

HOUSE BILL 1745

State of Washington 56th Legislature 1999 Regular Session

By Representatives Lambert and Kagi

Read first time 02/04/1999. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to a juvenile offender community sanction
2 sentencing alternative; amending RCW 13.40.0357; reenacting and
3 amending RCW 13.40.160; adding a new section to chapter 13.40 RCW; and
4 prescribing penalties.

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

6 Sec. 1. RCW 13.40.0357 and 1998 c 290 s 5 are each amended to read
7 as follows:

DESCRIPTION AND OFFENSE CATEGORY

Table with 3 columns: JUVENILE DISPOSITION, JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION. Includes row for DESCRIPTION (RCW CITATION).

Arson and Malicious Mischief

Table with 3 columns: A, B, C, D (Arson and Malicious Mischief); Arson 1 (9A.48.020), Arson 2 (9A.48.030), Reckless Burning 1 (9A.48.040), Reckless Burning 2 (9A.48.050); B+, C, D, E.

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

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

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

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

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

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

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

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

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

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

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

14 **JUVENILE SENTENCING STANDARDS**

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

OPTION A
JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE

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		PRIOR ADJUDICATIONS				
		0	1	2	3	4 or more
Current Offense Category	A+	180 WEEKS TO AGE 21 YEARS				
	A	103 WEEKS TO 129 WEEKS				
	A-	15-36 WEEKS EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
	B+	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
	B	LOCAL SANCTIONS (LS)	15-36 WEEKS	52-65 WEEKS		
	C+	LS		15-36 WEEKS		
	C	LS			15-36 WEEKS	
			Local Sanctions: 0 to 30 Days			
	D+	LS	0 to 12 Months Community Supervision 0 to 150 Hours Community Service			
	D	LS	\$0 to \$500 Fine			
E	LS					

36 NOTE: References in the grid to days or weeks mean periods of
37 confinement.

38 (1) The vertical axis of the grid is the current offense category.
39 The current offense category is determined by the offense of
40 adjudication.

41 (2) The horizontal axis of the grid is the number of prior
42 adjudications included in the juvenile's criminal history. Each prior
43 felony adjudication shall count as one point. Each prior violation,

1 misdemeanor, and gross misdemeanor adjudication shall count as 1/4
2 point. Fractional points shall be rounded down.

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

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

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

11 **OR**

12 **OPTION B**

13 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

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

18 **OR**

19 **OPTION C**

20 **MANIFEST INJUSTICE**

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

24 **OR**

25 **OPTION D**

26 **COMMUNITY SANCTION DISPOSITION ALTERNATIVE**

27 If the juvenile offender has not been previously committed to a
28 state institution, but is presently subject to a standard range
29 disposition of confinement in a state institution and has not committed
30 a sex offense, a serious violent offense as defined in RCW 9.94A.030,
31 or other violent category A felony as defined in this section, the
32 court may impose a disposition under RCW 13.40.160(6) and section 3 of
33 this act.

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

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

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

10 (b) When the court sentences an offender to a standard range as
11 provided in RCW 13.40.0357 option A that includes a term of confinement
12 exceeding thirty days, commitment shall be to the department for the
13 standard range of confinement, except as provided in subsections (2),
14 (4), ~~((and))~~ (5), and (6) of this section.

15 (2) If the court concludes, and enters reasons for its conclusion,
16 that disposition within the standard range would effectuate a manifest
17 injustice the court shall impose a disposition outside the standard
18 range, as indicated in option C of RCW 13.40.0357. The court's finding
19 of manifest injustice shall be supported by clear and convincing
20 evidence.

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

30 (3) Where a respondent is found to have committed an offense for
31 which the respondent declined to enter into a diversion agreement, the
32 court shall impose a term of community supervision limited to the
33 conditions allowed in a diversion agreement as provided in RCW
34 13.40.080(2).

35 (4) When a juvenile offender is found to have committed a sex
36 offense, other than a sex offense that is also a serious violent
37 offense as defined by RCW 9.94A.030, and has no history of a prior sex
38 offense, the court, on its own motion or the motion of the state or the

1 respondent, may order an examination to determine whether the
2 respondent is amenable to treatment.

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

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

14 (a)(i) Frequency and type of contact between the offender and
15 therapist;

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

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

21 (iv) Anticipated length of treatment; and

22 (v) Recommended crime-related prohibitions.

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

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

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

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

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

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

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

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

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

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

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

31 (ix) The court shall order that the offender may not attend the
32 public or approved private elementary, middle, or high school attended
33 by the victim or the victim's siblings. The parents or legal guardians
34 of the offender are responsible for transportation or other costs
35 associated with the offender's change of school that would otherwise be
36 paid by the school district. The court shall send notice of the
37 disposition and restriction on attending the same school as the victim
38 or victim's siblings to the public or approved private school the
39 juvenile will attend, if known, or if unknown, to the approved private

1 schools and the public school district board of directors of the
2 district in which the juvenile resides or intends to reside. This
3 notice must be sent at the earliest possible date but not later than
4 ten calendar days after entry of the disposition.

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

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

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

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

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

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

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

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

9 (6) If the juvenile offender has not been previously committed to
10 a state institution, but is presently subject to a standard range
11 disposition of confinement to a state institution and has not committed
12 a sex offense, a serious violent offense as defined in RCW 9.94A.030,
13 or other violent category A felony as defined in RCW 13.40.0357, the
14 court may impose a community sanction disposition alternative under
15 section 3 of this act.

16 (7) RCW 13.40.193 shall govern the disposition of any juvenile
17 adjudicated of possessing a firearm in violation of RCW
18 9.41.040(1)(b)(iii) or any crime in which a special finding is entered
19 that the juvenile was armed with a firearm.

20 ((+7)) (8) 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)) (9) Except as provided under subsection (4) ((or)) (5),
25 or (6) of this section or RCW 13.40.127, the court shall not suspend or
26 defer the imposition or the execution of the disposition.

27 ((+9)) (10) In no case shall the term of confinement imposed by
28 the court at disposition exceed that to which an adult could be
29 subjected for the same offense.

30 NEW SECTION. Sec. 3. A new section is added to chapter 13.40 RCW
31 to read as follows:

32 (1) When a juvenile offender is subject to a standard range
33 disposition of confinement to a state institution and has not been
34 previously committed to a state institution, the court, on its own
35 motion or on the motion of the state or the respondent may order a
36 community sanction disposition alternative in lieu of confinement in a
37 state institution if the offender has not committed a sex offense, a

1 serious violent offense as defined in RCW 9.94A.030, or other violent
2 category A felony as defined in RCW 13.40.0357.

3 (2) In determining whether to order a community sanction
4 disposition, the court shall assess the risk to the public safety and
5 the probability of the offender's rehabilitation in the community. The
6 court may not impose the community sanction disposition alternative
7 unless a finding of mitigating circumstances under RCW 13.40.150 is
8 entered. If the court determines that a community sanction disposition
9 alternative is appropriate, the court shall impose the standard range
10 for the offense, suspend execution of the disposition, and place the
11 offender on community supervision for a term not to exceed twelve
12 months.

13 (3) As a condition of the suspended disposition, the court shall
14 impose conditions of community sanctions including 0 to 30 days of
15 confinement, up to one hundred fifty hours of community service, and
16 the payment of legal financial obligations and restitution. The court
17 may also require the offender to participate in rehabilitation
18 programming in the community including school, employment, vocational
19 programs, or outpatient mental health or substance abuse treatment.
20 Required rehabilitative programs should be research-based and use the
21 best practices available.

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

24 (5) If the offender violates any conditions of the community
25 sanction disposition, the court may impose sanctions under RCW
26 13.40.200, or may revoke the suspended disposition and order execution
27 of the standard range disposition.

28 (6) If the court revokes the suspended sentence, the court shall
29 give credit for any confinement time previously served. Whenever a
30 juvenile offender is entitled to credit for time spent in detention,
31 the dispositional order shall specifically state the number of days of
32 credit for time served.

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