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SENATE BILL 5706

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State of Washington                      55th Legislature                      1997 Regular Session

By Senators Long, Hargrove and Franklin

Read first time 02/07/97. Referred to Committee on Law & Justice.

1            AN ACT Relating to juvenile offenders; amending RCW 13.40.010,  
2 13.40.030, 13.40.070, 13.40.077, 13.40.110, 13.40.150, 13.40.160,  
3 13.40.193, 13.40.230, 13.64.060, and 72.76.010; reenacting and amending  
4 RCW 13.40.020, 9.94A.030, 9.94A.360, 9.94A.390, and 13.04.030; adding  
5 new sections to chapter 13.40 RCW; creating new sections; repealing RCW  
6 13.40.025, 13.40.0354, and 13.40.0357; prescribing penalties; making an  
7 appropriation; providing effective dates; and declaring an emergency.

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

9            NEW SECTION.    **Sec. 1.** The legislature recognizes there is a need  
10 for comprehensive revision to our state and local government juvenile  
11 justice system and that no major systemic changes have taken place in  
12 the twenty years since the current practices were put in place.

13            This act recognizes the long-term upward trend in the number and  
14 rates of juvenile offenses and the frustration experienced by parents,  
15 law enforcement, and the judiciary in addressing these increases. The  
16 legislature intends to reverse the trends over a long-term basis and to  
17 improve the public's confidence in the juvenile justice system.

18            The intent of this act is to accomplish the following goals: (1)  
19 Reduce recidivism among juvenile offenders; (2) reduce the number and

1 rate of juvenile offenses; (3) make clear to juvenile offenders that  
2 punishment for offenses will be certain and that sentences will  
3 increase with repeated offenses; (4) retain appropriate distinctions  
4 between juvenile and adult offenders while eliminating inappropriate  
5 variances in sentencing between the adult and juvenile systems; and (5)  
6 reduce the complexity of juvenile sentencing.

7 The intent of this act is to bring about planned, long-range  
8 systemic improvements to the juvenile justice system and public safety  
9 and is not intended to be an immediate solution to all concerns about  
10 juvenile crime. The legislature recognizes the importance of  
11 evaluations and outcome measurements of programs serving juvenile  
12 offenders in order to ensure cost-effective use of public funds. This  
13 act should not be construed as creating an ongoing commitment to any  
14 program or effort that does not accomplish the goals of this act.

15 **Sec. 2.** RCW 13.40.010 and 1992 c 205 s 101 are each amended to  
16 read as follows:

17 (1) This chapter shall be known and cited as the juvenile justice  
18 act (~~(of 1977)~~).

19 (2) It is the intent of the legislature that (~~(a system capable of~~  
20 ~~having primary responsibility for, being accountable for, and~~  
21 ~~responding to)~~) the state and local juvenile justice system have  
22 primary responsibility, and be accountable, for the needs of  
23 (~~(youthful)~~) juvenile offenders(~~(, as defined by this chapter, be~~  
24 ~~established)~~). It is the further intent of the legislature that  
25 (~~(youth, in turn,)~~) youthful offenders be held accountable for their  
26 offenses and that (~~(both)~~) communities, families, and the juvenile  
27 courts carry out their functions consistent with this intent. To  
28 effectuate these policies, the legislature declares the following to be  
29 equally important purposes of this chapter:

30 (a) Protect the citizenry from criminal behavior;

31 (b) Provide for determining whether accused juveniles have  
32 committed offenses (~~(as defined by this chapter)~~);

33 (c) Make the juvenile offender accountable for his or her criminal  
34 behavior;

35 (d) Provide for punishment commensurate with the age, crime, and  
36 criminal history of the juvenile offender;

37 (e) Provide due process for juveniles alleged to have committed an  
38 offense;

1 (f) Provide necessary treatment, supervision, and custody for  
2 juvenile offenders;

3 (g) Provide for the handling of juvenile offenders by communities  
4 whenever consistent with public safety;

5 (h) Provide for restitution to victims of crime;

6 (i) Develop effective standards and goals for the operation,  
7 funding, and evaluation of all components of the juvenile justice  
8 system and related services at the state and local levels; ((and))

9 (j) Provide for a clear policy to determine what types of offenders  
10 shall receive punishment, treatment, or both, and to determine the  
11 jurisdictional limitations of the courts, institutions, and community  
12 services; and

13 (k) Promote equitable treatment of juveniles and their families  
14 without regard to race, ethnicity, gender, creed, or religion.

15 **Sec. 3.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are  
16 each reenacted and amended to read as follows:

17 For the purposes of this chapter:

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

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

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

23 ~~(c) Assault in the second degree, extortion in the first degree,~~  
24 ~~child molestation in the second degree, kidnapping in the second~~  
25 ~~degree, robbery in the second degree, residential burglary, or burglary~~  
26 ~~in the second degree, where such offenses include the infliction of~~  
27 ~~bodily harm upon another or where during the commission of or immediate~~  
28 ~~withdrawal from such an offense the perpetrator is armed with a deadly~~  
29 ~~weapon;~~

30 ~~(2))~~ "Assistant secretary" means the assistant secretary for  
31 juvenile rehabilitation for the department;

32 (2) "Community service" means compulsory service, without  
33 compensation, performed for the benefit of the community by the  
34 offender as punishment for committing an offense. Community service  
35 may be performed through public or private organizations or through  
36 work crews;

37 (3) "Community supervision" means an order of disposition by the  
38 court of an adjudicated youth not committed to the department or an

1 order granting a deferred adjudication pursuant to RCW 13.40.125. A  
2 community supervision order for a single offense may be for a period of  
3 up to two years for a sex offense as defined by RCW 9.94A.030 and up to  
4 one year for other offenses. As a mandatory condition of any term of  
5 community supervision, the court shall order the juvenile to refrain  
6 from committing new offenses. As a mandatory condition of community  
7 supervision, the court shall order the juvenile to comply with the  
8 mandatory school attendance provisions of chapter 28A.225 RCW and to  
9 inform the school of the existence of this requirement. Community  
10 supervision is an individualized program comprised of one or more of  
11 the following:

- 12 (a) Community-based sanctions;
- 13 (b) Community-based rehabilitation;
- 14 (c) Monitoring and reporting requirements;
- 15 (d) Posting of a probation bond imposed pursuant to RCW 13.40.0357;
- 16 (4) Community-based sanctions may include one or more of the  
17 following:

- 18 (a) A fine, not to exceed one hundred dollars;
- 19 (b) Community service not to exceed one hundred fifty hours of  
20 service;

21 (5) "Community-based rehabilitation" means one or more of the  
22 following: Attendance of information classes; counseling, outpatient  
23 substance abuse treatment programs, outpatient mental health programs,  
24 anger management classes, education or outpatient treatment programs to  
25 prevent animal cruelty, or other services; or attendance at school or  
26 other educational programs appropriate for the juvenile as determined  
27 by the school district. Placement in community-based rehabilitation  
28 programs is subject to available funds;

29 (~~(6) ("Monitoring and reporting requirements" means one or more of~~  
30 ~~the following: Curfews; requirements to remain at home, school, work,~~  
31 ~~or court-ordered treatment programs during specified hours;~~  
32 ~~restrictions from leaving or entering specified geographical areas;~~  
33 ~~requirements to report to the probation officer as directed and to~~  
34 ~~remain under the probation officer's supervision; and other conditions~~  
35 ~~or limitations as the court may require which may not include~~  
36 ~~confinement;~~

37 (~~7~~)) "Confinement" means physical custody by the department ((~~of~~  
38 ~~social and health services~~)) in a facility operated by or pursuant to  
39 a contract with the state, or physical custody in a detention facility

1 operated by or pursuant to a contract with any county. The county may  
2 operate or contract with vendors to operate county detention  
3 facilities. The department may operate or contract to operate  
4 detention facilities for juveniles committed to the department.  
5 Pretrial confinement or confinement of less than thirty-one days  
6 imposed as part of a disposition or modification order may be served  
7 consecutively or intermittently, in the discretion of the court;

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

10 ((+9)) (8) "Criminal history" includes all criminal complaints  
11 against the respondent for which, prior to the commission of a current  
12 offense:

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

17 (b) The criminal complaint was diverted by a prosecutor pursuant to  
18 the provisions of this chapter on agreement of the respondent and after  
19 an advisement to the respondent that the criminal complaint would be  
20 considered as part of the respondent's criminal history. A  
21 successfully completed deferred adjudication shall not be considered  
22 part of the respondent's criminal history;

23 ~~((+10)) "Department" means the department of social and health  
24 services;~~

25 ~~((+11))~~ (9) "Detention facility" means a ~~((county))~~ facility, paid  
26 for by the county, for the physical confinement of a juvenile alleged  
27 to have committed an offense or ~~((an adjudicated offender))~~ convicted  
28 of an offense and subject to a disposition or modification order.  
29 "Detention facility" includes county group homes, inpatient substance  
30 abuse programs, juvenile basic training camps, and electronic  
31 monitoring;

32 ~~((+12))~~ (10) "Diversion unit" means any probation counselor who  
33 enters into a diversion agreement with an alleged youthful offender, or  
34 any other person, community accountability board, or other entity  
35 except a law enforcement official or entity, with whom the juvenile  
36 court administrator has contracted to arrange and supervise such  
37 agreements pursuant to RCW 13.40.080, or any person, community  
38 accountability board, or other entity specially funded by the  
39 legislature to arrange and supervise diversion agreements in accordance

1 with the requirements of this chapter. For purposes of this  
2 subsection, "community accountability board" means a board comprised of  
3 members of the local community in which the juvenile offender resides.  
4 The superior court shall appoint the members. The boards shall consist  
5 of at least three and not more than seven members. If possible, the  
6 board should include a variety of representatives from the community,  
7 such as a law enforcement officer, teacher or school administrator,  
8 high school student, parent, and business owner, and should represent  
9 the cultural diversity of the local community;

10 (11) "Exceptional sentence" means a sentence imposed outside the  
11 standard range as authorized in RCW 13.40.160;

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

15 (13) "Home detention" has the same meaning as in RCW 9.94A.030;

16 (14) "Institution" means a juvenile facility established pursuant  
17 to chapters 72.05 and 72.16 through 72.20 RCW;

18 ~~((14))~~ (15) "Juvenile," "youth," and "child" mean any individual  
19 who is under the chronological age of eighteen years and who has not  
20 been previously transferred to adult court pursuant to RCW 13.40.110 or  
21 who is otherwise under adult criminal court jurisdiction pursuant to  
22 RCW 13.04.030;

23 ~~((15))~~ (16) "Juvenile offender" means any juvenile who has been  
24 found by the juvenile court to have committed an offense, including a  
25 person eighteen years of age or older over whom jurisdiction has been  
26 extended under RCW 13.40.300;

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

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

32 ~~(18) "Minor or first offender" means a person whose current~~  
33 ~~offense(s) and criminal history fall entirely within one of the~~  
34 ~~following categories:~~

35 ~~(a) Four misdemeanors;~~

36 ~~(b) Two misdemeanors and one gross misdemeanor;~~

37 ~~(c) One misdemeanor and two gross misdemeanors; and~~

38 ~~(d) Three gross misdemeanors.~~

1 For purposes of this definition, current violations shall be  
2 counted as misdemeanors;

3 ~~(19))~~ (17) "Monitoring and reporting requirements" means reporting  
4 to and remaining under the authority of the probation officer as  
5 directed and to remain under the probation officer's supervision and  
6 other conditions or limitations as the court may require which may not  
7 include confinement;

8 (18) "Offense" means an act designated a violation or a crime if  
9 committed by an adult under the law of this state, under any ordinance  
10 of any city or county of this state, under any federal law, or under  
11 the law of another state if the act occurred in that state;

12 (19) "Probation bond" means: (a) A bond, posted with sufficient  
13 security by a surety justified and approved by the court, to secure the  
14 offender's appearance at required court proceedings and compliance with  
15 court-ordered community supervision or conditions of release ordered  
16 pursuant to RCW 13.40.040 or 13.40.050; or (b) a deposit of cash or  
17 posting of other collateral in lieu of a bond if approved by the court;

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

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

30 ~~(22) ("Secretary" means the secretary of the department of social~~  
31 ~~and health services.~~

32 ~~"Assistant secretary" means the assistant secretary for juvenile~~  
33 ~~rehabilitation for the department;~~

34 ~~(23))~~ "Services" mean services which provide alternatives to  
35 incarceration for those juveniles who have pleaded or been adjudicated  
36 guilty of an offense or have signed a diversion agreement pursuant to  
37 this chapter;

38 ~~((24))~~ (23) "Sex offense" means an offense defined as a sex  
39 offense in RCW 9.94A.030;

1       (~~(25)~~) (24) "Sexual motivation" means that one of the purposes  
2 for which the respondent committed the offense was for the purpose of  
3 his or her sexual gratification;

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

7       (~~(27)~~) (25) "Surety" means an entity licensed under state insurance  
8 laws or by the state department of licensing, to write corporate,  
9 property, or probation bonds within the state, and justified and  
10 approved by the superior court of the county having jurisdiction of the  
11 case;

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

15       (~~(28)~~) (27) "Violent offense" means a violent offense as defined  
16 in RCW 9.94A.030(~~(;~~

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

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

28       NEW SECTION. Sec. 4. A new section is added to chapter 13.40 RCW  
29 to read as follows:

30       Any juvenile who is convicted of three or more offenses that are  
31 most serious offenses as defined in RCW 9.94A.030 is a persistent  
32 juvenile offender for purposes of chapter 9.94A RCW. However, no  
33 juvenile may be a persistent offender for purposes of chapter 9.94A RCW  
34 unless he or she has been transferred to an appropriate criminal court  
35 under this title.

36       Sec. 5. RCW 13.40.030 and 1996 c 232 s 5 are each amended to read  
37 as follows:



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

18 (2) (~~The permissible ranges of confinement resulting from a~~  
19 ~~finding of manifest injustice under RCW 13.40.0357 are~~) When the court  
20 finds that an exceptional sentence is justified, imposes a sentence of  
21 confinement exceeding thirty days, and sets the maximum term, the  
22 department shall determine the range subject to the following  
23 limitations:

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

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

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

33 **Sec. 6.** RCW 13.40.070 and 1994 sp.s. c 7 s 543 are each amended to  
34 read as follows:

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

1 (a) The alleged facts bring the case within the jurisdiction of the  
2 court; and

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

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

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

19 (4) An information shall be a plain, concise, and definite written  
20 statement of the essential facts constituting the offense charged. It  
21 shall be signed by the prosecuting attorney and conform to chapter  
22 10.37 RCW.

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

25 (a) An alleged offender is accused of a class A felony, a class B  
26 felony, an attempt to commit a class B felony, a class C felony listed  
27 in RCW 9.94A.440(2) as a crime against persons or listed in RCW  
28 9A.46.060 as a crime of harassment(~~(7)~~) or a class C felony that is a  
29 violation of RCW 9.41.080 or 9.41.040(1)(~~(e)~~, ~~or any other offense~~  
30 ~~listed in RCW 13.40.020(1)(b) or (c)~~) (b)(iii); or

31 (b) An alleged offender is accused of a felony and has a criminal  
32 history of any felony, or at least two gross misdemeanors, or at least  
33 two misdemeanors; or

34 (c) An alleged offender has previously been committed to the  
35 department; or

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

38 (e) An alleged offender has two or more diversion contracts on the  
39 alleged offender's criminal history; or

1 (f) A special allegation has been filed that the offender or an  
2 accomplice was armed with a firearm when the offense was committed.

3 (6) Where a case is legally sufficient the prosecutor shall divert  
4 the case if the alleged offense is a misdemeanor or gross misdemeanor  
5 or violation and the alleged offense is the offender's first offense or  
6 violation. If the alleged offender is charged with a related offense  
7 that must or may be filed under subsections (5) and (7) of this  
8 section, a case under this subsection may also be filed.

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

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

23 (9) The responsibilities of the prosecutor under subsections (1)  
24 through (8) of this section may be performed by a juvenile court  
25 probation counselor for any complaint referred to the court alleging  
26 the commission of an offense which would not be a felony if committed  
27 by an adult, if the prosecutor has given sufficient written notice to  
28 the juvenile court that the prosecutor will not review such complaints.

29 (10) The prosecutor, juvenile court probation counselor, or  
30 diversion unit may, in exercising their authority under this section or  
31 RCW 13.40.080, refer juveniles to mediation or victim offender  
32 reconciliation programs. Such mediation or victim offender  
33 reconciliation programs shall be voluntary for victims.

34 **Sec. 7.** RCW 13.40.077 and 1996 c 9 s 1 are each amended to read as  
35 follows:

36 RECOMMENDED PROSECUTING STANDARDS  
37 FOR CHARGING AND PLEA DISPOSITIONS

1 INTRODUCTION: These standards are intended solely for the guidance  
2 of prosecutors in the state of Washington. They are not intended to,  
3 do not, and may not be relied upon to create a right or benefit,  
4 substantive or procedural, enforceable at law by a party in litigation  
5 with the state.

6 Evidentiary sufficiency.

7 (1) Decision not to prosecute.

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

15 GUIDELINES/COMMENTARY:

16 Examples

17 The following are examples of reasons not to prosecute which could  
18 satisfy the standard.

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

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

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

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

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

30 (iv) The statute has not been recently reconsidered by the  
31 legislature.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (i) Assault cases where the victim has suffered little or no  
2 injury;

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

5 (iii) Where doing so would not jeopardize the safety of society.

6 Care should be taken to insure that the victim's request is freely  
7 made and is not the product of threats or pressure by the accused.

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

#### 10 Notification

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

13 (2) Decision to prosecute.

#### 14 STANDARD:

15 Crimes against persons will be filed if sufficient admissible  
16 evidence exists, which, when considered with the most plausible,  
17 reasonably foreseeable defense that could be raised under the evidence,  
18 would justify conviction by a reasonable and objective fact-finder.  
19 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,  
20 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and  
21 9A.64.020 the prosecutor should avoid prefiling agreements or  
22 diversions intended to place the accused in a program of treatment or  
23 counseling, so that treatment, if determined to be beneficial, can be  
24 proved under RCW 13.40.160((+5)) (2).

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

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

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

34 (3) Selection of Charges/Degree of Charge

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

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

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

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

3 Overcharging includes:

4 (i) Charging a higher degree;

5 (ii) Charging additional counts.

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

12 (4) Police Investigation

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

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

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

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

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

27 (5) Exceptions

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

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

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

33 (c) The arrest of the suspect is necessary to complete the  
34 investigation of the crime.

35 In the event that the exception (~~that~~~~to~~) to the standard is  
36 applied, the prosecuting attorney shall obtain a commitment from the  
37 law enforcement agency involved to complete the investigation in a  
38 timely manner. If the subsequent investigation does not produce

1 sufficient evidence to meet the normal charging standard, the complaint  
2 should be dismissed.

3 (6) Investigation Techniques

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

- 6 (a) Polygraph testing;
- 7 (b) Hypnosis;
- 8 (c) Electronic surveillance;
- 9 (d) Use of informants.

10 (7) Prefiling Discussions with Defendant

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

14 (8) Plea dispositions:

15 STANDARD

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

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

24 (i) Evidentiary problems which make conviction of the original  
25 charges doubtful;

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

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

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

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

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

35 (vii) The nature and seriousness of the offense or offenses  
36 charged;

37 (viii) The probable effect of witnesses.

38 (c) No plea agreement shall be influenced by the race, gender,  
39 religion, or creed of the respondent. This includes but is not limited



1 to the prosecutor's decision to utilize such disposition alternatives  
2 as (~~"Option—B,"~~) the special sex offender disposition  
3 alternative(~~(7)~~) and (~~manifest injustice~~) exceptional sentences.

4 (9) Disposition recommendations:

5 STANDARD

6 The prosecutor may reach an agreement regarding disposition  
7 recommendations.

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

10 **Sec. 8.** RCW 13.40.110 and 1990 c 3 s 303 are each amended to read  
11 as follows:

12 (1) The prosecutor, respondent, or the court on its own motion may,  
13 before a hearing on the information on its merits, file a motion  
14 requesting the court to transfer the respondent for adult criminal  
15 prosecution and the matter shall be set for a hearing on the question  
16 of declining jurisdiction. Unless waived by the court, the parties,  
17 and their counsel, a decline hearing shall be held where:

18 (a) The respondent is fifteen, sixteen, or seventeen years of age  
19 and the information alleges a class A felony or an attempt,  
20 solicitation, or conspiracy to commit a class A felony; (~~(or)~~)

21 (b) The respondent is seventeen years of age and the information  
22 alleges assault in the second degree, extortion in the first degree,  
23 indecent liberties, child molestation in the second degree, kidnapping  
24 in the second degree, or robbery in the second degree; or

25 (c) The information alleges an escape by the respondent and the  
26 respondent is serving a minimum juvenile sentence to age twenty-one.

27 (2) The court after a decline hearing may order the case  
28 transferred for adult criminal prosecution upon a finding that the  
29 declination would be in the best interest of the juvenile or the  
30 public. The court shall consider the relevant reports, facts,  
31 opinions, and arguments presented by the parties and their counsel.

32 (3) When the respondent is transferred for criminal prosecution or  
33 retained for prosecution in juvenile court, the court shall set forth  
34 in writing its finding which shall be supported by relevant facts and  
35 opinions produced at the hearing.

36 **Sec. 9.** RCW 13.40.150 and 1995 c 268 s 5 are each amended to read  
37 as follows:

1 (1) In disposition hearings all relevant and material evidence,  
2 including oral and written reports, may be received by the court and  
3 may be relied upon to the extent of its probative value, even though  
4 such evidence may not be admissible in a hearing on the information.  
5 The youth or the youth's counsel and the prosecuting attorney shall be  
6 afforded an opportunity to examine and controvert written reports so  
7 received and to cross-examine individuals making reports when such  
8 individuals are reasonably available, but sources of confidential  
9 information need not be disclosed. The prosecutor and counsel for the  
10 juvenile may submit recommendations for disposition.

11 (2) For purposes of disposition:

12 (a) Violations which are current offenses count as misdemeanors;

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

15 (c) In no event may a disposition for a violation include  
16 confinement.

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

20 (a) Consider the facts supporting the allegations of criminal  
21 conduct by the respondent;

22 (b) Consider information and arguments offered by parties and their  
23 counsel;

24 (c) Consider any predisposition reports;

25 (d) Consult with the respondent's parent, guardian, or custodian on  
26 the appropriateness of dispositional options under consideration and  
27 afford the respondent and the respondent's parent, guardian, or  
28 custodian an opportunity to speak in the respondent's behalf;

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

31 (f) Determine the amount of restitution owing to the victim, if  
32 any;

33 (g) Determine (~~whether the respondent is a serious offender, a~~  
34 ~~middle offender, or a minor or first offender~~) the respondent's  
35 offender score;

36 (h) Consider whether or not any of the following mitigating factors  
37 exist:

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

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

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

8 (iv) The respondent committed the crime under duress, coercion,  
9 threat, or compulsion insufficient to constitute a complete defense but  
10 that significantly affected his or her conduct;

11 (v) The respondent, with no apparent predisposition to do so, was  
12 induced by others to participate in the crime;

13 (vi) The offense was principally accomplished by another person and  
14 the respondent manifested extreme caution or sincere concern for the  
15 safety or well-being of the victim;

16 (vii) Prior to his or her detection, the respondent compensated or  
17 made a good faith attempt to compensate the victim for the injury or  
18 loss sustained; and

19 ((-v)) (viii) There has been at least one year between the  
20 respondent's current offense and any prior criminal offense;

21 (i) Consider whether or not any of the following aggravating  
22 factors exist:

23 (i) In the commission of the offense, or in flight therefrom, the  
24 respondent inflicted or attempted to inflict serious bodily injury to  
25 another;

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

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

29 (iv) The current offense was a violent offense, and the respondent  
30 knew that the victim of the current offense was pregnant;

31 (v) The offense was part of an ongoing pattern of sexual abuse of  
32 the same victim under the age of eighteen years manifested by multiple  
33 incidents over a prolonged period of time;

34 (vi) The current offense involved domestic violence as defined in  
35 RCW 10.99.020 and one or more of the following was present:

36 (A) The offense was part of an ongoing pattern of psychological,  
37 physical, or sexual abuse of the victim manifested by multiple  
38 incidents over a prolonged period of time;

1       (B) The offense occurred within sight or sound of the victim's or  
2 the offender's minor children under the age of eighteen years; or

3       (C) The respondent's conduct during the commission of the current  
4 offense manifested deliberate cruelty or intimidation of the victim;

5       (vii) The respondent's prior unscored misdemeanor or gross  
6 misdemeanor or prior unscored foreign criminal history results in a  
7 presumptive sentence that is clearly too lenient in light of the  
8 purpose of this chapter as expressed in RCW 13.40.010;

9       (viii) The respondent has a recent criminal history or has failed  
10 to comply with conditions of a recent dispositional order or diversion  
11 agreement;

12       ~~((v))~~ (ix) The current offense included a finding of sexual  
13 motivation pursuant to RCW 13.40.135;

14       ~~((vi))~~ (x) The respondent was the leader of a criminal enterprise  
15 involving several persons; ((and

16 ~~(vii))~~ (xi) There are other complaints which have resulted in  
17 diversion or a finding or plea of guilty but which are not included as  
18 criminal history; and

19       (xii) The respondent is a sex offender eligible for the special sex  
20 offender disposition alternative under RCW 13.40.160(2) and the court  
21 finds that a longer disposition is necessary to provide an incentive to  
22 comply with the terms of the disposition.

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

25       (a) The sex of the respondent;

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

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

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

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

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

36       **Sec. 10.** RCW 13.40.160 and 1995 c 395 s 7 are each amended to read  
37 as follows:

1       (1)(a) When the respondent is found ~~((to be a serious offender))~~  
2 guilty of an offense by a juvenile court, the court shall ~~((commit))~~  
3 sentence the offender ~~((to the department))~~ for the standard range ~~((of~~  
4 disposition)) for the offense, as indicated in ~~((option A of schedule~~  
5 D-3, RCW 13.40.0357)) section 12 of this act, except as provided in  
6 subsections ~~((5) and (6))~~ (2) and (3) of this section.

7       (b)(i) If the maximum for the standard sentence range for an  
8 offense within felony offense levels I through III is less than ten  
9 days, the court may impose a sentence of up to ten days.

10       When determining the number of offenses for purposes of section  
11 12(2) of this act, all prior misdemeanors, gross misdemeanors, and  
12 felonies shall be counted as separate offenses, without regard to  
13 whether any offenses were committed during the same course of criminal  
14 conduct.

15       If the court concludes, and enters reasons for its conclusion, that  
16 ~~((disposition within the standard range would effectuate a manifest~~  
17 injustice)) there are clear and convincing reasons justifying an  
18 exceptional sentence, the court shall impose a disposition outside the  
19 standard range ~~((, as indicated in option B of schedule D-3, RCW~~  
20 13.40.0357)). The court's finding ~~((of manifest injustice))~~ that an  
21 exceptional sentence is justified shall be supported by clear and  
22 convincing evidence.

23       (ii) With regard to arson in the first degree; assault in the  
24 second degree; burglary in the first degree; extortion in the first  
25 degree; intimidating a public servant; intent to sell a legend drug;  
26 intimidating a witness; kidnapping in the first degree; kidnapping in  
27 the second degree; robbery in the first degree; and robbery in the  
28 second degree, the court may enter an order imposing an exceptional  
29 sentence above the standard range if there is substantial evidence to  
30 support such a sentence.

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

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

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

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

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

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

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

37 ~~(b) If the middle offender has less than 110 points, the court  
38 shall impose a determinate disposition of community supervision and/or  
39 up to thirty days confinement, as indicated in option B of schedule D-~~

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

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

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

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

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

37 The examiner shall assess and report regarding the respondent's  
38 amenability to treatment and relative risk to the community. A

1 proposed treatment plan shall be provided and shall include, at a  
2 minimum:

3 (a)(i) Frequency and type of contact between the offender and  
4 therapist;

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

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

10 (iv) Anticipated length of treatment; and

11 (v) Recommended crime-related prohibitions.

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

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

31 (b)(i) Devote time to a specific education, employment, or  
32 occupation;

33 (ii) Undergo available outpatient sex offender treatment for up to  
34 two years, or inpatient sex offender treatment not to exceed the  
35 standard range of confinement for that offense. A community mental  
36 health center may not be used for such treatment unless it has an  
37 appropriate program designed for sex offender treatment. The  
38 respondent shall not change sex offender treatment providers or  
39 treatment conditions without first notifying the prosecutor, the



1 probation counselor, and the court, and shall not change providers  
2 without court approval after a hearing if the prosecutor or probation  
3 counselor object to the change;

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

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

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

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

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

15 (viii) Comply with the conditions of any court-ordered probation  
16 bond.

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

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

26 Except as provided in this subsection (~~((+5+))~~) (2), after July 1,  
27 1991, examinations and treatment ordered pursuant to this subsection  
28 shall only be conducted by sex offender treatment providers certified  
29 by the department of health pursuant to chapter 18.155 RCW. A sex  
30 offender therapist who examines or treats a juvenile sex offender  
31 pursuant to this subsection does not have to be certified by the  
32 department of health pursuant to chapter 18.155 RCW if the court finds  
33 that: (A) The offender has already moved to another state or plans to  
34 move to another state for reasons other than circumventing the  
35 certification requirements; (B) no certified providers are available  
36 for treatment within a reasonable geographical distance of the  
37 offender's home; and (C) the evaluation and treatment plan comply with  
38 this subsection (~~((+5+))~~) (2) and the rules adopted by the department of  
39 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 ~~((+6))~~ (3) RCW 13.40.193 shall govern the disposition of any  
17 juvenile adjudicated of possessing a firearm in violation of RCW  
18 9.41.040(1)~~((+e))~~ (b)(iii) or any crime in which a special finding is  
19 entered that the juvenile was armed with a firearm.

20 ~~((+7))~~ (4) Whenever a juvenile offender is entitled to credit for  
21 time spent in detention prior to a dispositional order, the  
22 dispositional order shall specifically state the number of days of  
23 credit for time served.

24 ~~((+8))~~ (5) Except as provided for in subsection ~~((+4)(b) or (5))~~  
25 (2) of this section or RCW 13.40.125, the court shall not suspend or  
26 defer the imposition or the execution of the disposition.

27 ~~((+9))~~ (6) In no case shall the term of confinement imposed by the  
28 court at disposition exceed that to which an adult could be subjected  
29 for the same offense.

30 NEW SECTION. Sec. 11. The legislature intends the chapter . . . ,  
31 Laws of 1997 amendment to RCW 13.40.160(1)(b)(ii) to grant the court  
32 additional statutory discretion to impose an exceptional sentence  
33 higher than the standard range for the following offenses: Arson in  
34 the first degree; assault in the second degree; burglary in the first  
35 degree; extortion in the first degree; intimidating a public servant;  
36 intent to sell a legend drug; intimidating a witness; kidnapping in the  
37 first degree; kidnapping in the second degree; robbery in the first  
38 degree; and robbery in the second degree. The legislature has treated

1 these offenses very seriously when committed by a juvenile and  
 2 recognizes the potential for great harm caused by the offenses. The  
 3 legislature, in response to this recognition and the need for public  
 4 safety, is providing a less difficult standard to meet for the court to  
 5 grant an exceptional sentence above the standard range following  
 6 conviction for any of these offenses.

7 NEW SECTION. **Sec. 12.** A new section is added to chapter 13.40 RCW  
 8 to read as follows:

9 **(1) JUVENILE FELONY SENTENCING GRID**

10 Offense	Age 13 &	Age 14-15	Age 16-17
11 Seriousness	under		
12 Level			
13 (RCW 9.94A.320)			
15 XIV-XV	Maximum Juvenile 16 Court Jurisdiction	Maximum Juvenile 17 Court Jurisdiction	(Automatic Adult 18 Court Jurisdiction & 19 Sentence)
18 XIII	45%-50%	50% or Maximum 19 Juvenile Court 20 Jurisdiction, 21 whichever is less	(Automatic Adult 22 Court Jurisdiction & 23 Sentence)
22 XII	20%-30%	20%-30% or Maximum 23 Juvenile Court 24 Jurisdiction, 25 whichever is less	(Automatic Adult 26 Court Jurisdiction & 27 Sentence)
26 X-XI	20%-30%	20%-30%	20%-30%
27 IX	20%-30%	25%-30%	25%-35%
28 VI-VIII	15%-25%	20%-30%	25%-35%
29 IV-V	10%-20%	15%-25%	25%-30%
30 I-III	10%-20% or up to 31 10 days, 32 whichever is 33 greater	15%-25% or up to 10 days, whichever is greater	25%-30% or up to 10 days, whichever is greater
34 Unranked 35 Felonies	10%-20%	15%-25%	25%-30%

36 To calculate the standard sentence range for juvenile offenders  
 37 convicted of felonies in juvenile court:

1 (a) Determine the offense seriousness level by the offense of  
2 conviction using the table in RCW 9.94A.320.

3 (b) Calculate the offender score using the adult scoring rules in  
4 RCW 9.94A.360, except that each prior juvenile conviction shall be  
5 scored as if it is a prior adult conviction.

6 (c) Once the offense seriousness level and offender score have  
7 been calculated, determine the midpoint of the adult standard range  
8 sentence using the adult sentencing grid in RCW 9.94A.310. For the  
9 purposes of this section, the midpoint shall be expressed as days, with  
10 a month equaling thirty days and a year equaling three hundred sixty-  
11 five days.

12 (d) Determine the juvenile standard sentence range by using the  
13 juvenile felony sentencing grid in this subsection. The intersection  
14 of the row representing the offense seriousness level and the column  
15 representing the offender's age identify the percentage of the midpoint  
16 of the adult standard range sentence for the same offense determined  
17 under (c) of this subsection that is to be used for the juvenile  
18 standard range, so that for example if the midpoint is one hundred  
19 twenty days, "10%-20%" means the juvenile's standard range sentence is  
20 10%-20% of one hundred twenty days, or twelve to twenty-four days. The  
21 calculation of the minimum and maximum number of days in the juvenile's  
22 standard range sentence shall be rounded down to the nearest whole day.

23 **(2) JUVENILE NONFELONY SENTENCING GRID**

24 Offense	1st Offense	2nd Offense	3rd Offense	25 4th and 26 Subsequent 27 Offenses
28 Gross 29 Misdemeanor	0 - 10 days	3 - 15 days	10 - 20 days	15 - 90 days
30 Misdemeanor	0 - 5 days	2 - 10 days	5 - 15 days	10 - 45 days

31 To calculate the sentence for juvenile offenders convicted of  
32 misdemeanors and gross misdemeanors in juvenile court:

33 (a) Determine whether the offense is a misdemeanor or gross  
34 misdemeanor.

35 (b) Determine whether the offense is the offender's first, second,  
36 third, or fourth or subsequent offense.

37 (c) Determine the juvenile standard sentence range by using the  
38 juvenile nonfelony sentencing grid in this subsection. The

1 intersection of the row representing the offense and the column  
2 representing the number of offenses identify the standard range  
3 sentence that is to be used unless an exceptional sentence is  
4 justified.

5 (d) Sentence the offender to a determinate sentence within the  
6 range.

7 (3) In addition to any term of confinement imposed under  
8 subsection (1) or (2) of this section, the court may impose the  
9 following sanctions:

10 (a) 0-12 months of community supervision, except for juveniles  
11 committed to the department of corrections;

12 (b) 0-150 hours of community service; and

13 (c) \$0-\$150 fine.

14 NEW SECTION. Sec. 13. A new section is added to chapter 13.40  
15 RCW to read as follows:

16 Any pretrial confinement, or any term of confinement ordered to be  
17 served in a detention facility as a result of a conviction of an  
18 offense under this chapter, may be served through home detention or  
19 electronic monitoring, at the discretion of the court, after  
20 consideration of the juvenile under the standards required by RCW  
21 13.40.038. The court may order pretrial confinement or confinement of  
22 less than thirty-one days to be served intermittently or on consecutive  
23 days.

24 **Sec. 14.** RCW 13.40.193 and 1994 sp.s. c 7 s 525 are each amended  
25 to read as follows:

26 (1) If a respondent is found to have been in possession of a  
27 firearm in violation of RCW 9.41.040(1)((+e)) (b)(iii), the court  
28 shall impose a determinate disposition of ten days of confinement and  
29 up to twelve months of community supervision. If the offender's  
30 standard range of disposition for the offense as indicated in ((RCW  
31 ~~13.40.0357~~)) section 12 of this act is more than thirty days of  
32 confinement, the court shall commit the offender to the department for  
33 the standard range disposition. The offender shall not be released  
34 until the offender has served a minimum of ten days in confinement.

35 (2) If the court finds that the respondent or an accomplice was  
36 armed with a firearm, the court shall determine the standard range  
37 disposition for the offense pursuant to RCW 13.40.160. Ninety days of

1 confinement shall be added to the entire standard range disposition of  
2 confinement if the offender or an accomplice was armed with a firearm  
3 when the offender committed: (a) Any violent offense; or (b) escape in  
4 the first degree; burglary in the second degree; theft of livestock in  
5 the first or second degree; or any felony drug offense. If the  
6 offender or an accomplice was armed with a firearm and the offender is  
7 being adjudicated for an anticipatory felony offense under chapter  
8 9A.28 RCW to commit one of the offenses listed in this subsection,  
9 ninety days shall be added to the entire standard range disposition of  
10 confinement. The ninety days shall be imposed regardless of the  
11 (~~offense's juvenile disposition~~) offense (~~category as designated in~~  
12 ~~RCW 13.40.0357~~). The department shall not release the offender until  
13 the offender has served a minimum of ninety days in confinement, unless  
14 the juvenile is committed to and successfully completes the juvenile  
15 offender basic training camp disposition option.

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

32 **Sec. 15.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to  
33 read as follows:

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

37 An appeal under this section shall be heard solely upon the record  
38 that was before the disposition court. No written briefs may be

1 required, and the appeal shall be heard within thirty days following  
2 the date of sentencing and a decision rendered within fifteen days  
3 following the argument. The supreme court shall promulgate any  
4 necessary rules to effectuate the purposes of this section.

5 (2) To uphold a disposition outside the standard range, (~~(or which~~  
6 ~~imposes confinement for a minor or first offender,)~~) the court of  
7 appeals must find (a) that the reasons supplied by the disposition  
8 judge are supported by the record which was before the judge and that  
9 those reasons clearly and convincingly support the conclusion that a  
10 disposition (~~(within)~~) outside the range(~~(, or nonconfinement for a~~  
11 ~~minor or first offender, would constitute a manifest injustice)) was  
12 justified, and (b) that the sentence imposed was neither clearly  
13 excessive nor clearly too lenient.~~

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

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

21 (5) Pending appeal, a respondent may not be committed or detained  
22 for a period of time in excess of the standard range for the offense(s)  
23 committed or (~~(sixty))~~ one hundred eighty days, whichever is longer.  
24 The disposition court may impose conditions on release pending appeal  
25 as provided in RCW 13.40.040(~~(+4))~~ (5) and 13.40.050(6). Upon the  
26 expiration of the period of commitment or detention specified in this  
27 subsection, the court may also impose such conditions on the  
28 respondent's release pending disposition of the appeal.

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

31 **Sec. 16.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are  
32 each reenacted and amended to read as follows:

33 Unless the context clearly requires otherwise, the definitions in  
34 this section apply throughout this chapter.

35 (1) "Collect," or any derivative thereof, "collect and remit," or  
36 "collect and deliver," when used with reference to the department of  
37 corrections, means that the department is responsible for monitoring  
38 and enforcing the offender's sentence with regard to the legal

1 financial obligation, receiving payment thereof from the offender, and,  
2 consistent with current law, delivering daily the entire payment to the  
3 superior court clerk without depositing it in a departmental account.

4 (2) "Commission" means the sentencing guidelines commission.

5 (3) "Community corrections officer" means an employee of the  
6 department who is responsible for carrying out specific duties in  
7 supervision of sentenced offenders and monitoring of sentence  
8 conditions.

9 (4) "Community custody" means that portion of an inmate's sentence  
10 of confinement in lieu of earned early release time or imposed pursuant  
11 to RCW 9.94A.120(6), (8), or (10) served in the community subject to  
12 controls placed on the inmate's movement and activities by the  
13 department of corrections.

14 (5) "Community placement" means that period during which the  
15 offender is subject to the conditions of community custody and/or  
16 postrelease supervision, which begins either upon completion of the  
17 term of confinement (postrelease supervision) or at such time as the  
18 offender is transferred to community custody in lieu of earned early  
19 release. Community placement may consist of entirely community  
20 custody, entirely postrelease supervision, or a combination of the two.

21 (6) "Community service" means compulsory service, without  
22 compensation, performed for the benefit of the community by the  
23 offender.

24 (7) "Community supervision" means a period of time during which a  
25 convicted offender is subject to crime-related prohibitions and other  
26 sentence conditions imposed by a court pursuant to this chapter or RCW  
27 16.52.200(6) or 46.61.524. For first-time offenders, the supervision  
28 may include crime-related prohibitions and other conditions imposed  
29 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact  
30 for out-of-state supervision of parolees and probationers, RCW  
31 9.95.270, community supervision is the functional equivalent of  
32 probation and should be considered the same as probation by other  
33 states.

34 (8) "Confinement" means total or partial confinement as defined in  
35 this section.

36 (9) "Conviction" means an adjudication of guilt pursuant to Titles  
37 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
38 acceptance of a plea of guilty.



1           (10) "Court-ordered legal financial obligation" means a sum of  
2 money that is ordered by a superior court of the state of Washington  
3 for legal financial obligations which may include restitution to the  
4 victim, statutorily imposed crime victims' compensation fees as  
5 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
6 drug funds, court-appointed attorneys' fees, and costs of defense,  
7 fines, and any other financial obligation that is assessed to the  
8 offender as a result of a felony conviction. Upon conviction for  
9 vehicular assault while under the influence of intoxicating liquor or  
10 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the  
11 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
12 legal financial obligations may also include payment to a public agency  
13 of the expense of an emergency response to the incident resulting in  
14 the conviction, subject to the provisions in RCW 38.52.430.

15           (11) "Crime-related prohibition" means an order of a court  
16 prohibiting conduct that directly relates to the circumstances of the  
17 crime for which the offender has been convicted, and shall not be  
18 construed to mean orders directing an offender affirmatively to  
19 participate in rehabilitative programs or to otherwise perform  
20 affirmative conduct.

21           (12)(a) "Criminal history" means the list of a defendant's prior  
22 convictions, whether in this state, in federal court, or elsewhere.  
23 The history shall include, where known, for each conviction (i) whether  
24 the defendant has been placed on probation and the length and terms  
25 thereof; and (ii) whether the defendant has been incarcerated and the  
26 length of incarceration.

27           (b) "Criminal history" shall always include juvenile convictions  
28 for sex offenses and serious violent offenses and shall also include a  
29 defendant's other prior convictions in juvenile court if: (i) The  
30 conviction was for an offense which is a felony or a serious traffic  
31 offense and is criminal history as defined in RCW 13.40.020(~~(+9)~~);  
32 (ii) the defendant was fifteen years of age or older at the time the  
33 offense was committed; and (iii) with respect to prior juvenile class  
34 B and C felonies or serious traffic offenses, the defendant was less  
35 than twenty-three years of age at the time the offense for which he or  
36 she is being sentenced was committed.

37           (13) "Day fine" means a fine imposed by the sentencing judge that  
38 equals the difference between the offender's net daily income and the

1 reasonable obligations that the offender has for the support of the  
2 offender and any dependents.

3 (14) "Day reporting" means a program of enhanced supervision  
4 designed to monitor the defendant's daily activities and compliance  
5 with sentence conditions, and in which the defendant is required to  
6 report daily to a specific location designated by the department or the  
7 sentencing judge.

8 (15) "Department" means the department of corrections.

9 (16) "Determinate sentence" means a sentence that states with  
10 exactitude the number of actual years, months, or days of total  
11 confinement, of partial confinement, of community supervision, the  
12 number of actual hours or days of community service work, or dollars or  
13 terms of a legal financial obligation. The fact that an offender  
14 through "earned early release" can reduce the actual period of  
15 confinement shall not affect the classification of the sentence as a  
16 determinate sentence.

17 (17) "Disposable earnings" means that part of the earnings of an  
18 individual remaining after the deduction from those earnings of any  
19 amount required by law to be withheld. For the purposes of this  
20 definition, "earnings" means compensation paid or payable for personal  
21 services, whether denominated as wages, salary, commission, bonuses, or  
22 otherwise, and, notwithstanding any other provision of law making the  
23 payments exempt from garnishment, attachment, or other process to  
24 satisfy a court-ordered legal financial obligation, specifically  
25 includes periodic payments pursuant to pension or retirement programs,  
26 or insurance policies of any type, but does not include payments made  
27 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
28 or Title 74 RCW.

29 (18) "Drug offense" means:

30 (a) Any felony violation of chapter 69.50 RCW except possession of  
31 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
32 controlled substance (RCW 69.50.403);

33 (b) Any offense defined as a felony under federal law that relates  
34 to the possession, manufacture, distribution, or transportation of a  
35 controlled substance; or

36 (c) Any out-of-state conviction for an offense that under the laws  
37 of this state would be a felony classified as a drug offense under (a)  
38 of this subsection.

39 (19) "Escape" means:

1 (a) Escape in the first degree (RCW 9A.76.110), escape in the  
2 second degree (RCW 9A.76.120), willful failure to return from furlough  
3 (RCW 72.66.060), willful failure to return from work release (RCW  
4 72.65.070), or willful failure to be available for supervision by the  
5 department while in community custody (RCW 72.09.310); or

6 (b) Any federal or out-of-state conviction for an offense that  
7 under the laws of this state would be a felony classified as an escape  
8 under (a) of this subsection.

9 (20) "Felony traffic offense" means:

10 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
11 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
12 and-run injury-accident (RCW 46.52.020(4)); or

13 (b) Any federal or out-of-state conviction for an offense that  
14 under the laws of this state would be a felony classified as a felony  
15 traffic offense under (a) of this subsection.

16 (21) "Fines" means the requirement that the offender pay a  
17 specific sum of money over a specific period of time to the court.

18 (22)(a) "First-time offender" means any person who is convicted of  
19 a felony (i) not classified as a violent offense or a sex offense under  
20 this chapter, or (ii) that is not the manufacture, delivery, or  
21 possession with intent to manufacture or deliver a controlled substance  
22 classified in schedule I or II that is a narcotic drug, nor the  
23 manufacture, delivery, or possession with intent to deliver  
24 methamphetamine, its salts, isomers, and salts of its isomers as  
25 defined in RCW 69.50.206(d)(2), nor the selling for profit of any  
26 controlled substance or counterfeit substance classified in schedule I,  
27 RCW 69.50.204, except leaves and flowering tops of marihuana, and  
28 except as provided in (b) of this subsection, who previously has never  
29 been convicted of a felony in this state, federal court, or another  
30 state, and who has never participated in a program of deferred  
31 prosecution for a felony offense.

32 (b) For purposes of (a) of this subsection, a juvenile  
33 adjudication for an offense committed before the age of fifteen years  
34 is not a previous felony conviction except for adjudications of sex  
35 offenses and serious violent offenses.

36 (23) "Most serious offense" means any of the following felonies or  
37 a felony attempt to commit any of the following felonies, as now  
38 existing or hereafter amended:

1 (a) Any felony defined under any law as a class A felony or  
2 criminal solicitation of or criminal conspiracy to commit a class A  
3 felony;

4 (b) Assault in the second degree;

5 (c) Assault of a child in the second degree;

6 (d) Child molestation in the second degree;

7 (e) Controlled substance homicide;

8 (f) Extortion in the first degree;

9 (g) Incest when committed against a child under age fourteen;

10 (h) Indecent liberties;

11 (i) Kidnapping in the second degree;

12 (j) Leading organized crime;

13 (k) Manslaughter in the first degree;

14 (l) Manslaughter in the second degree;

15 (m) Promoting prostitution in the first degree;

16 (n) Rape in the third degree;

17 (o) Robbery in the second degree;

18 (p) Sexual exploitation;

19 (q) Vehicular assault;

20 (r) Vehicular homicide, when proximately caused by the driving of  
21 any vehicle by any person while under the influence of intoxicating  
22 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
23 any vehicle in a reckless manner;

24 (s) Any other class B felony offense with a finding of sexual  
25 motivation, as "sexual motivation" is defined under this section;

26 (t) Any other felony with a deadly weapon verdict under RCW  
27 9.94A.125;

28 (u) Any felony offense in effect at any time prior to December 2,  
29 1993, that is comparable to a most serious offense under this  
30 subsection, or any federal or out-of-state conviction for an offense  
31 that under the laws of this state would be a felony classified as a  
32 most serious offense under this subsection.

33 (24) "Nonviolent offense" means an offense which is not a violent  
34 offense.

35 (25) "Offender" means a person who has committed a felony  
36 established by state law and is eighteen years of age or older ((or)).  
37 "Offender" also means a person who is less than eighteen years of age  
38 but whose case has been transferred by the appropriate juvenile court  
39 to a criminal court pursuant to RCW 13.40.110 or who is under adult

1 criminal court jurisdiction pursuant to RCW 13.04.030. Throughout this  
2 chapter, the terms "offender" and "defendant" are used interchangeably.

3 (26) "Partial confinement" means confinement for no more than one  
4 year in a facility or institution operated or utilized under contract  
5 by the state or any other unit of government, or, if home detention or  
6 work crew has been ordered by the court, in an approved residence, for  
7 a substantial portion of each day with the balance of the day spent in  
8 the community. Partial confinement includes work release, home  
9 detention, work crew, and a combination of work crew and home detention  
10 as defined in this section.

11 (27) "Persistent offender" is an offender who:

12 (a)(i) Has been convicted in this state of any felony considered  
13 a most serious offense; and

14 (ii) Has, before the commission of the offense under (a) of this  
15 subsection, been convicted as an offender or a persistent juvenile  
16 offender under section 4 of this act on at least two separate  
17 occasions, whether in this state or elsewhere, of felonies that under  
18 the laws of this state would be considered most serious offenses and  
19 would be included in the offender score under RCW 9.94A.360(~~(+ provided~~  
20 ~~that)~~). Of the two or more previous convictions, at least one  
21 conviction must have occurred before the commission of any of the other  
22 most serious offenses for which the offender was previously convicted;  
23 or

24 (b)(i) Has been convicted of (A) rape in the first degree, rape in  
25 the second degree, or indecent liberties by forcible compulsion; (B)  
26 murder in the first degree, murder in the second degree, kidnapping in  
27 the first degree, kidnapping in the second degree, assault in the first  
28 degree, assault in the second degree, or burglary in the first degree,  
29 with a finding of sexual motivation; or (C) an attempt to commit any  
30 crime listed in this subsection (27)(b)(i); and

31 (ii) Has, before the commission of the offense under (b)(i) of  
32 this subsection, been convicted as an offender on at least one  
33 occasion, whether in this state or elsewhere, of an offense listed in  
34 (b)(i) of this subsection.

35 (28) "Postrelease supervision" is that portion of an offender's  
36 community placement that is not community custody.

37 (29) "Restitution" means the requirement that the offender pay a  
38 specific sum of money over a specific period of time to the court as

1 payment of damages. The sum may include both public and private costs.  
2 The imposition of a restitution order does not preclude civil redress.

3 (30) "Serious traffic offense" means:

4 (a) Driving while under the influence of intoxicating liquor or  
5 any drug (RCW 46.61.502), actual physical control while under the  
6 influence of intoxicating liquor or any drug (RCW 46.61.504), reckless  
7 driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW  
8 46.52.020(5)); or

9 (b) Any federal, out-of-state, county, or municipal conviction for  
10 an offense that under the laws of this state would be classified as a  
11 serious traffic offense under (a) of this subsection.

12 (31) "Serious violent offense" is a subcategory of violent offense  
13 and means:

14 (a) Murder in the first degree, homicide by abuse, murder in the  
15 second degree, assault in the first degree, kidnapping in the first  
16 degree, or rape in the first degree, assault of a child in the first  
17 degree, or an attempt, criminal solicitation, or criminal conspiracy to  
18 commit one of these felonies; or

19 (b) Any federal or out-of-state conviction for an offense that  
20 under the laws of this state would be a felony classified as a serious  
21 violent offense under (a) of this subsection.

22 (32) "Sentence range" means the sentencing court's discretionary  
23 range in imposing a nonappealable sentence.

24 (33) "Sex offense" means:

25 (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
26 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a  
27 criminal attempt, criminal solicitation, or criminal conspiracy to  
28 commit such crimes;

29 (b) A felony with a finding of sexual motivation under RCW  
30 9.94A.127 or 13.40.135; or

31 (c) Any federal or out-of-state conviction for an offense that  
32 under the laws of this state would be a felony classified as a sex  
33 offense under (a) of this subsection.

34 (34) "Sexual motivation" means that one of the purposes for which  
35 the defendant committed the crime was for the purpose of his or her  
36 sexual gratification.

37 (35) "Total confinement" means confinement inside the physical  
38 boundaries of a facility or institution operated or utilized under

1 contract by the state or any other unit of government for twenty-four  
2 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

3 (36) "Transition training" means written and verbal instructions  
4 and assistance provided by the department to the offender during the  
5 two weeks prior to the offender's successful completion of the work  
6 ethic camp program. The transition training shall include instructions  
7 in the offender's requirements and obligations during the offender's  
8 period of community custody.

9 (37) "Victim" means any person who has sustained emotional,  
10 psychological, physical, or financial injury to person or property as  
11 a direct result of the crime charged.

12 (38) "Violent offense" means:

13 (a) Any of the following felonies, as now existing or hereafter  
14 amended: Any felony defined under any law as a class A felony or an  
15 attempt to commit a class A felony, criminal solicitation of or  
16 criminal conspiracy to commit a class A felony, manslaughter in the  
17 first degree, manslaughter in the second degree, indecent liberties if  
18 committed by forcible compulsion, kidnapping in the second degree,  
19 arson in the second degree, assault in the second degree, assault of a  
20 child in the second degree, extortion in the first degree, robbery in  
21 the second degree, vehicular assault, and vehicular homicide, when  
22 proximately caused by the driving of any vehicle by any person while  
23 under the influence of intoxicating liquor or any drug as defined by  
24 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

25 (b) Any conviction for a felony offense in effect at any time  
26 prior to July 1, 1976, that is comparable to a felony classified as a  
27 violent offense in (a) of this subsection; and

28 (c) Any federal or out-of-state conviction for an offense that  
29 under the laws of this state would be a felony classified as a violent  
30 offense under (a) or (b) of this subsection.

31 (39) "Work crew" means a program of partial confinement consisting  
32 of civic improvement tasks for the benefit of the community of not less  
33 than thirty-five hours per week that complies with RCW 9.94A.135. The  
34 civic improvement tasks shall have minimal negative impact on existing  
35 private industries or the labor force in the county where the service  
36 or labor is performed. The civic improvement tasks shall not affect  
37 employment opportunities for people with developmental disabilities  
38 contracted through sheltered workshops as defined in RCW 82.04.385.  
39 Only those offenders sentenced to a facility operated or utilized under

1 contract by a county or the state are eligible to participate on a work  
2 crew. Offenders sentenced for a sex offense as defined in subsection  
3 (33) of this section are not eligible for the work crew program.

4 (40) "Work ethic camp" means an alternative incarceration program  
5 designed to reduce recidivism and lower the cost of corrections by  
6 requiring offenders to complete a comprehensive array of real-world job  
7 and vocational experiences, character-building work ethics training,  
8 life management skills development, substance abuse rehabilitation,  
9 counseling, literacy training, and basic adult education.

10 (41) "Work release" means a program of partial confinement  
11 available to offenders who are employed or engaged as a student in a  
12 regular course of study at school. Participation in work release shall  
13 be conditioned upon the offender attending work or school at regularly  
14 defined hours and abiding by the rules of the work release facility.

15 (42) "Home detention" means a program of partial confinement  
16 available to offenders wherein the offender is confined in a private  
17 residence subject to electronic surveillance.

18 **Sec. 17.** RCW 9.94A.360 and 1995 c 316 s 1 and 1995 c 101 s 1 are  
19 each reenacted and amended to read as follows:

20 The offender score is measured on the horizontal axis of the  
21 sentencing grid. The offender score rules are as follows:

22 The offender score is the sum of points accrued under this section  
23 rounded down to the nearest whole number.

24 (1) A prior conviction is a conviction which exists before the  
25 date of sentencing for the offense for which the offender score is  
26 being computed. Convictions entered or sentenced on the same date as  
27 the conviction for which the offender score is being computed shall be  
28 deemed "other current offenses" within the meaning of RCW 9.94A.400.

29 (2) Except as provided in subsection (4) of this section, class A  
30 and sex prior felony convictions shall always be included in the  
31 offender score. Class B prior felony convictions other than sex  
32 offenses shall not be included in the offender score, if since the last  
33 date of release from confinement (including full-time residential  
34 treatment) pursuant to a felony conviction, if any, or entry of  
35 judgment and sentence, the offender had spent ten consecutive years in  
36 the community without committing any crime that subsequently results in  
37 a conviction. Class C prior felony convictions other than sex offenses  
38 shall not be included in the offender score if, since the last date of



1 release from confinement (including full-time residential treatment)  
2 pursuant to a felony conviction, if any, or entry of judgment and  
3 sentence, the offender had spent five consecutive years in the  
4 community without committing any crime that subsequently results in a  
5 conviction. Serious traffic convictions shall not be included in the  
6 offender score if, since the last date of release from confinement  
7 (including full-time residential treatment) pursuant to a felony  
8 conviction, if any, or entry of judgment and sentence, the offender  
9 spent five years in the community without committing any crime that  
10 subsequently results in a conviction. This subsection applies to both  
11 adult and juvenile prior convictions.

12 (3) Out-of-state convictions for offenses shall be classified  
13 according to the comparable offense definitions and sentences provided  
14 by Washington law. Federal convictions for offenses shall be  
15 classified according to the comparable offense definitions and  
16 sentences provided by Washington law. If there is no clearly  
17 comparable offense under Washington law or the offense is one that is  
18 usually considered subject to exclusive federal jurisdiction, the  
19 offense shall be scored as a class C felony equivalent if it was a  
20 felony under the relevant federal statute.

21 (4) Always include juvenile convictions for sex offenses and  
22 serious violent offenses. Include other class A juvenile felonies only  
23 if the offender was 15 or older at the time the juvenile offense was  
24 committed. Include other class B and C juvenile felony convictions  
25 only if the offender was 15 or older at the time the juvenile offense  
26 was committed and the offender was less than 23 at the time the offense  
27 for which he or she is being sentenced was committed.

28 (5) Score prior convictions for felony anticipatory offenses  
29 (attempts, criminal solicitations, and criminal conspiracies) the same  
30 as if they were convictions for completed offenses.

31 (6)(a) In the case of multiple prior convictions, for the purpose  
32 of computing the offender score, count all convictions separately,  
33 except:

34 (i) Prior adult offenses which were found, under RCW  
35 9.94A.400(1)(a), to encompass the same criminal conduct, shall be  
36 counted as one offense, the offense that yields the highest offender  
37 score. The current sentencing court shall determine with respect to  
38 other prior adult offenses for which sentences were served concurrently  
39 whether those offenses shall be counted as one offense or as separate

1 offenses using the "same criminal conduct" analysis found in RCW  
2 9.94A.400(1)(a), and if the court finds that they shall be counted as  
3 one offense, then the offense that yields the highest offender score  
4 shall be used. The current sentencing court may presume that such  
5 other prior adult offenses were not the same criminal conduct from  
6 sentences imposed on separate dates, or in separate counties or  
7 jurisdictions, or in separate complaints, indictments, or informations;

8 (ii) Juvenile prior convictions entered or sentenced on the same  
9 date shall count as one offense, the offense that yields the highest  
10 offender score, except for juvenile prior convictions for violent  
11 offenses with separate victims, which shall count as separate offenses;  
12 and

13 (iii) In the case of multiple prior convictions for offenses  
14 committed before July 1, 1986, for the purpose of computing the  
15 offender score, count all adult convictions served concurrently as one  
16 offense, and count all juvenile convictions entered on the same date as  
17 one offense. Use the conviction for the offense that yields the  
18 highest offender score.

19 (b) As used in this subsection (6), "served concurrently" means  
20 that: (i) The latter sentence was imposed with specific reference to  
21 the former; (ii) the concurrent relationship of the sentences was  
22 judicially imposed; and (iii) the concurrent timing of the sentences  
23 was not the result of a probation or parole revocation on the former  
24 offense.

25 (7) If the present conviction is one of the anticipatory offenses  
26 of criminal attempt, solicitation, or conspiracy, count each prior  
27 conviction as if the present conviction were for a completed offense.

28 (8) If the present conviction is for a nonviolent offense and not  
29 covered by subsection (12) or (13) of this section, count one point for  
30 each adult prior felony conviction and one point for each juvenile  
31 prior violent felony conviction and 1/2 point for each juvenile prior  
32 nonviolent felony conviction.

33 (9) If the present conviction is for a violent offense and not  
34 covered in subsection (10), (11), (12), or (13) of this section, count  
35 two points for each prior adult and juvenile violent felony conviction,  
36 one point for each prior adult nonviolent felony conviction, and 1/2  
37 point for each prior juvenile nonviolent felony conviction.

38 (10) If the present conviction is for Murder 1 or 2, Assault 1,  
39 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count

1 three points for prior adult and juvenile convictions for crimes in  
2 these categories, two points for each prior adult and juvenile violent  
3 conviction (not already counted), one point for each prior adult  
4 nonviolent felony conviction, and 1/2 point for each prior juvenile  
5 nonviolent felony conviction.

6 (11) If the present conviction is for Burglary 1, count prior  
7 convictions as in subsection (9) of this section; however count two  
8 points for each prior adult Burglary 2 or residential burglary  
9 conviction, and one point for each prior juvenile Burglary 2 or  
10 residential burglary conviction.

11 (12) If the present conviction is for a felony traffic offense  
12 count two points for each adult or juvenile prior conviction for  
13 Vehicular Homicide or Vehicular Assault; for each felony offense or  
14 serious traffic offense, count one point for each adult and 1/2 point  
15 for each juvenile prior conviction.

16 (13) If the present conviction is for a drug offense count three  
17 points for each adult prior felony drug offense conviction and two  
18 points for each juvenile drug offense. All other adult and juvenile  
19 felonies are scored as in subsection (9) of this section if the current  
20 drug offense is violent, or as in subsection (8) of this section if the  
21 current drug offense is nonviolent.

22 (14) If the present conviction is for Willful Failure to Return  
23 from Furlough, RCW 72.66.060, Willful Failure to Return from Work  
24 Release, RCW 72.65.070, or Escape from Community Custody, RCW  
25 72.09.310, count only prior escape convictions in the offender score.  
26 Count adult prior escape convictions as one point and juvenile prior  
27 escape convictions as 1/2 point.

28 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or  
29 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and  
30 juvenile prior convictions as 1/2 point.

31 (16) If the present conviction is for Burglary 2 or residential  
32 burglary, count priors as in subsection (8) of this section; however,  
33 count two points for each adult and juvenile prior Burglary 1  
34 conviction, two points for each adult prior Burglary 2 or residential  
35 burglary conviction, and one point for each juvenile prior Burglary 2  
36 or residential burglary conviction.

37 (17) If the present conviction is for a sex offense, count priors  
38 as in subsections (8) through (16) of this section; however count three  
39 points for each adult and juvenile prior sex offense conviction.

1 (18) If the present conviction is for an offense committed while  
2 the offender was under community placement or juvenile parole pursuant  
3 to RCW 13.40.215, add one point.

4 **Sec. 18.** RCW 9.94A.390 and 1996 c 248 s 2 and 1996 c 121 s 1 are  
5 each reenacted and amended to read as follows:

6 If the sentencing court finds that an exceptional sentence outside  
7 the standard range should be imposed in accordance with RCW  
8 9.94A.120(2), the sentence is subject to review only as provided for in  
9 RCW 9.94A.210(4).

10 The following are illustrative factors which the court may  
11 consider in the exercise of its discretion to impose an exceptional  
12 sentence. The following are illustrative only and are not intended to  
13 be exclusive reasons for exceptional sentences.

14 (1) Mitigating Circumstances

15 (a) To a significant degree, the victim was an initiator, willing  
16 participant, aggressor, or provoker of the incident.

17 (b) Before detection, the defendant compensated, or made a good  
18 faith effort to compensate, the victim of the criminal conduct for any  
19 damage or injury sustained.

20 (c) The defendant committed the crime under duress, coercion,  
21 threat, or compulsion insufficient to constitute a complete defense but  
22 which significantly affected his or her conduct.

23 (d) The defendant, with no apparent predisposition to do so, was  
24 induced by others to participate in the crime.

25 (e) The defendant's capacity to appreciate the wrongfulness of his  
26 or her conduct or to conform his or her conduct to the requirements of  
27 the law, was significantly impaired (voluntary use of drugs or alcohol  
28 is excluded).

29 (f) The offense was principally accomplished by another person and  
30 the defendant manifested extreme caution or sincere concern for the  
31 safety or well-being of the victim.

32 (g) The operation of the multiple offense policy of RCW 9.94A.400  
33 results in a presumptive sentence that is clearly excessive in light of  
34 the purpose of this chapter, as expressed in RCW 9.94A.010.

35 (h) The defendant or the defendant's children suffered a  
36 continuing pattern of physical or sexual abuse by the victim of the  
37 offense and the offense is a response to that abuse.

38 (2) Aggravating Circumstances

1 (a) The defendant's conduct during the commission of the current  
2 offense manifested deliberate cruelty to the victim.

3 (b) The defendant knew or should have known that the victim of the  
4 current offense was particularly vulnerable or incapable of resistance  
5 due to extreme youth, advanced age, disability, or ill health.

6 (c) The current offense was a violent offense, and the defendant  
7 knew that the victim of the current offense was pregnant.

8 (d) The current offense was a major economic offense or series of  
9 offenses, so identified by a consideration of any of the following  
10 factors:

11 (i) The current offense involved multiple victims or multiple  
12 incidents per victim;

13 (ii) The current offense involved attempted or actual monetary  
14 loss substantially greater than typical for the offense;

15 (iii) The current offense involved a high degree of sophistication  
16 or planning or occurred over a lengthy period of time; or

17 (iv) The defendant used his or her position of trust, confidence,  
18 or fiduciary responsibility to facilitate the commission of the current  
19 offense.

20 (e) The current offense was a major violation of the Uniform  
21 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to  
22 trafficking in controlled substances, which was more onerous than the  
23 typical offense of its statutory definition: The presence of ANY of  
24 the following may identify a current offense as a major VUCSA:

25 (i) The current offense involved at least three separate  
26 transactions in which controlled substances were sold, transferred, or  
27 possessed with intent to do so;

28 (ii) The current offense involved an attempted or actual sale or  
29 transfer of controlled substances in quantities substantially larger  
30 than for personal use;

31 (iii) The current offense involved the manufacture of controlled  
32 substances for use by other parties;

33 (iv) The circumstances of the current offense reveal the offender  
34 to have occupied a high position in the drug distribution hierarchy;

35 (v) The current offense involved a high degree of sophistication  
36 or planning or occurred over a lengthy period of time or involved a  
37 broad geographic area of disbursement; or

38 (vi) The offender used his or her position or status to facilitate  
39 the commission of the current offense, including positions of trust,

1 confidence or fiduciary responsibility (e.g., pharmacist, physician, or  
2 other medical professional).

3 (f) The current offense included a finding of sexual motivation  
4 pursuant to RCW 9.94A.127.

5 (g) The offense was part of an ongoing pattern of sexual abuse of  
6 the same victim under the age of eighteen years manifested by multiple  
7 incidents over a prolonged period of time.

8 (h) The current offense involved domestic violence, as defined in  
9 RCW 10.99.020 and one or more of the following was present:

10 (i) The offense was part of an ongoing pattern of psychological,  
11 physical, or sexual abuse of the victim manifested by multiple  
12 incidents over a prolonged period of time;

13 (ii) The offense occurred within sight or sound of the victim's or  
14 the offender's minor children under the age of eighteen years; or

15 (iii) The offender's conduct during the commission of the current  
16 offense manifested deliberate cruelty or intimidation of the victim.

17 (i) The operation of the multiple offense policy of RCW 9.94A.400  
18 results in a presumptive sentence that is clearly too lenient in light  
19 of the purpose of this chapter, as expressed in RCW 9.94A.010.

20 (j) The defendant's prior unscored misdemeanor or prior unscored  
21 foreign criminal history results in a presumptive sentence that is  
22 clearly too lenient in light of the purpose of this chapter as  
23 expressed in RCW 9.94A.010.

24 (k) The presumptive sentence is clearly too lenient in light of  
25 the purposes of this chapter as expressed in RCW 9.94A.010 considering  
26 the defendant's prior unscored juvenile misdemeanor or felony  
27 adjudications.

28 **Sec. 19.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15  
29 are each reenacted and amended to read as follows:

30 (1) Except as provided in (~~subsection (2) of~~) this section, the  
31 juvenile courts in (~~the several counties of~~) this state(~~(7)~~) shall  
32 have exclusive original jurisdiction over all proceedings:

33 (a) Under the interstate compact on placement of children as  
34 provided in chapter 26.34 RCW;

35 (b) Relating to children alleged or found to be dependent as  
36 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

37 (c) Relating to the termination of a parent and child relationship  
38 as provided in RCW 13.34.180 through 13.34.210;

1 (d) To approve or disapprove out-of-home placement as provided in  
2 RCW 13.32A.170;

3 (e) Relating to juveniles alleged or found to have committed  
4 offenses, traffic infractions, or violations as provided in RCW  
5 13.40.020 through 13.40.230, unless:

6 (i) The juvenile court transfers jurisdiction of a particular  
7 juvenile to adult criminal court pursuant to RCW 13.40.110; or

8 (ii) The statute of limitations applicable to adult prosecution  
9 for the offense, traffic infraction, or violation has expired; or

10 (iii) The alleged offense or infraction is a traffic, fish,  
11 boating, or game offense or traffic infraction committed by a juvenile  
12 sixteen years of age or older and would, if committed by an adult, be  
13 tried or heard in a court of limited jurisdiction, in which instance  
14 the appropriate court of limited jurisdiction shall have jurisdiction  
15 over the alleged offense or infraction: PROVIDED, That if such an  
16 alleged offense or infraction and an alleged offense or infraction  
17 subject to juvenile court jurisdiction arise out of the same event or  
18 incident, the juvenile court may have jurisdiction of both matters:  
19 PROVIDED FURTHER, That the jurisdiction under this subsection does not  
20 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)  
21 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited  
22 jurisdiction which confine juveniles for an alleged offense or  
23 infraction may place juveniles in juvenile detention facilities under  
24 an agreement with the officials responsible for the administration of  
25 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

26 (iv) The juvenile is sixteen or seventeen years old and the  
27 alleged offense is: (A) A serious violent offense as defined in RCW  
28 9.94A.030 (~~committed on or after June 13, 1994~~); or (B) a violent  
29 offense as defined in RCW 9.94A.030 (~~committed on or after June 13,~~  
30 ~~1994~~), and the juvenile has a criminal history consisting of: (I) One  
31 or more prior serious violent offenses; (II) two or more prior violent  
32 offenses; or (III) three or more of any combination of the following  
33 offenses: Any class A felony, any class B felony, vehicular assault,  
34 or manslaughter in the second degree, all of which must have been  
35 committed after the juvenile's thirteenth birthday and prosecuted  
36 separately. In such a case the adult criminal court shall have  
37 exclusive original jurisdiction; or

38 (v) The alleged offense is ranked at seriousness level X or higher  
39 under RCW 9.94A.320 and the juvenile has been convicted of at least two

1 felonies ranked at seriousness level IV or higher, both of which must  
2 have been committed after the juvenile's thirteenth birthday and  
3 prosecuted separately. In such a case, the adult court has exclusive  
4 jurisdiction.

5 If the juvenile challenges the state's determination of the  
6 juvenile's criminal history under (e)(iv) and (v) of this subsection,  
7 the state may establish the offender's criminal history by a  
8 preponderance of the evidence. If the criminal history consists of  
9 adjudications entered upon a plea of guilty, the state shall not bear  
10 a burden of establishing the knowing and voluntariness of the plea;

11 (f) Under the interstate compact on juveniles as provided in  
12 chapter 13.24 RCW;

13 (g) Relating to termination of a diversion agreement under RCW  
14 13.40.080, including a proceeding in which the divertee has attained  
15 eighteen years of age;

16 (h) Relating to court validation of a voluntary consent to an out-  
17 of-home placement under chapter 13.34 RCW, by the parent or Indian  
18 custodian of an Indian child, except if the parent or Indian custodian  
19 and child are residents of or domiciled within the boundaries of a  
20 federally recognized Indian reservation over which the tribe exercises  
21 exclusive jurisdiction; and

22 (i) Relating to petitions to compel disclosure of information  
23 filed by the department of social and health services pursuant to RCW  
24 74.13.042.

25 (2) The family court shall have concurrent original jurisdiction  
26 with the juvenile court over all proceedings under this section if the  
27 superior court judges of a county authorize concurrent jurisdiction as  
28 provided in RCW 26.12.010.

29 (3) A juvenile subject to adult superior court jurisdiction under  
30 subsection (1)(e)(i) through ~~((iv))~~ (v) of this section, who is  
31 detained pending trial, may be detained in a ~~((county))~~ detention  
32 facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

33 **Sec. 20.** RCW 13.64.060 and 1994 sp.s. c 7 s 436 are each amended  
34 to read as follows:

35 (1) An emancipated minor shall be considered to have the power and  
36 capacity of an adult, except as provided in subsection (2) of this  
37 section. A minor shall be considered emancipated for the purposes of,  
38 but not limited to:



1 (a) The termination of parental obligations of financial support,  
2 care, supervision, and any other obligation the parent may have by  
3 virtue of the parent-child relationship, including obligations imposed  
4 because of marital dissolution;

5 (b) The right to sue or be sued in his or her own name;

6 (c) The right to retain his or her own earnings;

7 (d) The right to establish a separate residence or domicile;

8 (e) The right to enter into nonvoidable contracts;

9 (f) The right to act autonomously, and with the power and capacity  
10 of an adult, in all business relationships, including but not limited  
11 to property transactions;

12 (g) The right to work, and earn a living, subject only to the  
13 health and safety regulations designed to protect those under age of  
14 majority regardless of their legal status; and

15 (h) The right to give informed consent for receiving health care  
16 services.

17 (2) An emancipated minor shall not be considered an adult for:

18 (a) The purposes of the adult criminal laws of the state unless the  
19 decline of jurisdiction procedures contained in RCW 13.40.110 are used  
20 or the minor is tried in criminal court pursuant to RCW 13.04.030(1)(e)  
21 (iv) and (v); (b) the criminal laws of the state when the emancipated  
22 minor is a victim and the age of the victim is an element of the  
23 offense; or (c) those specific constitutional and statutory age  
24 requirements regarding voting, use of alcoholic beverages, possession  
25 of firearms, and other health and safety regulations relevant to the  
26 minor because of the minor's age.

27 **Sec. 21.** RCW 72.76.010 and 1994 sp.s. c 7 s 539 are each amended  
28 to read as follows:

29 The Washington intrastate corrections compact is enacted and  
30 entered into on behalf of this state by the department with any and all  
31 counties of this state legally joining in a form substantially as  
32 follows:

33 WASHINGTON INTRASTATE CORRECTIONS  
34 COMPACT

35 A compact is entered into by and among the contracting counties and the  
36 department of corrections, signatories hereto, for the purpose of  
37 maximizing the use of existing resources and to provide adequate

1 facilities and programs for the confinement, care, treatment, and  
2 employment of offenders.

3 The contracting counties and the department do solemnly agree  
4 that:

5 (1) As used in this compact, unless the context clearly requires  
6 otherwise:

7 (a) "Department" means the Washington state department of  
8 corrections.

9 (b) "Secretary" means the secretary of the department of  
10 corrections or designee.

11 (c) "Compact jurisdiction" means the department of corrections or  
12 any county of the state of Washington which has executed this compact.

13 (d) "Sending jurisdiction" means a county party to this agreement  
14 or the department of corrections to whom the courts have committed  
15 custody of the offender.

16 (e) "Receiving jurisdiction" means the department of corrections  
17 or a county party to this agreement to which an offender is sent for  
18 confinement.

19 (f) "Offender" means a person who has been charged with and/or  
20 convicted of an offense established by applicable statute or ordinance.

21 (g) "Convicted felony offender" means a person who has been  
22 convicted of a felony established by state law and is eighteen years of  
23 age or older, or who is less than eighteen years of age, but whose case  
24 has been transferred by the appropriate juvenile court to a criminal  
25 court pursuant to RCW 13.40.110 or has been tried in a criminal court  
26 pursuant to RCW 13.04.030(1)(e) (iv) and (v).

27 (h) An "offender day" includes the first day an offender is  
28 delivered to the receiving jurisdiction, but ends at midnight of the  
29 day immediately preceding the day of the offender's release or return  
30 to the custody of the sending jurisdiction.

31 (i) "Facility" means any state correctional institution, camp, or  
32 other unit established or authorized by law under the jurisdiction of  
33 the department of corrections; any jail, holding, detention, special  
34 detention, or correctional facility operated by the county for the  
35 housing of adult offenders; or any contract facility, operated on  
36 behalf of either the county or the state for the housing of adult  
37 offenders.

1 (j) "Extraordinary medical expense" means any medical expense  
2 beyond that which is normally provided by contract or other health care  
3 providers at the facility of the receiving jurisdiction.

4 (k) "Compact" means the Washington intrastate corrections compact.

5 (2)(a) Any county may make one or more contracts with one or more  
6 counties, the department, or both for the exchange or transfer of  
7 offenders pursuant to this compact. Appropriate action by ordinance,  
8 resolution, or otherwise in accordance with the law of the governing  
9 bodies of the participating counties shall be necessary before the  
10 contract may take effect. The secretary is authorized and requested to  
11 execute the contracts on behalf of the department. Any such contract  
12 shall provide for:

13 (i) Its duration;

14 (ii) Payments to be made to the receiving jurisdiction by the  
15 sending jurisdiction for offender maintenance, extraordinary medical  
16 and dental expenses, and any participation in or receipt by offenders  
17 of rehabilitative or correctional services, facilities, programs, or  
18 treatment not reasonably included as part of normal maintenance;

19 (iii) Participation in programs of offender employment, if any;  
20 the disposition or crediting of any payments received by offenders on  
21 their accounts; and the crediting of proceeds from or the disposal of  
22 any products resulting from the employment;

23 (iv) Delivery and retaking of offenders;

24 (v) Such other matters as may be necessary and appropriate to fix  
25 the obligations, responsibilities and rights of the sending and  
26 receiving jurisdictions.

27 (b) The terms and provisions of this compact shall be a part of  
28 any contract entered into by the authority of or pursuant to the  
29 contract. Nothing in any contract may be inconsistent with the  
30 compact.

31 (3)(a) Whenever the duly constituted authorities of any compact  
32 jurisdiction decide that confinement in, or transfer of an offender to  
33 a facility of another compact jurisdiction is necessary or desirable in  
34 order to provide adequate housing and care or an appropriate program of  
35 rehabilitation or treatment, the officials may direct that the  
36 confinement be within a facility of the other compact jurisdiction, the  
37 receiving jurisdiction to act in that regard solely as agent for the  
38 sending jurisdiction.

1 (b) The receiving jurisdiction shall be responsible for the  
2 supervision of all offenders which it accepts into its custody.

3 (c) The receiving jurisdiction shall be responsible to establish  
4 screening criteria for offenders it will accept for transfer. The  
5 sending jurisdiction shall be responsible for ensuring that all  
6 transferred offenders meet the screening criteria of the receiving  
7 jurisdiction.

8 (d) The sending jurisdiction shall notify the sentencing courts of  
9 the name, charges, cause numbers, date, and place of transfer of any  
10 offender, prior to the transfer, on a form to be provided by the  
11 department. A copy of this form shall accompany the offender at the  
12 time of transfer.

13 (e) The receiving jurisdiction shall be responsible for providing  
14 an orientation to each offender who is transferred. The orientation  
15 shall be provided to offenders upon arrival and shall address the  
16 following conditions at the facility of the receiving jurisdiction:

17 (i) Requirements to work;

18 (ii) Facility rules and disciplinary procedures;

19 (iii) Medical care availability; and

20 (iv) Visiting.

21 (f) Delivery and retaking of inmates shall be the responsibility  
22 of the sending jurisdiction. The sending jurisdiction shall deliver  
23 offenders to the facility of the receiving jurisdiction where the  
24 offender will be housed, at the dates and times specified by the  
25 receiving jurisdiction. The receiving jurisdiction retains the right  
26 to refuse or return any offender. The sending jurisdiction shall be  
27 responsible to retake any transferred offender who does not meet the  
28 screening criteria of the receiving jurisdiction, or who is refused by  
29 the receiving jurisdiction. If the receiving jurisdiction has notified  
30 the sending jurisdiction to retake an offender, but the sending  
31 jurisdiction does not do so within a seven-day period, the receiving  
32 jurisdiction may return the offender to the sending jurisdiction at the  
33 expense of the sending jurisdiction.

34 (g) Offenders confined in a facility under the terms of this  
35 compact shall at all times be subject to the jurisdiction of the  
36 sending jurisdiction and may at any time be removed from the facility  
37 for transfer to another facility within the sending jurisdiction, for  
38 transfer to another facility in which the sending jurisdiction may have  
39 a contractual or other right to confine offenders, for release or

1 discharge, or for any other purpose permitted by the laws of the state  
2 of Washington.

3 (h) Unless otherwise agreed, the sending jurisdiction shall  
4 provide at least one set of the offender's personal clothing at the  
5 time of transfer. The sending jurisdiction shall be responsible for  
6 searching the clothing to ensure that it is free of contraband. The  
7 receiving jurisdiction shall be responsible for providing work clothing  
8 and equipment appropriate to the offender's assignment.

9 (i) The sending jurisdiction shall remain responsible for the  
10 storage of the offender's personal property, unless prior arrangements  
11 are made with the receiving jurisdiction. The receiving jurisdiction  
12 shall provide a list of allowable items which may be transferred with  
13 the offender.

14 (j) Copies or summaries of records relating to medical needs,  
15 behavior, and classification of the offender shall be transferred by  
16 the sending jurisdiction to the receiving jurisdiction at the time of  
17 transfer. At a minimum, such records shall include:

18 (i) A copy of the commitment order or orders legally authorizing  
19 the confinement of the offender;

20 (ii) A copy of the form for the notification of the sentencing  
21 courts required by subsection (3)(d) of this section;

22 (iii) A brief summary of any known criminal history, medical  
23 needs, behavioral problems, and other information which may be relevant  
24 to the classification of the offender; and

25 (iv) A standard identification card which includes the  
26 fingerprints and at least one photograph of the offender.

27 Disclosure of public records shall be the responsibility of the sending  
28 jurisdiction, except for those documents generated by the receiving  
29 jurisdiction.

30 (k) The receiving jurisdiction shall be responsible for providing  
31 regular medical care, including prescription medication, but  
32 extraordinary medical expenses shall be the responsibility of the  
33 sending jurisdiction. The costs of extraordinary medical care incurred  
34 by the receiving jurisdiction for transferred offenders shall be  
35 reimbursed by the sending jurisdiction. The receiving jurisdiction  
36 shall notify the sending jurisdiction as far in advance as practicable  
37 prior to incurring such costs. In the event emergency medical care is  
38 needed, the sending jurisdiction shall be advised as soon as  
39 practicable after the offender is treated. Offenders who are required

1 by the medical authority of the sending jurisdiction to take  
2 prescription medication at the time of the transfer shall have at least  
3 a three-day supply of the medication transferred to the receiving  
4 jurisdiction with the offender, and at the expense of the sending  
5 jurisdiction. Costs of prescription medication incurred after the use  
6 of the supply shall be borne by the receiving jurisdiction.

7 (l) Convicted offenders transferred under this agreement may be  
8 required by the receiving jurisdiction to work. Transferred offenders  
9 participating in programs of offender employment shall receive the same  
10 reimbursement, if any, as other offenders performing similar work. The  
11 receiving jurisdiction shall be responsible for the disposition or  
12 crediting of any payments received by offenders, and for crediting the  
13 proceeds from or disposal of any products resulting from the  
14 employment. Other programs normally provided to offenders by the  
15 receiving jurisdiction such as education, mental health, or substance  
16 abuse treatment shall also be available to transferred offenders,  
17 provided that usual program screening criteria are met. No special or  
18 additional programs will be provided except by mutual agreement of the  
19 sending and receiving jurisdiction, with additional expenses, if any,  
20 to be borne by the sending jurisdiction.

21 (m) The receiving jurisdiction shall notify offenders upon arrival  
22 of the rules of the jurisdiction and the specific rules of the  
23 facility. Offenders will be required to follow all rules of the  
24 receiving jurisdiction. Disciplinary detention, if necessary, shall be  
25 provided at the discretion of the receiving jurisdiction. The  
26 receiving jurisdiction may require the sending jurisdiction to retake  
27 any offender found guilty of a serious infraction; similarly, the  
28 receiving jurisdiction may require the sending jurisdiction to retake  
29 any offender whose behavior requires segregated or protective housing.

30 (n) Good-time calculations and notification of each offender's  
31 release date shall be the responsibility of the sending jurisdiction.  
32 The sending jurisdiction shall provide the receiving jurisdiction with  
33 a formal notice of the date upon which each offender is to be released  
34 from custody. If the receiving jurisdiction finds an offender guilty  
35 of a violation of its disciplinary rules, it shall notify the sending  
36 jurisdiction of the date and nature of the violation. If the sending  
37 jurisdiction resets the release date according to its good-time  
38 policies, it shall provide the receiving jurisdiction with notice of  
39 the new release date.

1 (o) The sending jurisdiction shall retake the offender at the  
2 receiving jurisdiction's facility on or before his or her release date,  
3 unless the sending and receiving jurisdictions shall agree upon release  
4 in some other place. The sending jurisdiction shall bear the  
5 transportation costs of the return.

6 (p) Each receiving jurisdiction shall provide monthly reports to  
7 each sending jurisdiction on the number of offenders of that sending  
8 jurisdiction in its facilities pursuant to this compact.

9 (q) Each party jurisdiction shall notify the others of its  
10 coordinator who is responsible for administrating the jurisdiction's  
11 responsibilities under the compact. The coordinators shall arrange for  
12 alternate contact persons in the event of an extended absence of the  
13 coordinator.

14 (r) Upon reasonable notice, representatives of any party to this  
15 compact shall be allowed to visit any facility in which another party  
16 has agreed to house its offenders, for the purpose of inspecting the  
17 facilities and visiting its offenders that may be confined in the  
18 institution.

19 (4) This compact shall enter into force and become effective and  
20 binding upon the participating parties when it has been executed by two  
21 or more parties. Upon request, each party county shall provide any  
22 other compact jurisdiction with a copy of a duly enacted resolution or  
23 ordinance authorizing entry into this compact.

24 (5) A party participating may withdraw from the compact by formal  
25 resolution and by written notice to all other parties then  
26 participating. The withdrawal shall become effective, as it pertains  
27 to the party wishing to withdraw, thirty days after written notice to  
28 the other parties. However, such withdrawal shall not relieve the  
29 withdrawing party from its obligations assumed prior to the effective  
30 date of withdrawal. Before the effective date of withdrawal, a  
31 withdrawing participant shall notify the other parties to retake the  
32 offenders it has housed in its facilities and shall remove to its  
33 facilities, at its own expense, offenders it has confined under the  
34 provisions of this compact.

35 (6) Legal costs relating to defending actions brought by an  
36 offender challenging his or her transfer to another jurisdiction under  
37 this compact shall be borne by the sending jurisdiction. Legal costs  
38 relating to defending actions arising from events which occur while the

1 offender is in the custody of a receiving jurisdiction shall be borne  
2 by the receiving jurisdiction.

3 (7) The receiving jurisdiction shall not be responsible to provide  
4 legal services to offenders placed under this agreement. Requests for  
5 legal services shall be referred to the sending jurisdiction.

6 (8) The provisions of this compact shall be liberally construed  
7 and shall be severable. If any phrase, clause, sentence, or provision  
8 of this compact is declared to be contrary to the Constitution or laws  
9 of the state of Washington or is held invalid, the validity of the  
10 remainder of this compact and its applicability to any county or the  
11 department shall not be affected.

12 (9) Nothing contained in this compact shall be construed to  
13 abrogate or impair any agreement or other arrangement which a county or  
14 the department may have with each other or with a nonparty county for  
15 the confinement, rehabilitation, or treatment of offenders.

16 NEW SECTION. **Sec. 22.** The sentencing guidelines commission shall  
17 review conviction data for the past ten years. The commission shall  
18 submit a proposed bill to the legislature for introduction in the 1998  
19 legislative session that appropriately ranks all unranked felony  
20 offenses for which there have been convictions for the period studied.

21 NEW SECTION. **Sec. 23.** The following acts or parts of acts are  
22 each repealed:

23 (1) RCW 13.40.025 and 1996 c 232 s 4, 1995 c 269 s 302, 1986 c 288  
24 s 8, 1984 c 287 s 11, & 1981 c 299 s 3;

25 (2) RCW 13.40.0354 and 1994 sp.s. c 7 s 521 & 1989 c 407 s 6; and

26 (3) RCW 13.40.0357 and 1996 c 205 s 6, 1995 c 395 s 3, 1994 sp.s.  
27 c 7 s 522, & 1989 c 407 s 7.

28 NEW SECTION. **Sec. 24.** Sections 3, 4, 8 through 10, and 16  
29 through 19 of this act apply only to offenses committed on or after the  
30 effective date of this section.

31 NEW SECTION. **Sec. 25.** Sections 22 and 27 of this act are  
32 necessary for the immediate preservation of the public peace, health,  
33 or safety, or support of the state government and its existing public  
34 institutions, and take effect July 1, 1997.



1        NEW SECTION.    **Sec. 26.**    Sections 1 through 21, 23, and 24 of this  
2 act take effect July 1, 1998.

3        NEW SECTION.    **Sec. 27.**    The sum of one million dollars, or as much  
4 thereof as may be necessary, is appropriated for the fiscal year ending  
5 June 30, 1998, from the general fund to the department of community,  
6 trade, and economic development to assist counties in planning for  
7 capital needs associated with this act.

8        NEW SECTION.    **Sec. 28.**    If any provision of this act or its  
9 application to any person or circumstance is held invalid, the  
10 remainder of the act or the application of the provision to other  
11 persons or circumstances is not affected.

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