 Fine

0-150 Hours Community Service

.....

Any Middle Offender

Community Supervision/Detention

(Including those

0-12 Months Community Supervision

with 110 or more

0-\$100 Fine

1 points) 0-150 Hours Community Service

2 0-30 Days Confinement

3 .....

4 Middle Offenders JRA State Confinement  
5 With 110 or More Points Confinement

6 and Points (Weeks)  
7 Serious Offenders 0-129 8-12

8 130-149 13-16

9 150-199 21-28

10 200-249 30-40

11 250-299 52-65

12 300-374 80-100

13 375+ 103-129

14 All A+ Offenses 180-224

15 .....

16 Any Juvenile Found Guilty Manifest Injustice  
17 in Juvenile Court

18 A disposition outside the standard  
19 range shall be determinate and shall  
20 be comprised of confinement or community  
21 supervision or a combination thereof.  
22 When a judge finds a manifest injustice  
23 and imposes a sentence exceeding thirty  
24 days, the court shall sentence the  
25 juvenile to a maximum term, and the  
26 provisions of RCW 13.40.030(2) shall be  
27 used to determine the range.

28 A: In the case of a middle offender with 110 or more points, the court  
29 may impose a JRA State Confinement disposition and may suspend the  
30 disposition as provided in RCW 13.40.160 (4)(b) or (5) or in section 7  
31 of this act.

32 **Sec. 4.** RCW 13.40.077 and 1996 c 9 s 1 are each amended to read as  
33 follows:

34 RECOMMENDED PROSECUTING STANDARDS  
35 FOR CHARGING AND PLEA DISPOSITIONS

36 INTRODUCTION: These standards are intended solely for the guidance  
37 of prosecutors in the state of Washington. They are not intended to,

1 do not, and may not be relied upon to create a right or benefit,  
2 substantive or procedural, enforceable at law by a party in litigation  
3 with the state.

4 Evidentiary sufficiency.

5 (1) Decision not to prosecute.

6 STANDARD: A prosecuting attorney may decline to prosecute, even  
7 though technically sufficient evidence to prosecute exists, in  
8 situations where prosecution would serve no public purpose, would  
9 defeat the underlying purpose of the law in question, or would result  
10 in decreased respect for the law. The decision not to prosecute or  
11 divert shall not be influenced by the race, gender, religion, or creed  
12 of the suspect.

13 GUIDELINES/COMMENTARY:

14 Examples

15 The following are examples of reasons not to prosecute which could  
16 satisfy the standard.

17 (a) Contrary to Legislative Intent - It may be proper to decline to  
18 charge where the application of criminal sanctions would be clearly  
19 contrary to the intent of the legislature in enacting the particular  
20 statute.

21 (b) Antiquated Statute - It may be proper to decline to charge  
22 where the statute in question is antiquated in that:

23 (i) It has not been enforced for many years;

24 (ii) Most members of society act as if it were no longer in  
25 existence;

26 (iii) It serves no deterrent or protective purpose in today's  
27 society; and

28 (iv) The statute has not been recently reconsidered by the  
29 legislature.

30 This reason is not to be construed as the basis for declining cases  
31 because the law in question is unpopular or because it is difficult to  
32 enforce.

33 (c) De Minimis Violation - It may be proper to decline to charge  
34 where the violation of law is only technical or insubstantial and where  
35 no public interest or deterrent purpose would be served by prosecution.

36 (d) Confinement on Other Charges - It may be proper to decline to  
37 charge because the accused has been sentenced on another charge to a  
38 lengthy period of confinement; and

1 (i) Conviction of the new offense would not merit any additional  
2 direct or collateral punishment;

3 (ii) The new offense is either a misdemeanor or a felony which is  
4 not particularly aggravated; and

5 (iii) Conviction of the new offense would not serve any significant  
6 deterrent purpose.

7 (e) Pending Conviction on Another Charge - It may be proper to  
8 decline to charge because the accused is facing a pending prosecution  
9 in the same or another county; and

10 (i) Conviction of the new offense would not merit any additional  
11 direct or collateral punishment;

12 (ii) Conviction in the pending prosecution is imminent;

13 (iii) The new offense is either a misdemeanor or a felony which is  
14 not particularly aggravated; and

15 (iv) Conviction of the new offense would not serve any significant  
16 deterrent purpose.

17 (f) High Disproportionate Cost of Prosecution - It may be proper to  
18 decline to charge where the cost of locating or transporting, or the  
19 burden on, prosecution witnesses is highly disproportionate to the  
20 importance of prosecuting the offense in question. The reason should  
21 be limited to minor cases and should not be relied upon in serious  
22 cases.

23 (g) Improper Motives of Complainant - It may be proper to decline  
24 charges because the motives of the complainant are improper and  
25 prosecution would serve no public purpose, would defeat the underlying  
26 purpose of the law in question, or would result in decreased respect  
27 for the law.

28 (h) Immunity - It may be proper to decline to charge where immunity  
29 is to be given to an accused in order to prosecute another where the  
30 accused information or testimony will reasonably lead to the conviction  
31 of others who are responsible for more serious criminal conduct or who  
32 represent a greater danger to the public interest.

33 (i) Victim Request - It may be proper to decline to charge because  
34 the victim requests that no criminal charges be filed and the case  
35 involves the following crimes or situations:

36 (i) Assault cases where the victim has suffered little or no  
37 injury;

38 (ii) Crimes against property, not involving violence, where no  
39 major loss was suffered;

1 (iii) Where doing so would not jeopardize the safety of society.  
2 Care should be taken to insure that the victim's request is freely  
3 made and is not the product of threats or pressure by the accused.

4 The presence of these factors may also justify the decision to  
5 dismiss a prosecution which has been commenced.

6 Notification

7 The prosecutor is encouraged to notify the victim, when practical,  
8 and the law enforcement personnel, of the decision not to prosecute.

9 (2) Decision to prosecute.

10 STANDARD:

11 Crimes against persons will be filed if sufficient admissible  
12 evidence exists, which, when considered with the most plausible,  
13 reasonably foreseeable defense that could be raised under the evidence,  
14 would justify conviction by a reasonable and objective fact-finder.  
15 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,  
16 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and  
17 9A.64.020 the prosecutor should avoid pre-filing agreements or  
18 diversions intended to place the accused in a program of treatment or  
19 counseling, so that treatment, if determined to be beneficial, can be  
20 proved under RCW 13.40.160(5).

21 Crimes against property/other crimes will be filed if the  
22 admissible evidence is of such convincing force as to make it probable  
23 that a reasonable and objective fact-finder would convict after hearing  
24 all the admissible evidence and the most plausible defense that could  
25 be raised.

26 The categorization of crimes for these charging standards shall be  
27 the same as found in RCW 9.94A.440(2).

28 The decision to prosecute or use diversion shall not be influenced  
29 by the race, gender, religion, or creed of the respondent.

30 (3) Selection of Charges/Degree of Charge

31 (a) The prosecutor should file charges which adequately describe  
32 the nature of the respondent's conduct. Other offenses may be charged  
33 only if they are necessary to ensure that the charges:

34 (i) Will significantly enhance the strength of the state's case at  
35 trial; or

36 (ii) Will result in restitution to all victims.

37 (b) The prosecutor should not overcharge to obtain a guilty plea.

38 Overcharging includes:

39 (i) Charging a higher degree;

1 (ii) Charging additional counts.

2 This standard is intended to direct prosecutors to charge those  
3 crimes which demonstrate the nature and seriousness of a respondent's  
4 criminal conduct, but to decline to charge crimes which are not  
5 necessary to such an indication. Crimes which do not merge as a matter  
6 of law, but which arise from the same course of conduct, do not all  
7 have to be charged.

8 (4) Police Investigation

9 A prosecuting attorney is dependent upon law enforcement agencies  
10 to conduct the necessary factual investigation which must precede the  
11 decision to prosecute. The prosecuting attorney shall ensure that a  
12 thorough factual investigation has been conducted before a decision to  
13 prosecute is made. In ordinary circumstances the investigation should  
14 include the following:

15 (a) The interviewing of all material witnesses, together with the  
16 obtaining of written statements whenever possible;

17 (b) The completion of necessary laboratory tests; and

18 (c) The obtaining, in accordance with constitutional requirements,  
19 of the suspect's version of the events.

20 If the initial investigation is incomplete, a prosecuting attorney  
21 should insist upon further investigation before a decision to prosecute  
22 is made, and specify what the investigation needs to include.

23 (5) Exceptions

24 In certain situations, a prosecuting attorney may authorize filing  
25 of a criminal complaint before the investigation is complete if:

26 (a) Probable cause exists to believe the suspect is guilty; and

27 (b) The suspect presents a danger to the community or is likely to  
28 flee if not apprehended; or

29 (c) The arrest of the suspect is necessary to complete the  
30 investigation of the crime.

31 In the event that the exception that [to] the standard is applied,  
32 the prosecuting attorney shall obtain a commitment from the law  
33 enforcement agency involved to complete the investigation in a timely  
34 manner. If the subsequent investigation does not produce sufficient  
35 evidence to meet the normal charging standard, the complaint should be  
36 dismissed.

37 (6) Investigation Techniques

38 The prosecutor should be fully advised of the investigatory  
39 techniques that were used in the case investigation including:



- 1 (a) Polygraph testing;
- 2 (b) Hypnosis;
- 3 (c) Electronic surveillance;
- 4 (d) Use of informants.

5 (7) Prefiling Discussions with Defendant

6 Discussions with the defendant or his or her representative  
7 regarding the selection or disposition of charges may occur prior to  
8 the filing of charges, and potential agreements can be reached.

9 (8) Plea dispositions:

10 STANDARD

11 (a) Except as provided in subsection (2) of this section, a  
12 respondent will normally be expected to plead guilty to the charge or  
13 charges which adequately describe the nature of his or her criminal  
14 conduct or go to trial.

15 (b) In certain circumstances, a plea agreement with a respondent in  
16 exchange for a plea of guilty to a charge or charges that may not fully  
17 describe the nature of his or her criminal conduct may be necessary and  
18 in the public interest. Such situations may include the following:

19 (i) Evidentiary problems which make conviction of the original  
20 charges doubtful;

21 (ii) The respondent's willingness to cooperate in the investigation  
22 or prosecution of others whose criminal conduct is more serious or  
23 represents a greater public threat;

24 (iii) A request by the victim when it is not the result of pressure  
25 from the respondent;

26 (iv) The discovery of facts which mitigate the seriousness of the  
27 respondent's conduct;

28 (v) The correction of errors in the initial charging decision;

29 (vi) The respondent's history with respect to criminal activity;

30 (vii) The nature and seriousness of the offense or offenses  
31 charged;

32 (viii) The probable effect of witnesses.

33 (c) No plea agreement shall be influenced by the race, gender,  
34 religion, or creed of the respondent. This includes but is not limited  
35 to the prosecutor's decision to utilize such disposition alternatives  
36 as (~~"Option B,"~~) the chemical dependency disposition alternative, the  
37 Special Sex Offender Disposition Alternative, and manifest injustice.

38 (9) Disposition recommendations:

39 STANDARD

1 The prosecutor may reach an agreement regarding disposition  
2 recommendations.

3 The prosecutor shall not agree to withhold relevant information  
4 from the court concerning the plea agreement.

5 **Sec. 5.** RCW 13.40.160 and 1995 c 395 s 7 are each amended to read  
6 as follows:

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

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

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

27 (2) Where the respondent is found to be a minor or first offender,  
28 the court shall order that the respondent serve a term of community  
29 supervision as indicated in (~~option A or option B of~~) schedule (~~D-~~  
30 ~~1~~) D, RCW 13.40.0357 except as provided in subsections (5) and (6) of  
31 this section and section 7 of this act. If the court determines that  
32 a disposition of community supervision would effectuate a manifest  
33 injustice the court may impose another disposition under (~~option C~~  
34 ~~of~~) schedule (~~D-1~~) D, RCW 13.40.0357. Except as provided in  
35 subsection (5) of this section, a disposition other than a community  
36 supervision may be imposed only after the court enters reasons upon  
37 which it bases its conclusions that imposition of community supervision  
38 would effectuate a manifest injustice. When a judge finds a manifest

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

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

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

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

18 (a) The court shall impose a determinate disposition within the  
19 standard range(s) for such offense, as indicated in (~~option A of~~)  
20 schedule (~~D-2~~) D, RCW 13.40.0357 except as provided in subsections  
21 (5) and (6) of this section and section 7 of this act. If the standard  
22 range includes a term of confinement exceeding thirty days, commitment  
23 shall be to the department for the standard range of confinement; or

24 (b) If the middle offender has less than 110 points, the court  
25 shall impose a determinate disposition of community supervision and/or  
26 up to thirty days confinement, as indicated in (~~option B of~~) schedule  
27 (~~D-2~~) D, RCW 13.40.0357 (~~in which case, if confinement has been~~  
28 ~~imposed, the court shall state either aggravating or mitigating factors~~  
29 ~~as set forth in RCW 13.40.150~~). If the middle offender has 110 points  
30 or more, the court may impose a disposition under (~~option A~~) schedule  
31 D and may suspend the disposition on the condition that the offender  
32 serve up to thirty days of confinement and follow all conditions of  
33 community supervision. If the offender violates any condition of the  
34 disposition including conditions of a probation bond, the court may  
35 impose sanctions pursuant to RCW 13.40.200 or may revoke the suspension  
36 and order execution of the disposition. The court shall give credit  
37 for any confinement time previously served if that confinement was for  
38 the offense for which the suspension is being revoked.

1 (c) Only if the court concludes, and enters reasons for its  
2 conclusions, that disposition as provided in subsection (4)(a) or (b)  
3 of this section would effectuate a manifest injustice, the court shall  
4 sentence the juvenile to a maximum term, and the provisions of RCW  
5 13.40.030(2) shall be used to determine the range. The court's finding  
6 of manifest injustice shall be supported by clear and convincing  
7 evidence.

8 (d) A disposition pursuant to subsection (4)(c) of this section is  
9 appealable under RCW 13.40.230 by the state or the respondent. A  
10 disposition pursuant to subsection (4)(a) or (b) of this section is not  
11 appealable under RCW 13.40.230.

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

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

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

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

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

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

36 (iv) Anticipated length of treatment; and

37 (v) Recommended crime-related prohibitions.

38 The court on its own motion may order, or on a motion by the state  
39 shall order, a second examination regarding the offender's amenability

1 to treatment. The evaluator shall be selected by the party making the  
2 motion. The defendant shall pay the cost of any second examination  
3 ordered unless the court finds the defendant to be indigent in which  
4 case the state shall pay the cost.

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

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

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

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

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

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

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

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

3 (viii) Comply with the conditions of any court-ordered probation  
4 bond.

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

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

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

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

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

1 may also include a known parent or guardian of a victim who is a minor  
2 child unless the parent or guardian is the perpetrator of the offense.

3 (6) RCW 13.40.193 shall govern the disposition of any juvenile  
4 adjudicated of possessing a firearm in violation of RCW  
5 9.41.040(1)((e)) (b)(iii) or any crime in which a special finding is  
6 entered that the juvenile was armed with a firearm.

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

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

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

17 **Sec. 6.** RCW 13.40.193 and 1994 sp.s. c 7 s 525 are each amended to  
18 read as follows:

19 (1) If a respondent is found to have been in possession of a  
20 firearm in violation of RCW 9.41.040(1)((e)) (b)(iii), the court  
21 shall impose a determinate disposition of ten days of confinement and  
22 up to twelve months of community supervision. If the offender's  
23 standard range of disposition for the offense as indicated in RCW  
24 13.40.0357 is more than thirty days of confinement, the court shall  
25 commit the offender to the department for the standard range  
26 disposition. The offender shall not be released until the offender has  
27 served a minimum of ten days in confinement.

28 (2) If the court finds that the respondent or an accomplice was  
29 armed with a firearm, the court shall determine the standard range  
30 disposition for the offense pursuant to RCW 13.40.160. ~~((Ninety days  
31 of confinement shall be added to the entire standard range disposition  
32 of confinement))~~ If the offender or an accomplice was armed with a  
33 firearm when the offender committed ~~((:—(a) Any violent offense; or (b)  
34 escape in the first degree; burglary in the second degree; theft of  
35 livestock in the first or second degree; or any felony drug offense.  
36 If the offender or an accomplice was armed with a firearm and the  
37 offender is being adjudicated for an anticipatory felony offense under  
38 chapter 9A.28 RCW to commit one of the offenses listed in this~~

1 ~~subsection, ninety days shall be added to the entire standard range~~  
2 ~~disposition of confinement)) any felony other than possession of a~~  
3 ~~machine gun, possession of a stolen firearm, reckless endangerment in~~  
4 ~~the first degree, theft of a firearm, unlawful possession of a firearm~~  
5 ~~in the first and second degree, or use of a machine gun in a felony,~~  
6 ~~the following periods of total confinement shall be added to the~~  
7 ~~sentence: For a class A felony, six months; for a class B felony, four~~  
8 ~~months; and for a class C felony, two months.~~ The ~~((ninety days))~~  
9 ~~additional time~~ shall be imposed regardless of the offense's juvenile  
10 disposition offense category as designated in RCW 13.40.0357. ~~((The~~  
11 ~~department shall not release the offender until the offender has served~~  
12 ~~a minimum of ninety days in confinement, unless the juvenile is~~  
13 ~~committed to and successfully completes the juvenile offender basic~~  
14 ~~training camp disposition option.)) The court may suspend the~~  
15 ~~additional period of total confinement under this subsection only with~~  
16 ~~regard to minor or first offenders, or to middle offenders as provided~~  
17 ~~in RCW 13.40.160(4)(b).~~

18 (3) ~~((Option B of schedule D-2, RCW 13.40.0357, shall not be~~  
19 ~~available for middle offenders who receive a disposition under this~~  
20 ~~section.))~~ When a disposition under this section would effectuate a  
21 manifest injustice, the court may impose another disposition. When a  
22 judge finds a manifest injustice and imposes a disposition of  
23 confinement exceeding thirty days, the court shall commit the juvenile  
24 to a maximum term, and the provisions of RCW 13.40.030(2) shall be used  
25 to determine the range. When a judge finds a manifest injustice and  
26 imposes a disposition of confinement less than thirty days, the  
27 disposition shall be comprised of confinement or community supervision  
28 or both.

29 (4) Any term of confinement ordered pursuant to this section  
30 ~~((may))~~ shall run ~~((concurrently))~~ consecutively to any term of  
31 confinement imposed in the same disposition for the same or other  
32 offenses.

33 NEW SECTION. Sec. 7. A new section is added to chapter 13.40 RCW  
34 to read as follows:

35 (1) When a middle offender with 110 or more points is found to have  
36 committed an offense that is not a violent or sex offense, the court,  
37 on its own motion or the motion of the state or the respondent if the  
38 evidence shows that the offender may be chemically dependent, may order



1 an examination by a chemical dependency counselor from a chemical  
2 dependency treatment facility approved under chapter 70.96A RCW to  
3 determine if the youth is chemically dependent and amenable to  
4 treatment.

5 (2) The report of the examination shall include at a minimum the  
6 following: The respondent's version of the facts and the official  
7 version of the facts, the respondent's offense history, an assessment  
8 of drug/alcohol problems and previous treatment attempts, the  
9 respondent's social, educational, and employment situation, and other  
10 evaluation measures used. The report shall set forth the sources of  
11 the examiner's information.

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

16 (a) Whether inpatient and/or outpatient treatment is recommended;

17 (b) Availability of appropriate treatment;

18 (c) Monitoring plans, including any requirements regarding living  
19 conditions, lifestyle requirements, and monitoring by family members,  
20 legal guardians, or others;

21 (d) Anticipated length of treatment;

22 (e) Recommended crime-related prohibitions; and

23 (f) Whether the respondent is amenable to treatment.

24 (4) The court on its own motion may order, or on a motion by the  
25 state shall order, a second examination regarding the offender's  
26 amenability to treatment. The evaluator shall be selected by the party  
27 making the motion. The defendant shall pay the cost of any examination  
28 ordered under this subsection (4) or subsection (1) of this section  
29 unless the court finds that the offender is indigent and no third party  
30 insurance coverage is available, in which case the state shall pay the  
31 cost.

32 (5)(a) After receipt of reports of the examination, the court shall  
33 then consider whether the offender and the community will benefit from  
34 use of this chemical dependency disposition alternative and consider  
35 the victim's opinion whether the offender should receive a treatment  
36 disposition under this section.

37 (b) If the court determines that this chemical dependency  
38 disposition alternative is appropriate, then the court shall impose the  
39 standard range for the offense, suspend execution of the disposition,

1 and place the offender on community supervision for up to one year. As  
2 a condition of the suspended disposition, the court shall require the  
3 offender to undergo available outpatient drug/alcohol treatment and/or  
4 inpatient drug/alcohol treatment. For purposes of this section, the  
5 sum of confinement time and inpatient treatment may not exceed ninety  
6 days. As a condition of the suspended disposition, the court may  
7 impose conditions of community supervision and other sanctions,  
8 including up to thirty days of confinement, one hundred fifty hours of  
9 community service, and payment of legal financial obligations and  
10 restitution.

11 (6) The drug/alcohol treatment provider shall submit monthly  
12 reports on the respondent's progress in treatment to the court and the  
13 parties. The reports shall reference the treatment plan and include at  
14 a minimum the following: Dates of attendance, respondent's compliance  
15 with requirements, treatment activities, the respondent's relative  
16 progress in treatment, and any other material specified by the court at  
17 the time of the disposition.

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

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

26 (7) For purposes of this section, "victim" means any person who has  
27 sustained emotional, psychological, physical, or financial injury to  
28 person or property as a direct result of the crime charged.

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

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 NEW SECTION. **Sec. 8.** This act applies to crimes committed on or  
37 after July 1, 1997.

1        NEW SECTION.    **Sec. 9.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of the  
3    state government and its existing public institutions, and takes effect  
4    July 1, 1997.

--- **END** ---