
SENATE BILL 5664

State of Washington

56th Legislature

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By Senators Costa, Long, Kline, Hargrove, Thibaudeau, Wojahn, Franklin and Jacobsen

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1 AN ACT Relating to community service; amending RCW 7.80.130,
2 7.80.160, 7.84.110, 7.84.130, 9.94A.030, 9.94A.120, 9.94A.200,
3 9.94A.400, 10.98.040, 13.40.020, 13.40.0357, 13.40.080, 13.40.165,
4 13.40.180, 13.40.200, 13.40.205, 13.40.210, 13.40.250, 28A.225.090,
5 35.21.209, 35A.21.220, 36.16.139, 43.51.048, 46.16.381, 46.20.031,
6 46.30.020, 46.63.120, 66.20.200, 66.44.291, 66.44.325, 69.50.425,
7 70.93.060, 70.155.080, 72.09.060, 72.09.100, and 72.09.260; and
8 reenacting and amending RCW 9.94A.040, 9.94A.380, 13.40.160, and
9 70.93.250.

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

11 **Sec. 1.** RCW 7.80.130 and 1987 c 456 s 21 are each amended to read
12 as follows:

13 (1) An order entered after the receipt of a response which does not
14 contest the determination, or after it has been established at a
15 hearing that the civil infraction was committed, or after a hearing for
16 the purpose of explaining mitigating circumstances is civil in nature.

17 (2) The court may waive, reduce, or suspend the monetary penalty
18 prescribed for the civil infraction. If the court determines that a
19 person has insufficient funds to pay the monetary penalty, the court

1 may order performance of a number of hours of community ((~~service~~))
2 restitution in lieu of a monetary penalty, at the rate of the then
3 state minimum wage per hour.

4 **Sec. 2.** RCW 7.80.160 and 1989 c 373 s 12 are each amended to read
5 as follows:

6 (1) A person who fails to sign a notice of civil infraction is
7 guilty of a misdemeanor.

8 (2) Any person willfully violating his or her written and signed
9 promise to appear in court or his or her written and signed promise to
10 respond to a notice of civil infraction is guilty of a misdemeanor
11 regardless of the disposition of the notice of civil infraction. A
12 written promise to appear in court or a written promise to respond to
13 a notice of civil infraction may be complied with by an appearance by
14 counsel.

15 (3) A person who willfully fails to pay a monetary penalty or to
16 perform community ((~~service~~)) restitution as required by a court under
17 this chapter may be found in contempt of court as provided in chapter
18 7.21 RCW.

19 **Sec. 3.** RCW 7.84.110 and 1987 c 380 s 11 are each amended to read
20 as follows:

21 (1) An order entered after the receipt of a response which does not
22 contest the determination, or after it has been established at a
23 hearing that the infraction was committed, or after a hearing for the
24 purpose of explaining mitigating circumstances, is civil in nature.

25 (2) The court may, in its discretion, waive, reduce, or suspend the
26 monetary penalty prescribed for the infraction. At the person's
27 request, the court may order performance of a number of hours of
28 community ((~~service~~)) restitution in lieu of a monetary penalty, at the
29 rate of the then state minimum wage per hour.

30 **Sec. 4.** RCW 7.84.130 and 1987 c 380 s 13 are each amended to read
31 as follows:

32 (1) Failure to pay a monetary penalty assessed by a court under the
33 provisions of this chapter is a misdemeanor under chapter 9A.20 RCW.

34 (2) Failure to complete community ((~~service~~)) restitution ordered
35 by a court under the provisions of this chapter is a misdemeanor under
36 chapter 9A.20 RCW.

1 **Sec. 5.** RCW 9.94A.030 and 1998 c 290 s 3 are each amended to read
2 as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Collect," or any derivative thereof, "collect and remit," or
6 "collect and deliver," when used with reference to the department of
7 corrections, means that the department is responsible for monitoring
8 and enforcing the offender's sentence with regard to the legal
9 financial obligation, receiving payment thereof from the offender, and,
10 consistent with current law, delivering daily the entire payment to the
11 superior court clerk without depositing it in a departmental account.

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

13 (3) "Community corrections officer" means an employee of the
14 department who is responsible for carrying out specific duties in
15 supervision of sentenced offenders and monitoring of sentence
16 conditions.

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

22 (5) "Community placement" means that period during which the
23 offender is subject to the conditions of community custody and/or
24 postrelease supervision, which begins either upon completion of the
25 term of confinement (postrelease supervision) or at such time as the
26 offender is transferred to community custody in lieu of earned early
27 release. Community placement may consist of entirely community
28 custody, entirely postrelease supervision, or a combination of the two.

29 (6) "Community (~~service~~) restitution" means compulsory service,
30 without compensation, performed for the benefit of the community by the
31 offender.

32 (7) "Community supervision" means a period of time during which a
33 convicted offender is subject to crime-related prohibitions and other
34 sentence conditions imposed by a court pursuant to this chapter or RCW
35 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
36 may include crime-related prohibitions and other conditions imposed
37 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
38 for out-of-state supervision of parolees and probationers, RCW
39 9.95.270, community supervision is the functional equivalent of

1 probation and should be considered the same as probation by other
2 states.

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

5 (9) "Conviction" means an adjudication of guilt pursuant to Titles
6 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
7 acceptance of a plea of guilty.

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

22 (11) "Crime-related prohibition" means an order of a court
23 prohibiting conduct that directly relates to the circumstances of the
24 crime for which the offender has been convicted, and shall not be
25 construed to mean orders directing an offender affirmatively to
26 participate in rehabilitative programs or to otherwise perform
27 affirmative conduct. However, affirmative acts necessary to monitor
28 compliance with the order of a court may be required by the department.

29 (12) "Criminal history" means the list of a defendant's prior
30 convictions and juvenile adjudications, whether in this state, in
31 federal court, or elsewhere. The history shall include, where known,
32 for each conviction (a) whether the defendant has been placed on
33 probation and the length and terms thereof; and (b) whether the
34 defendant has been incarcerated and the length of incarceration.

35 (13) "Day fine" means a fine imposed by the sentencing judge that
36 equals the difference between the offender's net daily income and the
37 reasonable obligations that the offender has for the support of the
38 offender and any dependents.

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

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

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

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

27 (18) "Drug offense" means:

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

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

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

37 (19) "Escape" means:

38 (a) Escape in the first degree (RCW 9A.76.110), escape in the
39 second degree (RCW 9A.76.120), willful failure to return from furlough

1 (RCW 72.66.060), willful failure to return from work release (RCW
2 72.65.070), or willful failure to be available for supervision by the
3 department while in community custody (RCW 72.09.310); or

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

7 (20) "Felony traffic offense" means:

8 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
9 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
10 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

32 (a) Any felony defined under any law as a class A felony or
33 criminal solicitation of or criminal conspiracy to commit a class A
34 felony;

35 (b) Assault in the second degree;

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

37 (d) Child molestation in the second degree;

38 (e) Controlled substance homicide;

39 (f) Extortion in the first degree;

1 (g) Incest when committed against a child under age fourteen;
2 (h) Indecent liberties;
3 (i) Kidnapping in the second degree;
4 (j) Leading organized crime;
5 (k) Manslaughter in the first degree;
6 (l) Manslaughter in the second degree;
7 (m) Promoting prostitution in the first degree;
8 (n) Rape in the third degree;
9 (o) Robbery in the second degree;
10 (p) Sexual exploitation;
11 (q) Vehicular assault;
12 (r) Vehicular homicide, when proximately caused by the driving of
13 any vehicle by any person while under the influence of intoxicating
14 liquor or any drug as defined by RCW 46.61.502, or by the operation of
15 any vehicle in a reckless manner;
16 (s) Any other class B felony offense with a finding of sexual
17 motivation, as "sexual motivation" is defined under this section;
18 (t) Any other felony with a deadly weapon verdict under RCW
19 9.94A.125;
20 (u) Any felony offense in effect at any time prior to December 2,
21 1993, that is comparable to a most serious offense under this
22 subsection, or any federal or out-of-state conviction for an offense
23 that under the laws of this state would be a felony classified as a
24 most serious offense under this subsection;
25 (v)(i) A prior conviction for indecent liberties under RCW
26 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
27 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
28 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
29 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
30 (ii) A prior conviction for indecent liberties under RCW
31 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
32 if: (A) The crime was committed against a child under the age of
33 fourteen; or (B) the relationship between the victim and perpetrator is
34 included in the definition of indecent liberties under RCW
35 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
36 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
37 through July 27, 1997.
38 (24) "Nonviolent offense" means an offense which is not a violent
39 offense.

1 (25) "Offender" means a person who has committed a felony
2 established by state law and is eighteen years of age or older or is
3 less than eighteen years of age but whose case is under superior court
4 jurisdiction under RCW 13.04.030 or has been transferred by the
5 appropriate juvenile court to a criminal court pursuant to RCW
6 13.40.110. Throughout this chapter, the terms "offender" and
7 "defendant" are used interchangeably.

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

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

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

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

27 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
28 of a child in the first degree, child molestation in the first degree,
29 rape in the second degree, rape of a child in the second degree, or
30 indecent liberties by forcible compulsion; (B) murder in the first
31 degree, murder in the second degree, homicide by abuse, kidnapping in
32 the first degree, kidnapping in the second degree, assault in the first
33 degree, assault in the second degree, assault of a child in the first
34 degree, or burglary in the first degree, with a finding of sexual
35 motivation; or (C) an attempt to commit any crime listed in this
36 subsection (27)(b)(i); and

37 (ii) Has, before the commission of the offense under (b)(i) of this
38 subsection, been convicted as an offender on at least one occasion,
39 whether in this state or elsewhere, of an offense listed in (b)(i) of

1 this subsection. A conviction for rape of a child in the first degree
2 constitutes a conviction under subsection (27)(b)(i) only when the
3 offender was sixteen years of age or older when the offender committed
4 the offense. A conviction for rape of a child in the second degree
5 constitutes a conviction under subsection (27)(b)(i) only when the
6 offender was eighteen years of age or older when the offender committed
7 the offense.

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

10 (29) "Restitution" means the requirement that the offender pay a
11 specific sum of money over a specific period of time to the court as
12 payment of damages. The sum may include both public and private costs.
13 The imposition of a restitution order does not preclude civil redress.

14 (30) "Serious traffic offense" means:

15 (a) Driving while under the influence of intoxicating liquor or any
16 drug (RCW 46.61.502), actual physical control while under the influence
17 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
18 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
19 or

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

23 (31) "Serious violent offense" is a subcategory of violent offense
24 and means:

25 (a) Murder in the first degree, homicide by abuse, murder in the
26 second degree, manslaughter in the first degree, assault in the first
27 degree, kidnapping in the first degree, or rape in the first degree,
28 assault of a child in the first degree, or an attempt, criminal
29 solicitation, or criminal conspiracy to commit one of these felonies;
30 or

31 (b) 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 serious
33 violent offense under (a) of this subsection.

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

36 (33) "Sex offense" means:

37 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
38 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a

1 criminal attempt, criminal solicitation, or criminal conspiracy to
2 commit such crimes;

3 (b) A felony with a finding of sexual motivation under RCW
4 9.94A.127 or 13.40.135; or

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

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

11 (35) "Total confinement" means confinement inside the physical
12 boundaries of a facility or institution operated or utilized under
13 contract by the state or any other unit of government for twenty-four
14 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

15 (36) "Transition training" means written and verbal instructions
16 and assistance provided by the department to the offender during the
17 two weeks prior to the offender's successful completion of the work
18 ethic camp program. The transition training shall include instructions
19 in the offender's requirements and obligations during the offender's
20 period of community custody.

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

24 (38) "Violent offense" means:

25 (a) Any of the following felonies, as now existing or hereafter
26 amended: Any felony defined under any law as a class A felony or an
27 attempt to commit a class A felony, criminal solicitation of or
28 criminal conspiracy to commit a class A felony, manslaughter in the
29 first degree, manslaughter in the second degree, indecent liberties if
30 committed by forcible compulsion, kidnapping in the second degree,
31 arson in the second degree, assault in the second degree, assault of a
32 child in the second degree, extortion in the first degree, robbery in
33 the second degree, drive-by shooting, vehicular assault, and vehicular
34 homicide, when proximately caused by the driving of any vehicle by any
35 person while under the influence of intoxicating liquor or any drug as
36 defined by RCW 46.61.502, or by the operation of any vehicle in a
37 reckless manner;

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

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

7 (39) "Work crew" means a program of partial confinement consisting
8 of civic improvement tasks for the benefit of the community of not less
9 than thirty-five hours per week that complies with RCW 9.94A.135. The
10 civic improvement tasks shall have minimal negative impact on existing
11 private industries or the labor force in the county where the service
12 or labor is performed. The civic improvement tasks shall not affect
13 employment opportunities for people with developmental disabilities
14 contracted through sheltered workshops as defined in RCW 82.04.385.
15 Only those offenders sentenced to a facility operated or utilized under
16 contract by a county or the state are eligible to participate on a work
17 crew. Offenders sentenced for a sex offense as defined in subsection
18 (33) of this section are not eligible for the work crew program.

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

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

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

33 **Sec. 6.** RCW 9.94A.040 and 1997 c 365 s 2 and 1997 c 338 s 3 are
34 each reenacted and amended to read as follows:

35 (1) A sentencing guidelines commission is established as an agency
36 of state government.

1 (2) The legislature finds that the commission, having accomplished
2 its original statutory directive to implement this chapter, and having
3 expertise in sentencing practice and policies, shall:

4 (a) Evaluate state sentencing policy, to include whether the
5 sentencing ranges and standards are consistent with and further:

6 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

7 (ii) The intent of the legislature to emphasize confinement for the
8 violent offender and alternatives to confinement for the nonviolent
9 offender.

10 The commission shall provide the governor and the legislature with
11 its evaluation and recommendations under this subsection not later than
12 December 1, 1996, and every two years thereafter;

13 (b) Recommend to the legislature revisions or modifications to the
14 standard sentence ranges, state sentencing policy, prosecuting
15 standards, and other standards. If implementation of the revisions or
16 modifications would result in exceeding the capacity of correctional
17 facilities, then the commission shall accompany its recommendation with
18 an additional list of standard sentence ranges which are consistent
19 with correction capacity;

20 (c) Study the existing criminal code and from time to time make
21 recommendations to the legislature for modification;

22 (d)(i) Serve as a clearinghouse and information center for the
23 collection, preparation, analysis, and dissemination of information on
24 state and local adult and juvenile sentencing practices; (ii) develop
25 and maintain a computerized adult and juvenile sentencing information
26 system by individual superior court judge consisting of offender,
27 offense, history, and sentence information entered from judgment and
28 sentence forms for all adult felons; and (iii) conduct ongoing research
29 regarding adult and juvenile sentencing guidelines, use of total
30 confinement and alternatives to total confinement, plea bargaining, and
31 other matters relating to the improvement of the adult criminal justice
32 system and the juvenile justice system;

33 (e) Assume the powers and duties of the juvenile disposition
34 standards commission after June 30, 1996;

35 (f) Evaluate the effectiveness of existing disposition standards
36 and related statutes in implementing policies set forth in RCW
37 13.40.010 generally, specifically review the guidelines relating to the
38 confinement of minor and first offenders as well as the use of
39 diversion, and review the application of current and proposed juvenile

1 sentencing standards and guidelines for potential adverse impacts on
2 the sentencing outcomes of racial and ethnic minority youth;

3 (g) Solicit the comments and suggestions of the juvenile justice
4 community concerning disposition standards, and make recommendations to
5 the legislature regarding revisions or modifications of the standards.
6 The evaluations shall be submitted to the legislature on December 1 of
7 each odd-numbered year. The department of social and health services
8 shall provide the commission with available data concerning the
9 implementation of the disposition standards and related statutes and
10 their effect on the performance of the department's responsibilities
11 relating to juvenile offenders, and with recommendations for
12 modification of the disposition standards. The office of the
13 administrator for the courts shall provide the commission with
14 available data on diversion and dispositions of juvenile offenders
15 under chapter 13.40 RCW; and

16 (h) Not later than December 1, 1997, and at least every two years
17 thereafter, based on available information, report to the governor and
18 the legislature on:

- 19 (i) Racial disproportionality in juvenile and adult sentencing;
20 (ii) The capacity of state and local juvenile and adult facilities
21 and resources; and
22 (iii) Recidivism information on adult and juvenile offenders.

23 (3) Each of the commission's recommended standard sentence ranges
24 shall include one or more of the following: Total confinement, partial
25 confinement, community supervision, community ~~((service))~~ restitution,
26 and a fine.

27 (4) The standard sentence ranges of total and partial confinement
28 under this chapter are subject to the following limitations:

29 (a) If the maximum term in the range is one year or less, the
30 minimum term in the range shall be no less than one-third of the
31 maximum term in the range, except that if the maximum term in the range
32 is ninety days or less, the minimum term may be less than one-third of
33 the maximum;

34 (b) If the maximum term in the range is greater than one year, the
35 minimum term in the range shall be no less than seventy-five percent of
36 the maximum term in the range, except that for murder in the second
37 degree in seriousness category XIII under RCW 9.94A.310, the minimum
38 term in the range shall be no less than fifty percent of the maximum
39 term in the range; and

1 (c) The maximum term of confinement in a range may not exceed the
2 statutory maximum for the crime as provided in RCW 9A.20.021.

3 (5) The commission shall exercise its duties under this section in
4 conformity with chapter 34.05 RCW.

5 **Sec. 7.** RCW 9.94A.120 and 1998 c 260 s 3 are each amended to read
6 as follows:

7 When a person is convicted of a felony, the court shall impose
8 punishment as provided in this section.

9 (1) Except as authorized in subsections (2), (4), (5), (6), and (8)
10 of this section, the court shall impose a sentence within the sentence
11 range for the offense.

12 (2) The court may impose a sentence outside the standard sentence
13 range for that offense if it finds, considering the purpose of this
14 chapter, that there are substantial and compelling reasons justifying
15 an exceptional sentence.

16 (3) Whenever a sentence outside the standard range is imposed, the
17 court shall set forth the reasons for its decision in written findings
18 of fact and conclusions of law. A sentence outside the standard range
19 shall be a determinate sentence.

20 (4) A persistent offender shall be sentenced to a term of total
21 confinement for life without the possibility of parole or, when
22 authorized by RCW 10.95.030 for the crime of aggravated murder in the
23 first degree, sentenced to death, notwithstanding the maximum sentence
24 under any other law. An offender convicted of the crime of murder in
25 the first degree shall be sentenced to a term of total confinement not
26 less than twenty years. An offender convicted of the crime of assault
27 in the first degree or assault of a child in the first degree where the
28 offender used force or means likely to result in death or intended to
29 kill the victim shall be sentenced to a term of total confinement not
30 less than five years. An offender convicted of the crime of rape in
31 the first degree shall be sentenced to a term of total confinement not
32 less than five years. The foregoing minimum terms of total confinement
33 are mandatory and shall not be varied or modified as provided in
34 subsection (2) of this section. In addition, all offenders subject to
35 the provisions of this subsection shall not be eligible for community
36 custody, earned early release time, furlough, home detention, partial
37 confinement, work crew, work release, or any other form of early
38 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),

1 or any other form of authorized leave of absence from the correctional
2 facility while not in the direct custody of a corrections officer or
3 officers during such minimum terms of total confinement except in the
4 case of an offender in need of emergency medical treatment or for the
5 purpose of commitment to an inpatient treatment facility in the case of
6 an offender convicted of the crime of rape in the first degree.

7 (5) In sentencing a first-time offender the court may waive the
8 imposition of a sentence within the sentence range and impose a
9 sentence which may include up to ninety days of confinement in a
10 facility operated or utilized under contract by the county and a
11 requirement that the offender refrain from committing new offenses.
12 The sentence may also include up to two years of community supervision,
13 which, in addition to crime-related prohibitions, may include
14 requirements that the offender perform any one or more of the
15 following:

16 (a) Devote time to a specific employment or occupation;

17 (b) Undergo available outpatient treatment for up to two years, or
18 inpatient treatment not to exceed the standard range of confinement for
19 that offense;

20 (c) Pursue a prescribed, secular course of study or vocational
21 training;

22 (d) Remain within prescribed geographical boundaries and notify the
23 court or the community corrections officer prior to any change in the
24 offender's address or employment;

25 (e) Report as directed to the court and a community corrections
26 officer; or

27 (f) Pay all court-ordered legal financial obligations as provided
28 in RCW 9.94A.030 and/or perform community (~~service~~) restitution work.

29 (6)(a) An offender is eligible for the special drug offender
30 sentencing alternative if:

31 (i) The offender is convicted of the manufacture, delivery, or
32 possession with intent to manufacture or deliver a controlled substance
33 classified in Schedule I or II that is a narcotic drug or a felony that
34 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
35 criminal solicitation, or criminal conspiracy to commit such crimes,
36 and the violation does not involve a sentence enhancement under RCW
37 9.94A.310 (3) or (4);

38 (ii) The offender has no prior convictions for a felony in this
39 state, another state, or the United States; and

1 (iii) The offense involved only a small quantity of the particular
2 controlled substance as determined by the judge upon consideration of
3 such factors as the weight, purity, packaging, sale price, and street
4 value of the controlled substance.

5 (b) If the midpoint of the standard range is greater than one year
6 and the sentencing judge determines that the offender is eligible for
7 this option and that the offender and the community will benefit from
8 the use of the special drug offender sentencing alternative, the judge
9 may waive imposition of a sentence within the standard range and impose
10 a sentence that must include a period of total confinement in a state
11 facility for one-half of the midpoint of the standard range. During
12 incarceration in the state facility, offenders sentenced under this
13 subsection shall undergo a comprehensive substance abuse assessment and
14 receive, within available resources, treatment services appropriate for
15 the offender. The treatment services shall be designed by the division
16 of alcohol and substance abuse of the department of social and health
17 services, in cooperation with the department of corrections. If the
18 midpoint of the standard range is twenty-four months or less, no more
19 than three months of the sentence may be served in a work release
20 status. The court shall also impose one year of concurrent community
21 custody and community supervision that must include appropriate
22 outpatient substance abuse treatment, crime-related prohibitions
23 including a condition not to use illegal controlled substances, and a
24 requirement to submit to urinalysis or other testing to monitor that
25 status. The court may require that the monitoring for controlled
26 substances be conducted by the department or by a treatment
27 alternatives to street crime program or a comparable court or agency-
28 referred program. The offender may be required to pay thirty dollars
29 per month while on community custody to offset the cost of monitoring.
30 In addition, the court shall impose three or more of the following
31 conditions:

- 32 (i) Devote time to a specific employment or training;
- 33 (ii) Remain within prescribed geographical boundaries and notify
34 the court or the community corrections officer before any change in the
35 offender's address or employment;
- 36 (iii) Report as directed to a community corrections officer;
- 37 (iv) Pay all court-ordered legal financial obligations;
- 38 (v) Perform community ((~~service~~)) restitution work;
- 39 (vi) Stay out of areas designated by the sentencing judge.

1 (c) If the offender violates any of the sentence conditions in (b)
2 of this subsection, the department shall impose sanctions
3 administratively, with notice to the prosecuting attorney and the
4 sentencing court. Upon motion of the court or the prosecuting
5 attorney, a violation hearing shall be held by the court. If the court
6 finds that conditions have been willfully violated, the court may
7 impose confinement consisting of up to the remaining one-half of the
8 midpoint of the standard range. All total confinement served during
9 the period of community custody shall be credited to the offender,
10 regardless of whether the total confinement is served as a result of
11 the original sentence, as a result of a sanction imposed by the
12 department, or as a result of a violation found by the court. The term
13 of community supervision shall be tolled by any period of time served
14 in total confinement as a result of a violation found by the court.

15 (d) The department shall determine the rules for calculating the
16 value of a day fine based on the offender's income and reasonable
17 obligations which the offender has for the support of the offender and
18 any dependents. These rules shall be developed in consultation with
19 the administrator for the courts, the office of financial management,
20 and the commission.

21 (7) If a sentence range has not been established for the
22 defendant's crime, the court shall impose a determinate sentence which
23 may include not more than one year of confinement, community
24 (~~service~~) restitution work, a term of community supervision not to
25 exceed one year, and/or other legal financial obligations. The court
26 may impose a sentence which provides more than one year of confinement
27 if the court finds, considering the purpose of this chapter, that there
28 are substantial and compelling reasons justifying an exceptional
29 sentence.

30 (8)(a)(i) When an offender is convicted of a sex offense other than
31 a violation of RCW 9A.44.050 or a sex offense that is also a serious
32 violent offense and has no prior convictions for a sex offense or any
33 other felony sex offenses in this or any other state, the sentencing
34 court, on its own motion or the motion of the state or the defendant,
35 may order an examination to determine whether the defendant is amenable
36 to treatment.

37 The report of the examination shall include at a minimum the
38 following: The defendant's version of the facts and the official
39 version of the facts, the defendant's offense history, an assessment of

1 problems in addition to alleged deviant behaviors, the offender's
2 social and employment situation, and other evaluation measures used.
3 The report shall set forth the sources of the evaluator's information.

4 The examiner shall assess and report regarding the defendant's
5 amenability to treatment and relative risk to the community. A
6 proposed treatment plan shall be provided and shall include, at a
7 minimum:

8 (A) Frequency and type of contact between offender and therapist;

9 (B) Specific issues to be addressed in the treatment and
10 description of planned treatment modalities;

11 (C) Monitoring plans, including any requirements regarding living
12 conditions, lifestyle requirements, and monitoring by family members
13 and others;

14 (D) Anticipated length of treatment; and

15 (E) Recommended crime-related prohibitions.

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

22 (ii) After receipt of the reports, the court shall consider whether
23 the offender and the community will benefit from use of this special
24 sex offender sentencing alternative and consider the victim's opinion
25 whether the offender should receive a treatment disposition under this
26 subsection. If the court determines that this special sex offender
27 sentencing alternative is appropriate, the court shall then impose a
28 sentence within the sentence range. If this sentence is less than
29 eleven years of confinement, the court may suspend the execution of the
30 sentence and impose the following conditions of suspension:

31 (A) The court shall place the defendant on community custody for
32 the length of the suspended sentence or three years, whichever is
33 greater, and require the offender to comply with any conditions imposed
34 by the department of corrections under subsection (14) of this section;

35 (B) The court shall order treatment for any period up to three
36 years in duration. The court in its discretion shall order outpatient
37 sex offender treatment or inpatient sex offender treatment, if
38 available. A community mental health center may not be used for such
39 treatment unless it has an appropriate program designed for sex

1 offender treatment. The offender shall not change sex offender
2 treatment providers or treatment conditions without first notifying the
3 prosecutor, the community corrections officer, and the court, and shall
4 not change providers without court approval after a hearing if the
5 prosecutor or community corrections officer object to the change. In
6 addition, as conditions of the suspended sentence, the court may impose
7 other sentence conditions including up to six months of confinement,
8 not to exceed the sentence range of confinement for that offense,
9 crime-related prohibitions, and requirements that the offender perform
10 any one or more of the following:

11 (I) Devote time to a specific employment or occupation;

12 (II) Remain within prescribed geographical boundaries and notify
13 the court or the community corrections officer prior to any change in
14 the offender's address or employment;

15 (III) Report as directed to the court and a community corrections
16 officer;

17 (IV) Pay all court-ordered legal financial obligations as provided
18 in RCW 9.94A.030, perform community ((service)) restitution work, or
19 any combination thereof; or

20 (V) Make recoupment to the victim for the cost of any counseling
21 required as a result of the offender's crime; and

22 (C) Sex offenders sentenced under this special sex offender
23 sentencing alternative are not eligible to accrue any earned early
24 release time while serving a suspended sentence.

25 (iii) The sex offender therapist shall submit quarterly reports on
26 the defendant's progress in treatment to the court and the parties.
27 The report shall reference the treatment plan and include at a minimum
28 the following: Dates of attendance, defendant's compliance with
29 requirements, treatment activities, the defendant's relative progress
30 in treatment, and any other material as specified by the court at
31 sentencing.

32 (iv) At the time of sentencing, the court shall set a treatment
33 termination hearing for three months prior to the anticipated date for
34 completion of treatment. Prior to the treatment termination hearing,
35 the treatment professional and community corrections officer shall
36 submit written reports to the court and parties regarding the
37 defendant's compliance with treatment and monitoring requirements, and
38 recommendations regarding termination from treatment, including
39 proposed community supervision conditions. Either party may request

1 and the court may order another evaluation regarding the advisability
2 of termination from treatment. The defendant shall pay the cost of any
3 additional evaluation ordered unless the court finds the defendant to
4 be indigent in which case the state shall pay the cost. At the
5 treatment termination hearing the court may: (A) Modify conditions of
6 community custody, and either (B) terminate treatment, or (C) extend
7 treatment for up to the remaining period of community custody.

8 (v) If a violation of conditions occurs during community custody,
9 the department shall either impose sanctions as provided for in RCW
10 9.94A.205(2)(a) or refer the violation to the court and recommend
11 revocation of the suspended sentence as provided for in (a)(vi) of this
12 subsection.

13 (vi) The court may revoke the suspended sentence at any time during
14 the period of community custody and order execution of the sentence if:
15 (A) The defendant violates the conditions of the suspended sentence, or
16 (B) the court finds that the defendant is failing to make satisfactory
17 progress in treatment. All confinement time served during the period
18 of community custody shall be credited to the offender if the suspended
19 sentence is revoked.

20 (vii) Except as provided in (a)(viii) of this subsection, after
21 July 1, 1991, examinations and treatment ordered pursuant to this
22 subsection shall only be conducted by sex offender treatment providers
23 certified by the department of health pursuant to chapter 18.155 RCW.

24 (viii) A sex offender therapist who examines or treats a sex
25 offender pursuant to this subsection (8) does not have to be certified
26 by the department of health pursuant to chapter 18.155 RCW if the court
27 finds that: (A) The offender has already moved to another state or
28 plans to move to another state for reasons other than circumventing the
29 certification requirements; (B) no certified providers are available
30 for treatment within a reasonable geographical distance of the
31 offender's home; and (C) the evaluation and treatment plan comply with
32 this subsection (8) and the rules adopted by the department of health.

33 (ix) For purposes of this subsection (8), "victim" means any person
34 who has sustained emotional, psychological, physical, or financial
35 injury to person or property as a result of the crime charged.
36 "Victim" also means a parent or guardian of a victim who is a minor
37 child unless the parent or guardian is the perpetrator of the offense.

1 (x) If the defendant was less than eighteen years of age when the
2 charge was filed, the state shall pay for the cost of initial
3 evaluation and treatment.

4 (b) When an offender commits any felony sex offense on or after
5 July 1, 1987, and is sentenced to a term of confinement of more than
6 one year but less than six years, the sentencing court may, on its own
7 motion or on the motion of the offender or the state, request the
8 department of corrections to evaluate whether the offender is amenable
9 to treatment and the department may place the offender in a treatment
10 program within a correctional facility operated by the department.

11 Except for an offender who has been convicted of a violation of RCW
12 9A.44.040 or 9A.44.050, if the offender completes the treatment program
13 before the expiration of his or her term of confinement, the department
14 of corrections may request the court to convert the balance of
15 confinement to community supervision and to place conditions on the
16 offender including crime-related prohibitions and requirements that the
17 offender perform any one or more of the following:

18 (i) Devote time to a specific employment or occupation;

19 (ii) Remain within prescribed geographical boundaries and notify
20 the court or the community corrections officer prior to any change in
21 the offender's address or employment;

22 (iii) Report as directed to the court and a community corrections
23 officer;

24 (iv) Undergo available outpatient treatment.

25 If the offender violates any of the terms of his or her community
26 supervision, the court may order the offender to serve out the balance
27 of his or her community supervision term in confinement in the custody
28 of the department of corrections.

29 Nothing in this subsection (8)(b) shall confer eligibility for such
30 programs for offenders convicted and sentenced for a sex offense
31 committed prior to July 1, 1987. This subsection (8)(b) does not apply
32 to any crime committed after July 1, 1990.

33 (c) Offenders convicted and sentenced for a sex offense committed
34 prior to July 1, 1987, may, subject to available funds, request an
35 evaluation by the department of corrections to determine whether they
36 are amenable to treatment. If the offender is determined to be
37 amenable to treatment, the offender may request placement in a
38 treatment program within a correctional facility operated by the

1 department. Placement in such treatment program is subject to
2 available funds.

3 (9)(a) When a court sentences a person to a term of total
4 confinement to the custody of the department of corrections for an
5 offense categorized as a sex offense or a serious violent offense
6 committed after July 1, 1988, but before July 1, 1990, assault in the
7 second degree, assault of a child in the second degree, any crime
8 against a person where it is determined in accordance with RCW
9 9.94A.125 that the defendant or an accomplice was armed with a deadly
10 weapon at the time of commission, or any felony offense under chapter
11 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
12 committed on or after July 1, 1988, the court shall in addition to the
13 other terms of the sentence, sentence the offender to a one-year term
14 of community placement beginning either upon completion of the term of
15 confinement or at such time as the offender is transferred to community
16 custody in lieu of earned early release in accordance with RCW
17 9.94A.150 (1) and (2). When the court sentences an offender under this
18 subsection to the statutory maximum period of confinement then the
19 community placement portion of the sentence shall consist entirely of
20 such community custody to which the offender may become eligible, in
21 accordance with RCW 9.94A.150 (1) and (2). Any period of community
22 custody actually served shall be credited against the community
23 placement portion of the sentence.

24 (b) When a court sentences a person to a term of total confinement
25 to the custody of the department of corrections for an offense
26 categorized as a sex offense committed on or after July 1, 1990, but
27 before June 6, 1996, a serious violent offense, vehicular homicide, or
28 vehicular assault, committed on or after July 1, 1990, the court shall
29 in addition to other terms of the sentence, sentence the offender to
30 community placement for two years or up to the period of earned early
31 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is
32 longer. The community placement shall begin either upon completion of
33 the term of confinement or at such time as the offender is transferred
34 to community custody in lieu of earned early release in accordance with
35 RCW 9.94A.150 (1) and (2). When the court sentences an offender under
36 this subsection to the statutory maximum period of confinement then the
37 community placement portion of the sentence shall consist entirely of
38 the community custody to which the offender may become eligible, in
39 accordance with RCW 9.94A.150 (1) and (2). Any period of community

1 custody actually served shall be credited against the community
2 placement portion of the sentence. Unless a condition is waived by the
3 court, the terms of community placement for offenders sentenced
4 pursuant to this section shall include the following conditions:

5 (i) The offender shall report to and be available for contact with
6 the assigned community corrections officer as directed;

7 (ii) The offender shall work at department of corrections-approved
8 education, employment, and/or community (~~service~~) restitution;

9 (iii) The offender shall not possess or consume controlled
10 substances except pursuant to lawfully issued prescriptions;

11 (iv) The offender shall pay supervision fees as determined by the
12 department of corrections;

13 (v) The residence location and living arrangements are subject to
14 the prior approval of the department of corrections during the period
15 of community placement; and

16 (vi) The offender shall submit to affirmative acts necessary to
17 monitor compliance with the orders of the court as required by the
18 department.

19 (c) As a part of any sentence imposed under (a) or (b) of this
20 subsection, the court may also order any of the following special
21 conditions:

22 (i) The offender shall remain within, or outside of, a specified
23 geographical boundary;

24 (ii) The offender shall not have direct or indirect contact with
25 the victim of the crime or a specified class of individuals;

26 (iii) The offender shall participate in crime-related treatment or
27 counseling services;

28 (iv) The offender shall not consume alcohol;

29 (v) The offender shall comply with any crime-related prohibitions;
30 or

31 (vi) For an offender convicted of a felony sex offense against a
32 minor victim after June 6, 1996, the offender shall comply with any
33 terms and conditions of community placement imposed by the department
34 of corrections relating to contact between the sex offender and a minor
35 victim or a child of similar age or circumstance as a previous victim.

36 (d) Prior to transfer to, or during, community placement, any
37 conditions of community placement may be removed or modified so as not
38 to be more restrictive by the sentencing court, upon recommendation of
39 the department of corrections.

1 (10)(a) When a court sentences a person to the custody of the
2 department of corrections for an offense categorized as a sex offense
3 committed on or after June 6, 1996, the court shall, in addition to
4 other terms of the sentence, sentence the offender to community custody
5 for three years or up to the period of earned early release awarded
6 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The
7 community custody shall begin either upon completion of the term of
8 confinement or at such time as the offender is transferred to community
9 custody in lieu of earned early release in accordance with RCW
10 9.94A.150 (1) and (2).

11 (b) Unless a condition is waived by the court, the terms of
12 community custody shall be the same as those provided for in subsection
13 (9)(b) of this section and may include those provided for in subsection
14 (9)(c) of this section. As part of any sentence that includes a term
15 of community custody imposed under this subsection, the court shall
16 also require the offender to comply with any conditions imposed by the
17 department of corrections under subsection (14) of this section.

18 (c) At any time prior to the completion of a sex offender's term of
19 community custody, if the court finds that public safety would be
20 enhanced, the court may impose and enforce an order extending any or
21 all of the conditions imposed pursuant to this section for a period up
22 to the maximum allowable sentence for the crime as it is classified in
23 chapter 9A.20 RCW, regardless of the expiration of the offender's term
24 of community custody. If a violation of a condition extended under
25 this subsection occurs after the expiration of the offender's term of
26 community custody, it shall be deemed a violation of the sentence for
27 the purposes of RCW 9.94A.195 and may be punishable as contempt of
28 court as provided for in RCW 7.21.040.

29 (11) If the court imposes a sentence requiring confinement of
30 thirty days or less, the court may, in its discretion, specify that the
31 sentence be served on consecutive or intermittent days. A sentence
32 requiring more than thirty days of confinement shall be served on
33 consecutive days. Local jail administrators may schedule court-ordered
34 intermittent sentences as space permits.

35 (12) If a sentence imposed includes payment of a legal financial
36 obligation, the sentence shall specify the total amount of the legal
37 financial obligation owed, and shall require the offender to pay a
38 specified monthly sum toward that legal financial obligation.
39 Restitution to victims shall be paid prior to any other payments of

1 monetary obligations. Any legal financial obligation that is imposed
2 by the court may be collected by the department, which shall deliver
3 the amount paid to the county clerk for credit. The offender's
4 compliance with payment of legal financial obligations shall be
5 supervised by the department for ten years following the entry of the
6 judgment and sentence or ten years following the offender's release
7 from total confinement. All monetary payments ordered shall be paid no
8 later than ten years after the last date of release from confinement
9 pursuant to a felony conviction or the date the sentence was entered
10 unless the superior court extends the criminal judgment an additional
11 ten years. If the legal financial obligations including crime victims'
12 assessments are not paid during the initial ten-year period, the
13 superior court may extend jurisdiction under the criminal judgment an
14 additional ten years as provided in RCW 9.94A.140, 9.94A.142, and
15 9.94A.145. If jurisdiction under the criminal judgment is extended,
16 the department is not responsible for supervision of the offender
17 during the subsequent period. Independent of the department, the party
18 or entity to whom the legal financial obligation is owed shall have the
19 authority to utilize any other remedies available to the party or
20 entity to collect the legal financial obligation. Nothing in this
21 section makes the department, the state, or any of its employees,
22 agents, or other persons acting on their behalf liable under any
23 circumstances for the payment of these legal financial obligations. If
24 an order includes restitution as one of the monetary assessments, the
25 county clerk shall make disbursements to victims named in the order.

26 (13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
27 court may not impose a sentence providing for a term of confinement or
28 community supervision or community placement which exceeds the
29 statutory maximum for the crime as provided in chapter 9A.20 RCW.

30 (14) All offenders sentenced to terms involving community
31 supervision, community (~~service~~) restitution, community placement, or
32 legal financial obligation shall be under the supervision of the
33 department of corrections and shall follow explicitly the instructions
34 and conditions of the department of corrections. The department may
35 require an offender to perform affirmative acts it deems appropriate to
36 monitor compliance with the conditions of the sentence imposed.

37 (a) The instructions shall include, at a minimum, reporting as
38 directed to a community corrections officer, remaining within
39 prescribed geographical boundaries, notifying the community corrections

1 officer of any change in the offender's address or employment, and
2 paying the supervision fee assessment.

3 (b) For offenders sentenced to terms involving community custody
4 for crimes committed on or after June 6, 1996, the department may
5 include, in addition to the instructions in (a) of this subsection, any
6 appropriate conditions of supervision, including but not limited to,
7 prohibiting the offender from having contact with any other specified
8 individuals or specific class of individuals. The conditions
9 authorized under this subsection (14)(b) may be imposed by the
10 department prior to or during an offender's community custody term. If
11 a violation of conditions imposed by the court or the department
12 pursuant to subsection (10) of this section occurs during community
13 custody, it shall be deemed a violation of community placement for the
14 purposes of RCW 9.94A.207 and shall authorize the department to
15 transfer an offender to a more restrictive confinement status as
16 provided in RCW 9.94A.205. At any time prior to the completion of a
17 sex offender's term of community custody, the department may recommend
18 to the court that any or all of the conditions imposed by the court or
19 the department pursuant to subsection (10) of this section be continued
20 beyond the expiration of the offender's term of community custody as
21 authorized in subsection (10)(c) of this section.

22 The department may require offenders to pay for special services
23 rendered on or after July 25, 1993, including electronic monitoring,
24 day reporting, and telephone reporting, dependent upon the offender's
25 ability to pay. The department may pay for these services for
26 offenders who are not able to pay.

27 (15) All offenders sentenced to terms involving community
28 supervision, community (~~service~~) restitution, or community placement
29 under the supervision of the department of corrections shall not own,
30 use, or possess firearms or ammunition. Offenders who own, use, or are
31 found to be in actual or constructive possession of firearms or
32 ammunition shall be subject to the appropriate violation process and
33 sanctions. "Constructive possession" as used in this subsection means
34 the power and intent to control the firearm or ammunition. "Firearm"
35 as used in this subsection means a weapon or device from which a
36 projectile may be fired by an explosive such as gunpowder.

37 (16) The sentencing court shall give the offender credit for all
38 confinement time served before the sentencing if that confinement was

1 solely in regard to the offense for which the offender is being
2 sentenced.

3 (17) A departure from the standards in RCW 9.94A.400 (1) and (2)
4 governing whether sentences are to be served consecutively or
5 concurrently is an exceptional sentence subject to the limitations in
6 subsections (2) and (3) of this section, and may be appealed by the
7 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

8 (18) The court shall order restitution whenever the offender is
9 convicted of a felony that results in injury to any person or damage to
10 or loss of property, whether the offender is sentenced to confinement
11 or placed under community supervision, unless extraordinary
12 circumstances exist that make restitution inappropriate in the court's
13 judgment. The court shall set forth the extraordinary circumstances in
14 the record if it does not order restitution.

15 (19) As a part of any sentence, the court may impose and enforce an
16 order that relates directly to the circumstances of the crime for which
17 the offender has been convicted, prohibiting the offender from having
18 any contact with other specified individuals or a specific class of
19 individuals for a period not to exceed the maximum allowable sentence
20 for the crime, regardless of the expiration of the offender's term of
21 community supervision or community placement.

22 (20) The court may order an offender whose sentence includes
23 community placement or community supervision to undergo a mental status
24 evaluation and to participate in available outpatient mental health
25 treatment, if the court finds that reasonable grounds exist to believe
26 that the offender is a mentally ill person as defined in RCW 71.24.025,
27 and that this condition is likely to have influenced the offense. An
28 order requiring mental status evaluation or treatment must be based on
29 a presentence report and, if applicable, mental status evaluations that
30 have been filed with the court to determine the offender's competency
31 or eligibility for a defense of insanity. The court may order
32 additional evaluations at a later date if deemed appropriate.

33 (21) In any sentence of partial confinement, the court may require
34 the defendant to serve the partial confinement in work release, in a
35 program of home detention, on work crew, or in a combined program of
36 work crew and home detention.

37 (22) All court-ordered legal financial obligations collected by the
38 department and remitted to the county clerk shall be credited and paid

1 where restitution is ordered. Restitution shall be paid prior to any
2 other payments of monetary obligations.

3 **Sec. 8.** RCW 9.94A.200 and 1998 c 260 s 4 are each amended to read
4 as follows:

5 (1) If an offender violates any condition or requirement of a
6 sentence, the court may modify its order of judgment and sentence and
7 impose further punishment in accordance with this section.

8 (2) In cases where conditions from a second or later sentence of
9 community supervision begin prior to the term of the second or later
10 sentence, the court shall treat a violation of such conditions as a
11 violation of the sentence of community supervision currently being
12 served.

13 (3) If an offender fails to comply with any of the requirements or
14 conditions of a sentence the following provisions apply:

15 (a)(i) Following the violation, if the offender and the department
16 make a stipulated agreement, the department may impose sanctions such
17 as work release, home detention with electronic monitoring, work crew,
18 community ((service)) restitution, inpatient treatment, daily
19 reporting, curfew, educational or counseling sessions, supervision
20 enhanced through electronic monitoring, jail time, or other sanctions
21 available in the community.

22 (ii) Within seventy-two hours of signing the stipulated agreement,
23 the department shall submit a report to the court and the prosecuting
24 attorney outlining the violation or violations, and sanctions imposed.
25 Within fifteen days of receipt of the report, if the court is not
26 satisfied with the sanctions, the court may schedule a hearing and may
27 modify the department's sanctions. If this occurs, the offender may
28 withdraw from the stipulated agreement.

29 (iii) If the offender fails to comply with the sanction
30 administratively imposed by the department, the court may take action
31 regarding the original noncompliance. Offender failure to comply with
32 the sanction administratively imposed by the department may be
33 considered an additional violation.

34 (b) In the absence of a stipulated agreement, or where the court is
35 not satisfied with the department's sanctions as provided in (a) of
36 this subsection, the court, upon the motion of the state, or upon its
37 own motion, shall require the offender to show cause why the offender

1 should not be punished for the noncompliance. The court may issue a
2 summons or a warrant of arrest for the offender's appearance;

3 (c) The state has the burden of showing noncompliance by a
4 preponderance of the evidence. If the court finds that the violation
5 has occurred, it may order the offender to be confined for a period not
6 to exceed sixty days for each violation, and may (i) convert a term of
7 partial confinement to total confinement, (ii) convert community
8 ((~~service~~)) restitution obligation to total or partial confinement,
9 (iii) convert monetary obligations, except restitution and the crime
10 victim penalty assessment, to community ((~~service~~)) restitution hours
11 at the rate of the state minimum wage as established in RCW 49.46.020
12 for each hour of community ((~~service~~)) restitution, or (iv) order one
13 or more of the penalties authorized in (a)(i) of this subsection. Any
14 time served in confinement awaiting a hearing on noncompliance shall be
15 credited against any confinement order by the court;

16 (d) If the court finds that the violation was not willful, the
17 court may modify its previous order regarding payment of legal
18 financial obligations and regarding community ((~~service~~)) restitution
19 obligations; and

20 (e) If the violation involves a failure to undergo or comply with
21 mental status evaluation and/or outpatient mental health treatment, the
22 community corrections officer shall consult with the treatment provider
23 or proposed treatment provider. Enforcement of orders concerning
24 outpatient mental health treatment must reflect the availability of
25 treatment and must pursue the least restrictive means of promoting
26 participation in treatment. If the offender's failure to receive care
27 essential for health and safety presents a risk of serious physical
28 harm or probable harmful consequences, the civil detention and
29 commitment procedures of chapter 71.05 RCW shall be considered in
30 preference to incarceration in a local or state correctional facility.

31 (4) The community corrections officer may obtain information from
32 the offender's mental health treatment provider on the offender's
33 status with respect to evaluation, application for services,
34 registration for services, and compliance with the supervision plan,
35 without the offender's consent, as described under RCW 71.05.630.

36 (5) An offender under community placement or community supervision
37 who is civilly detained under chapter 71.05 RCW, and subsequently
38 discharged or conditionally released to the community, shall be under
39 the supervision of the department of corrections for the duration of

1 his or her period of community placement or community supervision.
2 During any period of inpatient mental health treatment that falls
3 within the period of community placement or community supervision, the
4 inpatient treatment provider and the supervising community corrections
5 officer shall notify each other about the offender's discharge,
6 release, and legal status, and shall share other relevant information.

7 (6) Nothing in this section prohibits the filing of escape charges
8 if appropriate.

9 **Sec. 9.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are
10 each reenacted and amended to read as follows:

11 Alternatives to total confinement are available for offenders with
12 sentences of one year or less. These alternatives include the
13 following sentence conditions that the court may order as substitutes
14 for total confinement: (1) One day of partial confinement may be
15 substituted for one day of total confinement; (2) in addition, for
16 offenders convicted of nonviolent offenses only, eight hours of
17 community ((~~service~~)) restitution may be substituted for one day of
18 total confinement, with a maximum conversion limit of two hundred forty
19 hours or thirty days. Community ((~~service~~)) restitution hours must be
20 completed within the period of community supervision or a time period
21 specified by the court, which shall not exceed twenty-four months,
22 pursuant to a schedule determined by the department.

23 For sentences of nonviolent offenders for one year or less, the
24 court shall consider and give priority to available alternatives to
25 total confinement and shall state its reasons in writing on the
26 judgment and sentence form if the alternatives are not used.

27 **Sec. 10.** RCW 9.94A.400 and 1998 c 235 s 2 are each amended to read
28 as follows:

29 (1)(a) Except as provided in (b) or (c) of this subsection,
30 whenever a person is to be sentenced for two or more current offenses,
31 the sentence range for each current offense shall be determined by
32 using all other current and prior convictions as if they were prior
33 convictions for the purpose of the offender score: PROVIDED, That if
34 the court enters a finding that some or all of the current offenses
35 encompass the same criminal conduct then those current offenses shall
36 be counted as one crime. Sentences imposed under this subsection shall
37 be served concurrently. Consecutive sentences may only be imposed

1 under the exceptional sentence provisions of RCW 9.94A.120 and
2 9.94A.390(2)(g) or any other provision of RCW 9.94A.390. "Same
3 criminal conduct," as used in this subsection, means two or more crimes
4 that require the same criminal intent, are committed at the same time
5 and place, and involve the same victim. This definition applies in
6 cases involving vehicular assault or vehicular homicide even if the
7 victims occupied the same vehicle.

8 (b) Whenever a person is convicted of two or more serious violent
9 offenses, as defined in RCW 9.94A.030, arising from separate and
10 distinct criminal conduct, the sentence range for the offense with the
11 highest seriousness level under RCW 9.94A.320 shall be determined using
12 the offender's prior convictions and other current convictions that are
13 not serious violent offenses in the offender score and the sentence
14 range for other serious violent offenses shall be determined by using
15 an offender score of zero. The sentence range for any offenses that
16 are not serious violent offenses shall be determined according to (a)
17 of this subsection. All sentences imposed under (b) of this subsection
18 shall be served consecutively to each other and concurrently with
19 sentences imposed under (a) of this subsection.

20 (c) If an offender is convicted under RCW 9.41.040 for unlawful
21 possession of a firearm in the first or second degree and for the
22 felony crimes of theft of a firearm or possession of a stolen firearm,
23 or both, then the offender shall serve consecutive sentences for each
24 conviction of the felony crimes listed in this subsection, and for each
25 firearm unlawfully possessed.

26 (2)(a) Except as provided in (b) of this subsection, whenever a
27 person while under sentence of felony commits another felony and is
28 sentenced to another term of confinement, the latter term shall not
29 begin until expiration of all prior terms.

30 (b) Whenever a second or later felony conviction results in
31 community supervision with conditions not currently in effect, under
32 the prior sentence or sentences of community supervision the court may
33 require that the conditions of community supervision contained in the
34 second or later sentence begin during the immediate term of community
35 supervision and continue throughout the duration of the consecutive
36 term of community supervision.

37 (3) Subject to subsections (1) and (2) of this section, whenever a
38 person is sentenced for a felony that was committed while the person
39 was not under sentence of a felony, the sentence shall run concurrently

1 with any felony sentence which has been imposed by any court in this or
2 another state or by a federal court subsequent to the commission of the
3 crime being sentenced unless the court pronouncing the current sentence
4 expressly orders that they be served consecutively.

5 (4) Whenever any person granted probation under RCW 9.95.210 or
6 9.92.060, or both, has the probationary sentence revoked and a prison
7 sentence imposed, that sentence shall run consecutively to any sentence
8 imposed pursuant to this chapter, unless the court pronouncing the
9 subsequent sentence expressly orders that they be served concurrently.

10 (5) However, in the case of consecutive sentences, all periods of
11 total confinement shall be served before any partial confinement,
12 community (~~service~~) restitution, community supervision, or any other
13 requirement or conditions of any of the sentences. Except for
14 exceptional sentences as authorized under RCW 9.94A.120(2), if two or
15 more sentences that run consecutively include periods of community
16 supervision, the aggregate of the community supervision period shall
17 not exceed twenty-four months.

18 **Sec. 11.** RCW 10.98.040 and 1985 c 201 s 1 are each amended to read
19 as follows:

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout this chapter.

22 (1) "Arrest and fingerprint form" means the reporting form
23 prescribed by the identification, child abuse, and criminal history
24 section to initiate compiling arrest and identification information.

25 (2) "Chief law enforcement officer" includes the sheriff or
26 director of public safety of a county, the chief of police of a city or
27 town, and chief officers of other law enforcement agencies operating
28 within the state.

29 (3) "Department" means the department of corrections.

30 (4) "Disposition" means the conclusion of a criminal proceeding at
31 any stage it occurs in the criminal justice system. Disposition
32 includes but is not limited to temporary or permanent outcomes such as
33 charges dropped by police, charges not filed by the prosecuting
34 attorney, deferred prosecution, defendant absconded, charges filed by
35 the prosecuting attorney pending court findings such as not guilty,
36 dismissed, guilty, or guilty--case appealed to higher court.

37 (5) "Disposition report" means the reporting form prescribed by the
38 identification, child abuse, and criminal history section to report the

1 legal procedures taken after completing an arrest and fingerprint form.
2 The disposition report shall include but not be limited to the
3 following types of information:

4 (a) The type of disposition;

5 (b) The statutory citation for the arrests;

6 (c) The sentence structure if the defendant was convicted of a
7 felony;

8 (d) The state identification number; and

9 (e) Identification information and other information that is
10 prescribed by the identification, child abuse, and criminal history
11 section.

12 (6) "Fingerprints" means the fingerprints taken from arrested or
13 charged persons under the procedures prescribed by the Washington state
14 patrol identification, child abuse, and criminal history section.

15 (7) "Prosecuting attorney" means the public or private attorney
16 prosecuting a criminal case.

17 (8) "Section" refers to the Washington state patrol section on
18 identification, child abuse, and criminal history.

19 (9) "Sentence structure" means itemizing the components of the
20 felony sentence. The sentence structure shall include but not be
21 limited to the total or partial confinement sentenced, and whether the
22 sentence is prison or jail, community supervision, fines, restitution,
23 or community (~~service~~) restitution.

24 **Sec. 12.** RCW 13.40.020 and 1997 c 338 s 10 are each amended to
25 read as follows:

26 For the purposes of this chapter:

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

36 (2) Community-based sanctions may include one or more of the
37 following:

38 (a) A fine, not to exceed five hundred dollars;

1 (b) Community ((~~service~~)) restitution not to exceed one hundred
2 fifty hours of ((~~service~~)) community restitution;

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

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

21 (a) Community-based sanctions;

22 (b) Community-based rehabilitation;

23 (c) Monitoring and reporting requirements;

24 (d) Posting of a probation bond;

25 (5) "Confinement" means physical custody by the department of
26 social and health services in a facility operated by or pursuant to a
27 contract with the state, or physical custody in a detention facility
28 operated by or pursuant to a contract with any county. The county may
29 operate or contract with vendors to operate county detention
30 facilities. The department may operate or contract to operate
31 detention facilities for juveniles committed to the department.
32 Pretrial confinement or confinement of less than thirty-one days
33 imposed as part of a disposition or modification order may be served
34 consecutively or intermittently, in the discretion of the court;

35 (6) "Court," when used without further qualification, means the
36 juvenile court judge(s) or commissioner(s);

37 (7) "Criminal history" includes all criminal complaints against the
38 respondent for which, prior to the commission of a current offense:

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

5 (b) The criminal complaint was diverted by a prosecutor pursuant to
6 the provisions of this chapter on agreement of the respondent and after
7 an advisement to the respondent that the criminal complaint would be
8 considered as part of the respondent's criminal history. A
9 successfully completed deferred adjudication that was entered before
10 July 1, 1998, or a deferred disposition shall not be considered part of
11 the respondent's criminal history;

12 (8) "Department" means the department of social and health
13 services;

14 (9) "Detention facility" means a county facility, paid for by the
15 county, for the physical confinement of a juvenile alleged to have
16 committed an offense or an adjudicated offender subject to a
17 disposition or modification order. "Detention facility" includes
18 county group homes, inpatient substance abuse programs, juvenile basic
19 training camps, and electronic monitoring;

20 (10) "Diversion unit" means any probation counselor who enters into
21 a diversion agreement with an alleged youthful offender, or any other
22 person, community accountability board, or other entity except a law
23 enforcement official or entity, with whom the juvenile court
24 administrator has contracted to arrange and supervise such agreements
25 pursuant to RCW 13.40.080, or any person, community accountability
26 board, or other entity specially funded by the legislature to arrange
27 and supervise diversion agreements in accordance with the requirements
28 of this chapter. For purposes of this subsection, "community
29 accountability board" means a board comprised of members of the local
30 community in which the juvenile offender resides. The superior court
31 shall appoint the members. The boards shall consist of at least three
32 and not more than seven members. If possible, the board should include
33 a variety of representatives from the community, such as a law
34 enforcement officer, teacher or school administrator, high school
35 student, parent, and business owner, and should represent the cultural
36 diversity of the local community;

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

1 (12) "Institution" means a juvenile facility established pursuant
2 to chapters 72.05 and 72.16 through 72.20 RCW;

3 (13) "Intensive supervision program" means a parole program that
4 requires intensive supervision and monitoring, offers an array of
5 individualized treatment and transitional services, and emphasizes
6 community involvement and support in order to reduce the likelihood a
7 juvenile offender will commit further offenses;

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

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

16 (16) "Local sanctions" means one or more of the following: (a)
17 0-30 days of confinement; (b) 0-12 months of community supervision; (c)
18 0-150 hours of community (~~service~~) restitution; or (d) \$0-\$500 fine;

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

22 (18) "Monitoring and reporting requirements" means one or more of
23 the following: Curfews; requirements to remain at home, school, work,
24 or court-ordered treatment programs during specified hours;
25 restrictions from leaving or entering specified geographical areas;
26 requirements to report to the probation officer as directed and to
27 remain under the probation officer's supervision; and other conditions
28 or limitations as the court may require which may not include
29 confinement;

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

34 (20) "Probation bond" means a bond, posted with sufficient security
35 by a surety justified and approved by the court, to secure the
36 offender's appearance at required court proceedings and compliance with
37 court-ordered community supervision or conditions of release ordered
38 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of

1 cash or posting of other collateral in lieu of a bond if approved by
2 the court;

3 (21) "Respondent" means a juvenile who is alleged or proven to have
4 committed an offense;

5 (22) "Restitution" means financial reimbursement by the offender to
6 the victim, and shall be limited to easily ascertainable damages for
7 injury to or loss of property, actual expenses incurred for medical
8 treatment for physical injury to persons, lost wages resulting from
9 physical injury, and costs of the victim's counseling reasonably
10 related to the offense if the offense is a sex offense. Restitution
11 shall not include reimbursement for damages for mental anguish, pain
12 and suffering, or other intangible losses. Nothing in this chapter
13 shall limit or replace civil remedies or defenses available to the
14 victim or offender;

15 (23) "Secretary" means the secretary of the department of social
16 and health services. "Assistant secretary" means the assistant
17 secretary for juvenile rehabilitation for the department;

18 (24) "Services" means services which provide alternatives to
19 incarceration for those juveniles who have pleaded or been adjudicated
20 guilty of an offense or have signed a diversion agreement pursuant to
21 this chapter;

22 (25) "Sex offense" means an offense defined as a sex offense in RCW
23 9.94A.030;

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

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

31 (28) "Violation" means an act or omission, which if committed by an
32 adult, must be proven beyond a reasonable doubt, and is punishable by
33 sanctions which do not include incarceration;

34 (29) "Violent offense" means a violent offense as defined in RCW
35 9.94A.030.

36 **Sec. 13.** RCW 13.40.0357 and 1998 c 290 s 5 are each amended to
37 read as follows:

DESCRIPTION AND OFFENSE CATEGORY

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	JUVENILE	JUVENILE DISPOSITION
	DISPOSITION	CATEGORY FOR ATTEMPT,
	OFFENSE	BAILJUMP, CONSPIRACY,
	CATEGORY	DESCRIPTION (RCW CITATION)
		OR SOLICITATION

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Arson and Malicious Mischief

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is	
	E class) (9A.48.090)	E
E	Tampering with Fire Alarm	
	Apparatus (9.40.100)	E
A	Possession of Incendiary Device	
	(9.40.120)	B+

Assault and Other Crimes

Involving Physical Harm

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting	
	(9A.36.045)	C+
D+	Reckless Endangerment	
	(9A.36.050)	E
C+	Promoting Suicide Attempt	
	(9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

Burglary and Trespass

B+	Burglary 1 (9A.52.020)	C+
B	Residential Burglary	
	(9A.52.025)	C
B	Burglary 2 (9A.52.030)	C

1	D	Burglary Tools (Possession of)	
2		(9A.52.060)	E
3	D	Criminal Trespass 1 (9A.52.070)	E
4	E	Criminal Trespass 2 (9A.52.080)	E
5	C	Vehicle Prowling 1 (9A.52.095)	D
6	D	Vehicle Prowling 2 (9A.52.100)	E
7		Drugs	
8	E	Possession/Consumption of Alcohol	
9		(66.44.270)	E
10	C	Illegally Obtaining Legend Drug	
11		(69.41.020)	D
12	C+	Sale, Delivery, Possession of Legend	
13		Drug with Intent to Sell	
14		(69.41.030)	D+
15	E	Possession of Legend Drug	
16		(69.41.030)	E
17	B+	Violation of Uniform Controlled	
18		Substances Act - Narcotic,	
19		Methamphetamine, or Flunitrazepam	
20		Sale (69.50.401(a)(1) (i) or (ii))	B+
21	C	Violation of Uniform Controlled	
22		Substances Act - Nonnarcotic Sale	
23		(69.50.401(a)(1)(iii))	C
24	E	Possession of Marihuana <40 grams	
25		(69.50.401(e))	E
26	C	Fraudulently Obtaining Controlled	
27		Substance (69.50.403)	C
28	C+	Sale of Controlled Substance	
29		for Profit (69.50.410)	C+
30	E	Unlawful Inhalation (9.47A.020)	E
31	B	Violation of Uniform Controlled	
32		Substances Act - Narcotic,	
33		Methamphetamine, or Flunitrazepam	
34		Counterfeit Substances	
35		(69.50.401(b)(1) (i) or (ii))	B
36	C	Violation of Uniform Controlled	
37		Substances Act - Nonnarcotic	

1		Counterfeit Substances	
2		(69.50.401(b)(1) (iii), (iv), (v))	C
3	C	Violation of Uniform Controlled	
4		Substances Act - Possession of a	
5		Controlled Substance	
6		(69.50.401(d))	C
7	C	Violation of Uniform Controlled	
8		Substances Act - Possession of a	
9		Controlled Substance	
10		(69.50.401(c))	C
11		Firearms and Weapons	
12	B	Theft of Firearm (9A.56.300)	C
13	B	Possession of Stolen Firearm	
14		(9A.56.310)	C
15	E	Carrying Loaded Pistol Without	
16		Permit (9.41.050)	E
17	C	Possession of Firearms by Minor (<18)	
18		(9.41.040(1)(b)(iii))	C
19	D+	Possession of Dangerous Weapon	
20		(9.41.250)	E
21	D	Intimidating Another Person by use	
22		of Weapon (9.41.270)	E
23		Homicide	
24	A+	Murder 1 (9A.32.030)	A
25	A+	Murder 2 (9A.32.050)	B+
26	B+	Manslaughter 1 (9A.32.060)	C+
27	C+	Manslaughter 2 (9A.32.070)	D+
28	B+	Vehicular Homicide (46.61.520)	C+
29		Kidnapping	
30	A	Kidnap 1 (9A.40.020)	B+
31	B+	Kidnap 2 (9A.40.030)	C+
32	C+	Unlawful Imprisonment	
33		(9A.40.040)	D+
34		Obstructing Governmental Operation	
35	D	Obstructing a Law Enforcement	
36		Officer (9A.76.020)	E
37	E	Resisting Arrest (9A.76.040)	E

1	B	Introducing Contraband 1	
2		(9A.76.140)	C
3	C	Introducing Contraband 2	
4		(9A.76.150)	D
5	E	Introducing Contraband 3	
6		(9A.76.160)	E
7	B+	Intimidating a Public Servant	
8		(9A.76.180)	C+
9	B+	Intimidating a Witness	
10		(9A.72.110)	C+
11		Public Disturbance	
12	C+	Riot with Weapon (9A.84.010)	D+
13	D+	Riot Without Weapon	
14		(9A.84.010)	E
15	E	Failure to Disperse (9A.84.020)	E
16	E	Disorderly Conduct (9A.84.030)	E
17		Sex Crimes	
18	A	Rape 1 (9A.44.040)	B+
19	A-	Rape 2 (9A.44.050)	B+
20	C+	Rape 3 (9A.44.060)	D+
21	A-	Rape of a Child 1 (9A.44.073)	B+
22	B+	Rape of a Child 2 (9A.44.076)	C+
23	B	Incest 1 (9A.64.020(1))	C
24	C	Incest 2 (9A.64.020(2))	D
25	D+	Indecent Exposure	
26		(Victim <14) (9A.88.010)	E
27	E	Indecent Exposure	
28		(Victim 14 or over) (9A.88.010)	E
29	B+	Promoting Prostitution 1	
30		(9A.88.070)	C+
31	C+	Promoting Prostitution 2	
32		(9A.88.080)	D+
33	E	O & A (Prostitution) (9A.88.030)	E
34	B+	Indecent Liberties (9A.44.100)	C+
35	A-	Child Molestation 1 (9A.44.083)	B+
36	B	Child Molestation 2 (9A.44.086)	C+

1		Theft, Robbery, Extortion, and Forgery	
2	B	Theft 1 (9A.56.030)	C
3	C	Theft 2 (9A.56.040)	D
4	D	Theft 3 (9A.56.050)	E
5	B	Theft of Livestock (9A.56.080)	C
6	C	Forgery (9A.60.020)	D
7	A	Robbery 1 (9A.56.200)	B+
8	B+	Robbery 2 (9A.56.210)	C+
9	B+	Extortion 1 (9A.56.120)	C+
10	C+	Extortion 2 (9A.56.130)	D+
11	B	Possession of Stolen Property 1	
12		(9A.56.150)	C
13	C	Possession of Stolen Property 2	
14		(9A.56.160)	D
15	D	Possession of Stolen Property 3	
16		(9A.56.170)	E
17	C	Taking Motor Vehicle Without	
18		Owner's Permission (9A.56.070)	D
19		Motor Vehicle Related Crimes	
20	E	Driving Without a License	
21		(46.20.005)	E
22	C	Hit and Run - Injury	
23		(46.52.020(4))	D
24	D	Hit and Run-Attended	
25		(46.52.020(5))	E
26	E	Hit and Run-Unattended	
27		(46.52.010)	E
28	C	Vehicular Assault (46.61.522)	D
29	C	Attempting to Elude Pursuing	
30		Police Vehicle (46.61.024)	D
31	E	Reckless Driving (46.61.500)	E
32	D	Driving While Under the Influence	
33		(46.61.502 and 46.61.504)	E
34		Other	
35	B	Bomb Threat (9.61.160)	C
36	C	Escape 1 (9A.76.110)	C
37	C	Escape 2 (9A.76.120)	C
38	D	Escape 3 (9A.76.130)	E

1	E	Obscene, Harassing, Etc.,	
2		Phone Calls (9.61.230)	E
3	A	Other Offense Equivalent to an	
4		Adult Class A Felony	B+
5	B	Other Offense Equivalent to an	
6		Adult Class B Felony	C
7	C	Other Offense Equivalent to an	
8		Adult Class C Felony	D
9	D	Other Offense Equivalent to an	
10		Adult Gross Misdemeanor	E
11	E	Other Offense Equivalent to an	
12		Adult Misdemeanor	E
13	V	Violation of Order of Restitution,	
14		Community Supervision, or	
15		Confinement (13.40.200)	V

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

18 1st escape or attempted escape during 12-month period - 4 weeks
19 confinement

20 2nd escape or attempted escape during 12-month period - 8 weeks
21 confinement

22 3rd and subsequent escape or attempted escape during 12-month
23 period - 12 weeks confinement

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

26 **JUVENILE SENTENCING STANDARDS**

27 This schedule must be used for juvenile offenders. The court may
28 select sentencing option A, B, or C.

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)) <u>Restitution</u>			
	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 **Sec. 14.** RCW 13.40.080 and 1997 c 338 s 70 are each amended to
25 read as follows:

26 (1) A diversion agreement shall be a contract between a juvenile
27 accused of an offense and a diversionary unit whereby the juvenile
28 agrees to fulfill certain conditions in lieu of prosecution. Such
29 agreements may be entered into only after the prosecutor, or probation
30 counselor pursuant to this chapter, has determined that probable cause
31 exists to believe that a crime has been committed and that the juvenile
32 committed it. Such agreements shall be entered into as expeditiously
33 as possible.

34 (2) A diversion agreement shall be limited to one or more of the
35 following:

1 (a) Community ((~~service~~)) restitution not to exceed one hundred
2 fifty hours, not to be performed during school hours if the juvenile is
3 attending school;

4 (b) Restitution limited to the amount of actual loss incurred by
5 the victim;

6 (c) Attendance at up to ten hours of counseling and/or up to
7 twenty hours of educational or informational sessions at a community
8 agency. The educational or informational sessions may include sessions
9 relating to respect for self, others, and authority; victim awareness;
10 accountability; self-worth; responsibility; work ethics; good
11 citizenship; literacy; and life skills. For purposes of this section,
12 "community agency" may also mean a community-based nonprofit
13 organization, if approved by the diversion unit. The state shall not
14 be liable for costs resulting from the diversionary unit exercising the
15 option to permit diversion agreements to mandate attendance at up to
16 ten hours of counseling and/or up to twenty hours of educational or
17 informational sessions;

18 (d) A fine, not to exceed one hundred dollars. In determining the
19 amount of the fine, the diversion unit shall consider only the
20 juvenile's financial resources and whether the juvenile has the means
21 to pay the fine. The diversion unit shall not consider the financial
22 resources of the juvenile's parents, guardian, or custodian in
23 determining the fine to be imposed; and

24 (e) Requirements to remain during specified hours at home, school,
25 or work, and restrictions on leaving or entering specified geographical
26 areas.

27 (3) In assessing periods of community ((~~service~~)) restitution to
28 be performed and restitution to be paid by a juvenile who has entered
29 into a diversion agreement, the court officer to whom this task is
30 assigned shall consult with the juvenile's custodial parent or parents
31 or guardian and victims who have contacted the diversionary unit and,
32 to the extent possible, involve members of the community. Such members
33 of the community shall meet with the juvenile and advise the court
34 officer as to the terms of the diversion agreement and shall supervise
35 the juvenile in carrying out its terms.

36 (4)(a) A diversion agreement may not exceed a period of six months
37 and may include a period extending beyond the eighteenth birthday of
38 the divertee.

1 (b) If additional time is necessary for the juvenile to complete
2 restitution to the victim, the time period limitations of this
3 subsection may be extended by an additional six months.

4 (c) If the juvenile has not paid the full amount of restitution by
5 the end of the additional six-month period, then the juvenile shall be
6 referred to the juvenile court for entry of an order establishing the
7 amount of restitution still owed to the victim. In this order, the
8 court shall also determine the terms and conditions of the restitution,
9 including a payment plan extending up to ten years if the court
10 determines that the juvenile does not have the means to make full
11 restitution over a shorter period. For the purposes of this subsection
12 (4)(c), the juvenile shall remain under the court's jurisdiction for a
13 maximum term of ten years after the juvenile's eighteenth birthday.
14 Prior to the expiration of the initial ten-year period, the juvenile
15 court may extend the judgment for restitution an additional ten years.
16 The court may not require the juvenile to pay full or partial
17 restitution if the juvenile reasonably satisfies the court that he or
18 she does not have the means to make full or partial restitution and
19 could not reasonably acquire the means to pay the restitution over a
20 ten-year period. The county clerk shall make disbursements to victims
21 named in the order. The restitution to victims named in the order
22 shall be paid prior to any payment for other penalties or monetary
23 assessments. A juvenile under obligation to pay restitution may
24 petition the court for modification of the restitution order.

25 (5) The juvenile shall retain the right to be referred to the
26 court at any time prior to the signing of the diversion agreement.

27 (6) Divertees and potential divertees shall be afforded due
28 process in all contacts with a diversionary unit regardless of whether
29 the juveniles are accepted for diversion or whether the diversion
30 program is successfully completed. Such due process shall include, but
31 not be limited to, the following:

32 (a) A written diversion agreement shall be executed stating all
33 conditions in clearly understandable language;

34 (b) Violation of the terms of the agreement shall be the only
35 grounds for termination;

36 (c) No diverttee may be terminated from a diversion program without
37 being given a court hearing, which hearing shall be preceded by:

38 (i) Written notice of alleged violations of the conditions of the
39 diversion program; and

1 (ii) Disclosure of all evidence to be offered against the
2 diverttee;

3 (d) The hearing shall be conducted by the juvenile court and shall
4 include:

5 (i) Opportunity to be heard in person and to present evidence;

6 (ii) The right to confront and cross-examine all adverse
7 witnesses;

8 (iii) A written statement by the court as to the evidence relied
9 on and the reasons for termination, should that be the decision; and

10 (iv) Demonstration by evidence that the diverttee has substantially
11 violated the terms of his or her diversion agreement.

12 (e) The prosecutor may file an information on the offense for
13 which the diverttee was diverted:

14 (i) In juvenile court if the diverttee is under eighteen years of
15 age; or

16 (ii) In superior court or the appropriate court of limited
17 jurisdiction if the diverttee is eighteen years of age or older.

18 (7) The diversion unit shall, subject to available funds, be
19 responsible for providing interpreters when juveniles need interpreters
20 to effectively communicate during diversion unit hearings or
21 negotiations.

22 (8) The diversion unit shall be responsible for advising a
23 diverttee of his or her rights as provided in this chapter.

24 (9) The diversion unit may refer a juvenile to community-based
25 counseling or treatment programs.

26 (10) The right to counsel shall inure prior to the initial
27 interview for purposes of advising the juvenile as to whether he or she
28 desires to participate in the diversion process or to appear in the
29 juvenile court. The juvenile may be represented by counsel at any
30 critical stage of the diversion process, including intake interviews
31 and termination hearings. The juvenile shall be fully advised at the
32 intake of his or her right to an attorney and of the relevant services
33 an attorney can provide. For the purpose of this section, intake
34 interviews mean all interviews regarding the diversion agreement
35 process.

36 The juvenile shall be advised that a diversion agreement shall
37 constitute a part of the juvenile's criminal history as defined by RCW
38 13.40.020(~~(+9)~~) (7). A signed acknowledgment of such advisement shall
39 be obtained from the juvenile, and the document shall be maintained by

1 the diversionary unit together with the diversion agreement, and a copy
2 of both documents shall be delivered to the prosecutor if requested by
3 the prosecutor. The supreme court shall promulgate rules setting forth
4 the content of such advisement in simple language.

5 (11) When a juvenile enters into a diversion agreement, the
6 juvenile court may receive only the following information for
7 dispositional purposes:

8 (a) The fact that a charge or charges were made;

9 (b) The fact that a diversion agreement was entered into;

10 (c) The juvenile's obligations under such agreement;

11 (d) Whether the alleged offender performed his or her obligations
12 under such agreement; and

13 (e) The facts of the alleged offense.

14 (12) A diversionary unit may refuse to enter into a diversion
15 agreement with a juvenile. When a diversionary unit refuses to enter
16 a diversion agreement with a juvenile, it shall immediately refer such
17 juvenile to the court for action and shall forward to the court the
18 criminal complaint and a detailed statement of its reasons for refusing
19 to enter into a diversion agreement. The diversionary unit shall also
20 immediately refer the case to the prosecuting attorney for action if
21 such juvenile violates the terms of the diversion agreement.

22 (13) A diversionary unit may, in instances where it determines
23 that the act or omission of an act for which a juvenile has been
24 referred to it involved no victim, or where it determines that the
25 juvenile referred to it has no prior criminal history and is alleged to
26 have committed an illegal act involving no threat of or instance of
27 actual physical harm and involving not more than fifty dollars in
28 property loss or damage and that there is no loss outstanding to the
29 person or firm suffering such damage or loss, counsel and release or
30 release such a juvenile without entering into a diversion agreement.
31 A diversion unit's authority to counsel and release a juvenile under
32 this subsection shall include the authority to refer the juvenile to
33 community-based counseling or treatment programs. Any juvenile
34 released under this subsection shall be advised that the act or
35 omission of any act for which he or she had been referred shall
36 constitute a part of the juvenile's criminal history as defined by RCW
37 13.40.020(~~(+9)~~) (7). A signed acknowledgment of such advisement shall
38 be obtained from the juvenile, and the document shall be maintained by
39 the unit, and a copy of the document shall be delivered to the

1 prosecutor if requested by the prosecutor. The supreme court shall
2 promulgate rules setting forth the content of such advisement in simple
3 language. A juvenile determined to be eligible by a diversionary unit
4 for release as provided in this subsection shall retain the same right
5 to counsel and right to have his or her case referred to the court for
6 formal action as any other juvenile referred to the unit.

7 (14) A diversion unit may supervise the fulfillment of a diversion
8 agreement entered into before the juvenile's eighteenth birthday and
9 which includes a period extending beyond the diverttee's eighteenth
10 birthday.

11 (15) If a fine required by a diversion agreement cannot reasonably
12 be paid due to a change of circumstance, the diversion agreement may be
13 modified at the request of the diverttee and with the concurrence of the
14 diversion unit to convert an unpaid fine into community ((~~service~~))
15 restitution. The modification of the diversion agreement shall be in
16 writing and signed by the diverttee and the diversion unit. The number
17 of hours of community ((~~service~~)) restitution in lieu of a monetary
18 penalty shall be converted at the rate of the prevailing state minimum
19 wage per hour.

20 (16) Fines imposed under this section shall be collected and paid
21 into the county general fund in accordance with procedures established
22 by the juvenile court administrator under RCW 13.04.040 and may be used
23 only for juvenile services. In the expenditure of funds for juvenile
24 services, there shall be a maintenance of effort whereby counties
25 exhaust existing resources before using amounts collected under this
26 section.

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

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

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

36 (b) When the court sentences an offender to a standard range as
37 provided in RCW 13.40.0357 option A that includes a term of confinement
38 exceeding thirty days, commitment shall be to the department for the

1 standard range of confinement, except as provided in subsections (2),
2 (4), and (5) of this section.

3 (2) If the court concludes, and enters reasons for its conclusion,
4 that disposition within the standard range would effectuate a manifest
5 injustice the court shall impose a disposition outside the standard
6 range, as indicated in option C of RCW 13.40.0357. The court's finding
7 of manifest injustice shall be supported by clear and convincing
8 evidence.

9 A disposition outside the standard range shall be determinate and
10 shall be comprised of confinement or community supervision, or a
11 combination thereof. When a judge finds a manifest injustice and
12 imposes a sentence of confinement exceeding thirty days, the court
13 shall sentence the juvenile to a maximum term, and the provisions of
14 RCW 13.40.030(2) shall be used to determine the range. A disposition
15 outside the standard range is appealable under RCW 13.40.230 by the
16 state or the respondent. A disposition within the standard range is
17 not appealable under RCW 13.40.230.

18 (3) Where a respondent is found to have committed an offense for
19 which the respondent declined to enter into a diversion agreement, the
20 court shall impose a term of community supervision limited to the
21 conditions allowed in a diversion agreement as provided in RCW
22 13.40.080(2).

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

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

36 The examiner shall assess and report regarding the respondent's
37 amenability to treatment and relative risk to the community. A
38 proposed treatment plan shall be provided and shall include, at a
39 minimum:

1 (a)(i) Frequency and type of contact between the offender and
2 therapist;

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

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

8 (iv) Anticipated length of treatment; and

9 (v) Recommended crime-related prohibitions.

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

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

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

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

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

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

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

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

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

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

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

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

31 The sex offender treatment provider shall submit quarterly reports
32 on the respondent's progress in treatment to the court and the parties.
33 The reports shall reference the treatment plan and include at a minimum
34 the following: Dates of attendance, respondent's compliance with
35 requirements, treatment activities, the respondent's relative progress
36 in treatment, and any other material specified by the court at the time
37 of the disposition.

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

1 Except as provided in this subsection (4), after July 1, 1991,
2 examinations and treatment ordered pursuant to this subsection shall
3 only be conducted by sex offender treatment providers certified by the
4 department of health pursuant to chapter 18.155 RCW. A sex offender
5 therapist who examines or treats a juvenile sex offender pursuant to
6 this subsection does not have to be certified by the department of
7 health pursuant to chapter 18.155 RCW if the court finds that: (A) The
8 offender has already moved to another state or plans to move to another
9 state for reasons other than circumventing the certification
10 requirements; (B) no certified providers are available for treatment
11 within a reasonable geographical distance of the offender's home; and
12 (C) the evaluation and treatment plan comply with this subsection (4)
13 and the rules adopted by the department of health.

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

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

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

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

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

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

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

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

11 **Sec. 16.** RCW 13.40.165 and 1997 c 338 s 26 are each amended to
12 read as follows:

13 (1) When a juvenile offender is subject to a standard range
14 disposition of local sanctions or 15 to 36 weeks of confinement and has
15 not committed an A- or B+ offense, the court, on its own motion or the
16 motion of the state or the respondent if the evidence shows that the
17 offender may be chemically dependent, may order an examination by a
18 chemical dependency counselor from a chemical dependency treatment
19 facility approved under chapter 70.96A RCW to determine if the youth is
20 chemically dependent and amenable to treatment.

21 (2) The report of the examination shall include at a minimum the
22 following: The respondent's version of the facts and the official
23 version of the facts, the respondent's offense history, an assessment
24 of drug-alcohol problems and previous treatment attempts, the
25 respondent's social, educational, and employment situation, and other
26 evaluation measures used. The report shall set forth the sources of
27 the examiner's information.

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

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

33 (b) Availability of appropriate treatment;

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

37 (d) Anticipated length of treatment;

38 (e) Recommended crime-related prohibitions; and

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

2 (4) The court on its own motion may order, or on a motion by the
3 state shall order, a second examination regarding the offender's
4 amenability to treatment. The evaluator shall be selected by the party
5 making the motion. The defendant shall pay the cost of any examination
6 ordered under this subsection (4) or subsection (1) of this section
7 unless the court finds that the offender is indigent and no third party
8 insurance coverage is available, in which case the state shall pay the
9 cost.

10 (5)(a) After receipt of reports of the examination, the court
11 shall then consider whether the offender and the community will benefit
12 from use of this chemical dependency disposition alternative and
13 consider the victim's opinion whether the offender should receive a
14 treatment disposition under this section.

15 (b) If the court determines that this chemical dependency
16 disposition alternative is appropriate, then the court shall impose the
17 standard range for the offense, suspend execution of the disposition,
18 and place the offender on community supervision for up to one year. As
19 a condition of the suspended disposition, the court shall require the
20 offender to undergo available outpatient drug/alcohol treatment and/or
21 inpatient drug/alcohol treatment. For purposes of this section, the
22 sum of confinement time and inpatient treatment may not exceed ninety
23 days. As a condition of the suspended disposition, the court may
24 impose conditions of community supervision and other sanctions,
25 including up to thirty days of confinement, one hundred fifty hours of
26 community ((~~service~~)) restitution, and payment of legal financial
27 obligations and restitution.

28 (6) The drug/alcohol treatment provider shall submit monthly
29 reports on the respondent's progress in treatment to the court and the
30 parties. The reports shall reference the treatment plan and include at
31 a minimum the following: Dates of attendance, respondent's compliance
32 with requirements, treatment activities, the respondent's relative
33 progress in treatment, and any other material specified by the court at
34 the time of the disposition.

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

37 If the offender violates any condition of the disposition or the
38 court finds that the respondent is failing to make satisfactory
39 progress in treatment, the court may revoke the suspension and order

1 execution of the disposition. The court shall give credit for any
2 confinement time previously served if that confinement was for the
3 offense for which the suspension is being revoked.

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

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

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

14 (10) A disposition under this section is not appealable under RCW
15 13.40.230.

16 **Sec. 17.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to
17 read as follows:

18 Where a disposition is imposed on a youth for two or more
19 offenses, the terms shall run consecutively, subject to the following
20 limitations:

21 (1) Where the offenses were committed through a single act or
22 omission, omission, or through an act or omission which in itself
23 constituted one of the offenses and also was an element of the other,
24 the aggregate of all the terms shall not exceed one hundred fifty
25 percent of the term imposed for the most serious offense;

26 (2) The aggregate of all consecutive terms shall not exceed three
27 hundred percent of the term imposed for the most serious offense; and

28 (3) The aggregate of all consecutive terms of community
29 supervision shall not exceed two years in length, or require payment of
30 more than two hundred dollars in fines or the performance of more than
31 two hundred hours of community (~~service~~) restitution.

32 **Sec. 18.** RCW 13.40.200 and 1997 c 338 s 31 are each amended to
33 read as follows:

34 (1) When a respondent fails to comply with an order of
35 restitution, community supervision, penalty assessments, or confinement
36 of less than thirty days, the court upon motion of the prosecutor or
37 its own motion, may modify the order after a hearing on the violation.

1 (2) The hearing shall afford the respondent the same due process
2 of law as would be afforded an adult probationer. The court may issue
3 a summons or a warrant to compel the respondent's appearance. The
4 state shall have the burden of proving by a preponderance of the
5 evidence the fact of the violation. The respondent shall have the
6 burden of showing that the violation was not a willful refusal to
7 comply with the terms of the order. If a respondent has failed to pay
8 a fine, penalty assessments, or restitution or to perform community
9 ((~~service~~)) restitution hours, as required by the court, it shall be
10 the respondent's burden to show that he or she did not have the means
11 and could not reasonably have acquired the means to pay the fine,
12 penalty assessments, or restitution or perform community ((~~service~~))
13 restitution.

14 (3) If the court finds that a respondent has willfully violated
15 the terms of an order pursuant to subsections (1) and (2) of this
16 section, it may impose a penalty of up to thirty days' confinement.
17 Penalties for multiple violations occurring prior to the hearing shall
18 not be aggregated to exceed thirty days' confinement. Regardless of
19 the number of times a respondent is brought to court for violations of
20 the terms of a single disposition order, the combined total number of
21 days spent by the respondent in detention shall never exceed the
22 maximum term to which an adult could be sentenced for the underlying
23 offense.

24 (4) If a respondent has been ordered to pay a fine or monetary
25 penalty and due to a change of circumstance cannot reasonably comply
26 with the order, the court, upon motion of the respondent, may order
27 that the unpaid fine or monetary penalty be converted to community
28 ((~~service~~)) restitution. The number of hours of community ((~~service~~))
29 restitution in lieu of a monetary penalty or fine shall be converted at
30 the rate of the prevailing state minimum wage per hour. The monetary
31 penalties or fines collected shall be deposited in the county general
32 fund. A failure to comply with an order under this subsection shall be
33 deemed a failure to comply with an order of community supervision and
34 may be proceeded against as provided in this section.

35 (5) When a respondent has willfully violated the terms of a
36 probation bond, the court may modify, revoke, or retain the probation
37 bond as provided in RCW 13.40.054.

1 **Sec. 19.** RCW 13.40.205 and 1990 c 3 s 103 are each amended to
2 read as follows:

3 (1) A juvenile sentenced to a term of confinement to be served
4 under the supervision of the department shall not be released from the
5 physical custody of the department prior to the release date
6 established under RCW 13.40.210 except as otherwise provided in this
7 section.

8 (2) A juvenile serving a term of confinement under the supervision
9 of the department may be released on authorized leave from the physical
10 custody of the department only if consistent with public safety and if:

11 (a) Sixty percent of the minimum term of confinement has been
12 served; and

13 (b) The purpose of the leave is to enable the juvenile:

14 (i) To visit the juvenile's family for the purpose of
15 strengthening or preserving family relationships;

16 (ii) To make plans for parole or release which require the
17 juvenile's personal appearance in the community and which will
18 facilitate the juvenile's reintegration into the community; or

19 (iii) To make plans for a residential placement out of the
20 juvenile's home which requires the juvenile's personal appearance in
21 the community.

22 (3) No authorized leave may exceed seven consecutive days. The
23 total of all pre-minimum term authorized leaves granted to a juvenile
24 prior to final discharge from confinement shall not exceed thirty days.

25 (4) Prior to authorizing a leave, the secretary shall require a
26 written leave plan, which shall detail the purpose of the leave and how
27 it is to be achieved, the address at which the juvenile shall reside,
28 the identity of the person responsible for supervising the juvenile
29 during the leave, and a statement by such person acknowledging
30 familiarity with the leave plan and agreeing to supervise the juvenile
31 and to notify the secretary immediately if the juvenile violates any
32 terms or conditions of the leave. The leave plan shall include such
33 terms and conditions as the secretary deems appropriate and shall be
34 signed by the juvenile.

35 (5) Upon authorizing a leave, the secretary shall issue to the
36 juvenile an authorized leave order which shall contain the name of the
37 juvenile, the fact that the juvenile is on leave from a designated
38 facility, the time period of the leave, and the identity of an
39 appropriate official of the department to contact when necessary. The

1 authorized leave order shall be carried by the juvenile at all times
2 while on leave.

3 (6) Prior to the commencement of any authorized leave, the
4 secretary shall give notice of the leave to the appropriate law
5 enforcement agency in the jurisdiction in which the juvenile will
6 reside during the leave period. The notice shall include the identity
7 of the juvenile, the time period of the leave, the residence of the
8 juvenile during the leave, and the identity of the person responsible
9 for supervising the juvenile during the leave.

10 (7) The secretary may authorize a leave, which shall not exceed
11 forty-eight hours plus travel time, to meet an emergency situation such
12 as a death or critical illness of a member of the juvenile's family.
13 The secretary may authorize a leave, which shall not exceed the period
14 of time medically necessary, to obtain medical care not available in a
15 juvenile facility maintained by the department. In cases of emergency
16 or medical leave the secretary may waive all or any portions of
17 subsections (2)(a), (3), (4), (5), and (6) of this section.

18 (8) If requested by the juvenile's victim or the victim's
19 immediate family, the secretary shall give notice of any leave to the
20 victim or the victim's immediate family.

21 (9) A juvenile who violates any condition of an authorized leave
22 plan may be taken into custody and returned to the department in the
23 same manner as an adult in identical circumstances.

24 (10) Notwithstanding the provisions of this section, a juvenile
25 placed in minimum security status may participate in work, educational,
26 community ((~~service~~)) restitution, or treatment programs in the
27 community up to twelve hours a day if approved by the secretary. Such
28 a release shall not be deemed a leave of absence.

29 (11) Subsections (6), (7), and (8) of this section do not apply to
30 juveniles covered by RCW 13.40.215.

31 **Sec. 20.** RCW 13.40.210 and 1997 c 338 s 32 are each amended to
32 read as follows:

33 (1) The secretary shall, except in the case of a juvenile
34 committed by a court to a term of confinement in a state institution
35 outside the appropriate standard range for the offense(s) for which the
36 juvenile was found to be guilty established pursuant to RCW 13.40.030,
37 set a release or discharge date for each juvenile committed to its
38 custody. The release or discharge date shall be within the prescribed

1 range to which a juvenile has been committed except as provided in RCW
2 13.40.320 concerning offenders the department determines are eligible
3 for the juvenile offender basic training camp program. Such dates
4 shall be determined prior to the expiration of sixty percent of a
5 juvenile's minimum term of confinement included within the prescribed
6 range to which the juvenile has been committed. The secretary shall
7 release any juvenile committed to the custody of the department within
8 four calendar days prior to the juvenile's release date or on the
9 release date set under this chapter. Days spent in the custody of the
10 department shall be tolled by any period of time during which a
11 juvenile has absented himself or herself from the department's
12 supervision without the prior approval of the secretary or the
13 secretary's designee.

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

35 (3)(a) Following the juvenile's release under subsection (1) of
36 this section, the secretary may require the juvenile to comply with a
37 program of parole to be administered by the department in his or her
38 community which shall last no longer than eighteen months, except that
39 in the case of a juvenile sentenced for rape in the first or second

1 degree, rape of a child in the first or second degree, child
2 molestation in the first degree, or indecent liberties with forcible
3 compulsion, the period of parole shall be twenty-four months and, in
4 the discretion of the secretary, may be up to thirty-six months when
5 the secretary finds that an additional period of parole is necessary
6 and appropriate in the interests of public safety or to meet the
7 ongoing needs of the juvenile. A parole program is mandatory for
8 offenders released under subsection (2) of this section. The decision
9 to place an offender on parole shall be based on an assessment by the
10 department of the offender's risk for reoffending upon release. The
11 department shall prioritize available parole resources to provide
12 supervision and services to offenders at moderate to high risk for
13 reoffending.

14 (b) The secretary shall, for the period of parole, facilitate the
15 juvenile's reintegration into his or her community and to further this
16 goal shall require the juvenile to refrain from possessing a firearm or
17 using a deadly weapon and refrain from committing new offenses and may
18 require the juvenile to: (i) Undergo available medical, psychiatric,
19 drug and alcohol, sex offender, mental health, and other offense-
20 related treatment services; (ii) report as directed to a parole officer
21 and/or designee; (iii) pursue a course of study, vocational training,
22 or employment; (iv) notify the parole officer of the current address
23 where he or she resides; (v) be present at a particular address during
24 specified hours; (vi) remain within prescribed geographical boundaries;
25 (vii) submit to electronic monitoring; (viii) refrain from using
26 illegal drugs and alcohol, and submit to random urinalysis when
27 requested by the assigned parole officer; (ix) refrain from contact
28 with specific individuals or a specified class of individuals; (x) meet
29 other conditions determined by the parole officer to further enhance
30 the juvenile's reintegration into the community; (xi) pay any court-
31 ordered fines or restitution; and (xii) perform community ((~~service~~))
32 restitution. Community ((~~service~~)) restitution for the purpose of this
33 section means compulsory service, without compensation, performed for
34 the benefit of the community by the offender. Community ((~~service~~))
35 restitution may be performed through public or private organizations or
36 through work crews.

37 (c) The secretary may further require up to twenty-five percent of
38 the highest risk juvenile offenders who are placed on parole to
39 participate in an intensive supervision program. Offenders

1 participating in an intensive supervision program shall be required to
2 comply with all terms and conditions listed in (b) of this subsection
3 and shall also be required to comply with the following additional
4 terms and conditions: (i) Obey all laws and refrain from any conduct
5 that threatens public safety; (ii) report at least once a week to an
6 assigned community case manager; and (iii) meet all other requirements
7 imposed by the community case manager related to participating in the
8 intensive supervision program. As a part of the intensive supervision
9 program, the secretary may require day reporting.

10 (d) After termination of the parole period, the juvenile shall be
11 discharged from the department's supervision.

12 (4)(a) The department may also modify parole for violation
13 thereof. If, after affording a juvenile all of the due process rights
14 to which he or she would be entitled if the juvenile were an adult, the
15 secretary finds that a juvenile has violated a condition of his or her
16 parole, the secretary shall order one of the following which is
17 reasonably likely to effectuate the purpose of the parole and to
18 protect the public: (i) Continued supervision under the same
19 conditions previously imposed; (ii) intensified supervision with
20 increased reporting requirements; (iii) additional conditions of
21 supervision authorized by this chapter; (iv) except as provided in
22 (a)(v) of this subsection, imposition of a period of confinement not to
23 exceed thirty days in a facility operated by or pursuant to a contract
24 with the state of Washington or any city or county for a portion of
25 each day or for a certain number of days each week with the balance of
26 the days or weeks spent under supervision; and (v) the secretary may
27 order any of the conditions or may return the offender to confinement
28 for the remainder of the sentence range if the offense for which the
29 offender was sentenced is rape in the first or second degree, rape of
30 a child in the first or second degree, child molestation in the first
31 degree, indecent liberties with forcible compulsion, or a sex offense
32 that is also a serious violent offense as defined by RCW 9.94A.030.

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

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

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

8 **Sec. 21.** RCW 13.40.250 and 1997 c 338 s 36 are each amended to
9 read as follows:

10 A traffic or civil infraction case involving a juvenile under the
11 age of sixteen may be diverted in accordance with the provisions of
12 this chapter or filed in juvenile court.

13 (1) If a notice of a traffic or civil infraction is filed in
14 juvenile court, the juvenile named in the notice shall be afforded the
15 same due process afforded to adult defendants in traffic infraction
16 cases.

17 (2) A monetary penalty imposed upon a juvenile under the age of
18 sixteen who is found to have committed a traffic or civil infraction
19 may not exceed one hundred dollars. At the juvenile's request, the
20 court may order performance of a number of hours of community
21 ~~((service))~~ restitution in lieu of a monetary penalty, at the rate of
22 the prevailing state minimum wage per hour.

23 (3) A diversion agreement entered into by a juvenile referred
24 pursuant to this section shall be limited to thirty hours of community
25 ~~((service))~~ restitution, or educational or informational sessions.

26 (4) If a case involving the commission of a traffic or civil
27 infraction or offense by a juvenile under the age of sixteen has been
28 referred to a diversion unit, an abstract of the action taken by the
29 diversion unit may be forwarded to the department of licensing in the
30 manner provided for in RCW 46.20.270(2).

31 **Sec. 22.** RCW 28A.225.090 and 1998 c 296 s 39 are each amended to
32 read as follows:

33 (1) A court may order a child subject to a petition under RCW
34 28A.225.035 to:

35 (a) Attend the child's current school;

36 (b) If there is space available and the program can provide
37 educational services appropriate for the child, order the child to

1 attend another public school, an alternative education program, center,
2 a skill center, dropout prevention program, or another public
3 educational program;

4 (c) Attend a private nonsectarian school or program including an
5 education center. Before ordering a child to attend an approved or
6 certified private nonsectarian school or program, the court shall: (i)
7 Consider the public and private programs available; (ii) find that
8 placement is in the best interest of the child; and (iii) find that the
9 private school or program is willing to accept the child and will not
10 charge any fees in addition to those established by contract with the
11 student's school district. If the court orders the child to enroll in
12 a private school or program, the child's school district shall contract
13 with the school or program to provide educational services for the
14 child. The school district shall not be required to contract for a
15 weekly rate that exceeds the state general apportionment dollars
16 calculated on a weekly basis generated by the child and received by the
17 district. A school district shall not be required to enter into a
18 contract that is longer than the remainder of the school year. A
19 school district shall not be required to enter into or continue a
20 contract if the child is no longer enrolled in the district;

21 (d) Be referred to a community truancy board, if available; or

22 (e) Submit to testing for the use of controlled substances or
23 alcohol based on a determination that such testing is appropriate to
24 the circumstances and behavior of the child and will facilitate the
25 child's compliance with the mandatory attendance law.

26 (2) If the child fails to comply with the court order, the court
27 may order the child to be punished by detention, as provided in RCW
28 7.21.030(2)(e), or may impose alternatives to detention such as
29 community ((~~service~~)) restitution. Failure by a child to comply with
30 an order issued under this subsection shall not be punishable by
31 detention for a period greater than that permitted pursuant to a civil
32 contempt proceeding against a child under chapter 13.32A RCW.

33 (3) Any parent violating any of the provisions of either RCW
34 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five
35 dollars for each day of unexcused absence from school. It shall be a
36 defense for a parent charged with violating RCW 28A.225.010 to show
37 that he or she exercised reasonable diligence in attempting to cause a
38 child in his or her custody to attend school or that the child's school
39 did not perform its duties as required in RCW 28A.225.020. The court

1 may order the parent to provide community ((~~service~~)) restitution
2 instead of imposing a fine. Any fine imposed pursuant to this section
3 may be suspended upon the condition that a parent charged with
4 violating RCW 28A.225.010 shall participate with the school and the
5 child in a supervised plan for the child's attendance at school or upon
6 condition that the parent attend a conference or conferences scheduled
7 by a school for the purpose of analyzing the causes of a child's
8 absence.

9 **Sec. 23.** RCW 35.21.209 and 1984 c 24 s 1 are each amended to read
10 as follows:

11 The legislative authority of a city or town may purchase liability
12 insurance in an amount it deems reasonable to protect the city or town,
13 its officers, and employees against liability for the wrongful acts of
14 offenders or injury or damage incurred by offenders in the course of
15 court-ordered community ((~~service~~)) restitution, and may elect to treat
16 offenders as employees and/or workers under Title 51 RCW.

17 **Sec. 24.** RCW 35A.21.220 and 1984 c 24 s 2 are each amended to
18 read as follows:

19 The legislative authority of a code city may purchase liability
20 insurance in an amount it deems reasonable to protect the code city,
21 its officers, and employees against liability for the wrongful acts of
22 offenders or injury or damage incurred by offenders in the course of
23 court-ordered community ((~~service~~)) restitution, and may elect to treat
24 offenders as employees and/or workers under Title 51 RCW.

25 **Sec. 25.** RCW 36.16.139 and 1984 c 24 s 3 are each amended to read
26 as follows:

27 The legislative authority of a county may purchase liability
28 insurance in an amount it deems reasonable to protect the county, its
29 officers, and employees against liability for the wrongful acts of
30 offenders or injury or damage incurred by offenders in the course of
31 community ((~~service~~)) restitution imposed by court order or pursuant to
32 RCW 13.40.080. The legislative authority of a county may elect to
33 treat offenders as employees and/or workers under Title 51 RCW.

34 **Sec. 26.** RCW 43.51.048 and 1996 c 263 s 3 are each amended to
35 read as follows:

1 (1) The commission shall establish a policy and procedures for
2 supervising and evaluating community ((~~service~~)) restitution activities
3 that may be imposed under RCW 70.93.060(3) including a description of
4 what constitutes satisfactory completion of community ((~~service~~))
5 restitution.

6 (2) The commission shall inform each state park of the policy and
7 procedures regarding community ((~~service~~)) restitution activities, and
8 each state park shall then notify the commission as to whether or not
9 the park elects to participate in the community ((~~service~~)) restitution
10 program. The commission shall transmit a list notifying the district
11 courts of each state park that elects to participate.

12 **Sec. 27.** RCW 46.16.381 and 1998 c 294 s 1 are each amended to
13 read as follows:

14 (1) The director shall grant special parking privileges to any
15 person who has a disability that limits or impairs the ability to walk
16 and meets one of the following criteria, as determined by a licensed
17 physician:

18 (a) Cannot walk two hundred feet without stopping to rest;

19 (b) Is severely limited in ability to walk due to arthritic,
20 neurological, or orthopedic condition;

21 (c) Is so severely disabled, that the person cannot walk without
22 the use of or assistance from a brace, cane, another person, prosthetic
23 device, wheelchair, or other assistive device;

24 (d) Uses portable oxygen;

25 (e) Is restricted by lung disease to such an extent that forced
26 expiratory respiratory volume, when measured by spirometry is less than
27 one liter per second or the arterial oxygen tension is less than sixty
28 mm/hg on room air at rest;

29 (f) Impairment by cardiovascular disease or cardiac condition to
30 the extent that the person's functional limitations are classified as
31 class III or IV under standards accepted by the American Heart
32 Association; or

33 (g) Has a disability resulting from an acute sensitivity to
34 automobile emissions which limits or impairs the ability to walk. The
35 personal physician of the applicant shall document that the disability
36 is comparable in severity to the others listed in this subsection.

37 (2) The applications for disabled parking permits and temporary
38 disabled parking permits are official state documents. Knowingly

1 providing false information in conjunction with the application is a
2 gross misdemeanor punishable under chapter 9A.20 RCW. The following
3 statement must appear on each application form immediately below the
4 physician's signature and immediately below the applicant's signature:
5 "A disabled parking permit may be issued only for a medical necessity
6 that severely affects mobility (RCW 46.16.381). Knowingly providing
7 false information on this application is a gross misdemeanor. The
8 penalty is up to one year in jail and a fine of up to \$5,000 or both."

9 (3) Persons who qualify for special parking privileges are
10 entitled to receive from the department of licensing a removable
11 windshield placard bearing the international symbol of access and an
12 individual serial number, along with a special identification card
13 bearing the photograph, name, and date of birth of the person to whom
14 the placard is issued, and the placard's serial number. The department
15 shall design the placard to be displayed when the vehicle is parked by
16 suspending it from the rearview mirror, or in the absence of a rearview
17 mirror the card may be displayed on the dashboard of any vehicle used
18 to transport the disabled person. Instead of regular motor vehicle
19 license plates, disabled persons are entitled to receive special
20 license plates bearing the international symbol of access for one
21 vehicle registered in the disabled person's name. Disabled persons who
22 are not issued the special license plates are entitled to receive a
23 second special placard upon submitting a written request to the
24 department. Persons who have been issued the parking privileges and
25 who are using a vehicle or are riding in a vehicle displaying the
26 special license plates or placard may park in places reserved for
27 mobility disabled persons. The director shall adopt rules providing
28 for the issuance of special placards and license plates to public
29 transportation authorities, nursing homes licensed under chapter 18.51
30 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen
31 centers, private nonprofit agencies as defined in chapter 24.03 RCW,
32 and vehicles registered with the department as cabulances that
33 regularly transport disabled persons who have been determined eligible
34 for special parking privileges provided under this section. The
35 director may issue special license plates for a vehicle registered in
36 the name of the public transportation authority, nursing home, boarding
37 homes, senior citizen center, private nonprofit agency, or cabulance
38 service if the vehicle is primarily used to transport persons with
39 disabilities described in this section. Public transportation

1 authorities, nursing homes, boarding homes, senior citizen centers,
2 private nonprofit agencies, and cabulance services are responsible for
3 insuring that the special placards and license plates are not used
4 improperly and are responsible for all fines and penalties for improper
5 use.

6 (4) Whenever the disabled person transfers or assigns his or her
7 interest in the vehicle, the special license plates shall be removed
8 from the motor vehicle. If another vehicle is acquired by the disabled
9 person and the vehicle owner qualifies for a special plate, the plate
10 shall be attached to the vehicle, and the director shall be immediately
11 notified of the transfer of the plate. If another vehicle is not
12 acquired by the disabled person, the removed plate shall be immediately
13 surrendered to the director.

14 (5) The special license plate shall be renewed in the same manner
15 and at the time required for the renewal of regular motor vehicle
16 license plates under this chapter. No special license plate may be
17 issued to a person who is temporarily disabled. A person who has a
18 condition expected to improve within six months may be issued a
19 temporary placard for a period not to exceed six months. If the
20 condition exists after six months a new temporary placard shall be
21 issued upon receipt of a new certification from the disabled person's
22 physician. The permanent parking placard and photo identification card
23 of a disabled person shall be renewed at least every five years, as
24 required by the director, by satisfactory proof of the right to
25 continued use of the privileges. In the event of the permit holder's
26 death, the parking placard and photo identification card must be
27 immediately surrendered to the department. The department shall match
28 and purge its disabled permit data base with available death record
29 information at least every twelve months.

30 (6) Each person who has been issued a permanent disabled parking
31 permit on or before July 1, 1998, must renew the permit no later than
32 July 1, 2003, subject to a schedule to be set by the department, or the
33 permit will expire.

34 (7) Additional fees shall not be charged for the issuance of the
35 special placards or the photo identification cards. No additional fee
36 may be charged for the issuance of the special license plates except
37 the regular motor vehicle registration fee and any other fees and taxes
38 required to be paid upon registration of a motor vehicle.

1 (8) Any unauthorized use of the special placard, special license
2 plate, or photo identification card is a traffic infraction with a
3 monetary penalty of two hundred fifty dollars.

4 (9) It is a parking infraction, with a monetary penalty of two
5 hundred fifty dollars for a person to make inaccessible the access
6 aisle located next to a space reserved for physically disabled persons.
7 The clerk of the court shall report all violations related to this
8 subsection to the department.

9 (10) It is a parking infraction, with a monetary penalty of two
10 hundred fifty dollars for any person to park a vehicle in a parking
11 place provided on private property without charge or on public property
12 reserved for physically disabled persons without a special license
13 plate or placard. If a person is charged with a violation, the person
14 shall not be determined to have committed an infraction if the person
15 produces in court or before the court appearance the special license
16 plate or placard required under this section. A local jurisdiction
17 providing nonmetered, on-street parking places reserved for physically
18 disabled persons may impose by ordinance time restrictions of no less
19 than four hours on the use of these parking places. A local
20 jurisdiction may impose by ordinance time restrictions of no less than
21 four hours on the use of nonreserved, on-street parking spaces by
22 vehicles displaying the special parking placards. All time
23 restrictions must be clearly posted.

24 (11) The penalties imposed under subsections (9) and (10) of this
25 section shall be used by that local jurisdiction exclusively for law
26 enforcement. The court may also impose an additional penalty
27 sufficient to reimburse the local jurisdiction for any costs it may
28 have incurred in removal and storage of the improperly parked vehicle.

29 (12) Except as provided by subsection (2) of this section, it is
30 a traffic infraction with a monetary penalty of two hundred fifty
31 dollars for any person willfully to obtain a special license plate,
32 placard, or photo identification card in a manner other than that
33 established under this section.

34 (13)(a) A law enforcement agency authorized to enforce parking
35 laws may appoint volunteers, with a limited commission, to issue
36 notices of infractions for violations of this section or RCW 46.61.581.
37 Volunteers must be at least twenty-one years of age. The law
38 enforcement agency appointing volunteers may establish any other
39 qualifications the agency deems desirable.

1 (b) An agency appointing volunteers under this section must
2 provide training to the volunteers before authorizing them to issue
3 notices of infractions.

4 (c) A notice of infraction issued by a volunteer appointed under
5 this subsection has the same force and effect as a notice of infraction
6 issued by a police officer for the same offense.

7 (d) A police officer or a volunteer may request a person to show
8 the person's photo identification card or special parking placard when
9 investigating the possibility of a violation of this section. If the
10 request is refused, the person in charge of the vehicle may be issued
11 a notice of infraction for a violation of this section.

12 (14) For second or subsequent violations of this section, in
13 addition to a monetary fine, the violator must complete a minimum of
14 forty hours of:

15 (a) Community ((~~service~~)) restitution for a nonprofit organization
16 that serves the disabled community or persons having disabling
17 diseases; or

18 (b) Any other community ((~~service~~)) restitution that may sensitize
19 the violator to the needs and obstacles faced by persons who have
20 disabilities.

21 (15) The court may not suspend more than one-half of any fine
22 imposed under subsection (8), (9), (10), or (12) of this section.

23 **Sec. 28.** RCW 46.20.031 and 1995 c 219 s 1 are each amended to
24 read as follows:

25 The department shall not issue a driver's license hereunder:

26 (1) To any person who is under the age of sixteen years;

27 (2) To any person whose license has been suspended during such
28 suspension, nor to any person whose license has been revoked, except as
29 provided in RCW 46.20.311;

30 (3) To any person who has been evaluated by a program approved by
31 the department of social and health services as being an alcoholic,
32 drug addict, alcohol abuser, and/or drug abuser: PROVIDED, That a
33 license may be issued if the department determines that such person has
34 been granted a deferred prosecution, pursuant to chapter 10.05 RCW, or
35 is satisfactorily participating in or has successfully completed an
36 alcohol or drug abuse treatment program approved by the department of
37 social and health services and has established control of his or her
38 alcohol and/or drug abuse problem;

1 (4) To any person who has previously been adjudged to be mentally
2 ill or insane, or to be incompetent due to any mental disability or
3 disease, and who has not at the time of application been restored to
4 competency by the methods provided by law: PROVIDED, HOWEVER, That no
5 person so adjudged shall be denied a license for such cause if the
6 superior court should find him able to operate a motor vehicle with
7 safety upon the highways during such incompetency;

8 (5) To any person who is required by this chapter to take an
9 examination, unless such person shall have successfully passed such
10 examination;

11 (6) To any person who is required under the laws of this state to
12 deposit proof of financial responsibility and who has not deposited
13 such proof;

14 (7) To any person when the department has good and substantial
15 evidence to reasonably conclude that such person by reason of physical
16 or mental disability would not be able to operate a motor vehicle with
17 safety upon the highways; subject to review by a court of competent
18 jurisdiction;

19 (8) To a person when the department has been notified by a court
20 that the person has violated his or her written promise to appear,
21 respond, or comply regarding a notice of infraction issued for a
22 violation of RCW 46.55.105, unless the department has received notice
23 from the court showing that the person has been found not to have
24 committed the violation of RCW 46.55.105, or that the person has paid
25 all monetary penalties owing, including completion of community
26 ((service)) restitution, and that the court is satisfied that the
27 person has made restitution as provided by RCW 46.55.105(2).

28 **Sec. 29.** RCW 46.30.020 and 1991 sp.s. c 25 s 1 are each amended
29 to read as follows:

30 (1)(a) No person may operate a motor vehicle subject to
31 registration under chapter 46.16 RCW in this state unless the person is
32 insured under a motor vehicle liability policy with liability limits of
33 at least the amounts provided in RCW 46.29.090, is self-insured as
34 provided in RCW 46.29.630, is covered by a certificate of deposit in
35 conformance with RCW 46.29.550, or is covered by a liability bond of at
36 least the amounts provided in RCW 46.29.090. Written proof of
37 financial responsibility for motor vehicle operation must be provided

1 on the request of a law enforcement officer in the format specified
2 under RCW 46.30.030.

3 (b) A person who drives a motor vehicle that is required to be
4 registered in another state that requires drivers and owners of
5 vehicles in that state to maintain insurance or financial
6 responsibility shall, when requested by a law enforcement officer,
7 provide evidence of financial responsibility or insurance as is
8 required by the laws of the state in which the vehicle is registered.

9 (c) When asked to do so by a law enforcement officer, failure to
10 display an insurance identification card as specified under RCW
11 46.30.030 creates a presumption that the person does not have motor
12 vehicle insurance.

13 (d) Failure to provide proof of motor vehicle insurance is a
14 traffic infraction and is subject to penalties as set by the supreme
15 court under RCW 46.63.110 or community ((~~service~~)) restitution.

16 (2) If a person cited for a violation of subsection (1) of this
17 section appears in person before the court and provides written
18 evidence that at the time the person was cited, he or she was in
19 compliance with the financial responsibility requirements of subsection
20 (1) of this section, the citation shall be dismissed. In lieu of
21 personal appearance, a person cited for a violation of subsection (1)
22 of this section may, before the date scheduled for the person's
23 appearance before the court, submit by mail to the court written
24 evidence that at the time the person was cited, he or she was in
25 compliance with the financial responsibility requirements of subsection
26 (1) of this section, in which case the citation shall be dismissed
27 without cost, except that the court may assess court administrative
28 costs of twenty-five dollars at the time of dismissal.

29 (3) The provisions of this chapter shall not govern:

30 (a) The operation of a motor vehicle registered under RCW
31 46.16.305(1), governed by RCW 46.16.020, or registered with the
32 Washington utilities and transportation commission as common or
33 contract carriers; or

34 (b) The operation of a motorcycle as defined in RCW 46.04.330, a
35 motor-driven cycle as defined in RCW 46.04.332, or a moped as defined
36 in RCW 46.04.304.

37 (4) RCW 46.29.490 shall not be deemed to govern all motor vehicle
38 liability policies required by this chapter but only those certified
39 for the purposes stated in chapter 46.29 RCW.

1 **Sec. 30.** RCW 46.63.120 and 1979 ex.s. c 136 s 14 are each amended
2 to read as follows:

3 (1) An order entered after the receipt of a response which does
4 not contest the determination, or after it has been established at a
5 hearing that the infraction was committed, or after a hearing for the
6 purpose of explaining mitigating circumstances is civil in nature.

7 (2) The court may include in the order the imposition of any
8 penalty authorized by the provisions of this chapter for the commission
9 of an infraction. The court may, in its discretion, waive, reduce, or
10 suspend the monetary penalty prescribed for the infraction. At the
11 person's request the court may order performance of a number of hours
12 of community ((~~service~~)) restitution in lieu of a monetary penalty, at
13 the rate of the then state minimum wage per hour.

14 **Sec. 31.** RCW 66.20.200 and 1994 c 201 s 1 are each amended to
15 read as follows:

16 It shall be unlawful for the owner of a card of identification to
17 transfer the card to any other person for the purpose of aiding such
18 person to procure alcoholic beverages from any licensee or store
19 employee. Any person who shall permit his or her card of
20 identification to be used by another or transfer such card to another
21 for the purpose of aiding such transferee to obtain alcoholic beverages
22 from a licensee or store employee or gain admission to a premises or
23 portion of a premises classified by the board as off-limits to persons
24 under twenty-one years of age, shall be guilty of a misdemeanor
25 punishable as provided by RCW 9A.20.021, except that a minimum fine of
26 two hundred fifty dollars shall be imposed and any sentence requiring
27 community ((~~service~~)) restitution shall require not fewer than twenty-
28 five hours of ((~~such service~~)) community restitution. Any person not
29 entitled thereto who unlawfully procures or has issued or transferred
30 to him or her a card of identification, and any person who possesses a
31 card of identification not issued to him or her, and any person who
32 makes any false statement on any certification card required by RCW
33 66.20.190, as now or hereafter amended, to be signed by him or her,
34 shall be guilty of a misdemeanor punishable as provided by RCW
35 9A.20.021, except that a minimum fine of two hundred fifty dollars
36 shall be imposed and any sentence requiring community ((~~service~~))
37 restitution shall require not fewer than twenty-five hours of ((~~such~~
38 ~~service~~)) community restitution.

1 **Sec. 32.** RCW 66.44.291 and 1987 c 101 s 1 are each amended to
2 read as follows:

3 Every person between the ages of eighteen and twenty, inclusive,
4 who is convicted of a violation of RCW 66.44.290 is guilty of a
5 misdemeanor punishable as provided by RCW 9A.20.021, except that a
6 minimum fine of two hundred fifty dollars shall be imposed and any
7 sentence requiring community ((~~service~~)) restitution shall require not
8 fewer than twenty-five hours of ((~~such service~~)) community restitution.

9 **Sec. 33.** RCW 66.44.325 and 1987 c 101 s 2 are each amended to
10 read as follows:

11 Any person who transfers in any manner an identification of age to
12 a minor for the purpose of permitting such minor to obtain alcoholic
13 beverages shall be guilty of a misdemeanor punishable as provided by
14 RCW 9A.20.021, except that a minimum fine of two hundred fifty dollars
15 shall be imposed and any sentence requiring community ((~~service~~))
16 restitution shall require not fewer than twenty-five hours of ((~~such~~
17 ~~service~~)) community restitution: PROVIDED, That corroborative
18 testimony of a witness other than the minor shall be a condition
19 precedent to conviction.

20 **Sec. 34.** RCW 69.50.425 and 1989 c 271 s 105 are each amended to
21 read as follows:

22 A person who is convicted of a misdemeanor violation of any
23 provision of this chapter shall be punished by imprisonment for not
24 less than twenty-four consecutive hours, and by a fine of not less than
25 two hundred fifty dollars. On a second or subsequent conviction, the
26 fine shall not be less than five hundred dollars. These fines shall be
27 in addition to any other fine or penalty imposed. Unless the court
28 finds that the imposition of the minimum imprisonment will pose a
29 substantial risk to the defendant's physical or mental well-being or
30 that local jail facilities are in an overcrowded condition, the minimum
31 term of imprisonment shall not be suspended or deferred. If the court
32 finds such risk or overcrowding exists, it shall sentence the defendant
33 to a minimum of forty hours of community ((~~service~~)) restitution. If
34 a minimum term of imprisonment is suspended or deferred, the court
35 shall state in writing the reason for granting the suspension or
36 deferral and the facts upon which the suspension or deferral is based.

1 Unless the court finds the person to be indigent, the minimum fine
2 shall not be suspended or deferred.

3 **Sec. 35.** RCW 70.93.060 and 1997 c 159 s 1 are each amended to
4 read as follows:

5 (1) No person shall throw, drop, deposit, discard, or otherwise
6 dispose of litter upon any public property in the state or upon private
7 property in this state not owned by him or her or in the waters of this
8 state whether from a vehicle or otherwise including but not limited to
9 any public highway, public park, beach, campground, forest land,
10 recreational area, trailer park, highway, road, street, or alley
11 except:

12 (a) When the property is designated by the state or its agencies
13 or political subdivisions for the disposal of garbage and refuse, and
14 the person is authorized to use such property for that purpose;

15 (b) Into a litter receptacle in a manner that will prevent litter
16 from being carried away or deposited by the elements upon any part of
17 said private or public property or waters.

18 (2)(a) Except as provided in subsection (4) of this section, it is
19 a class 3 civil infraction as provided in RCW 7.80.120 for a person to
20 litter in an amount less than or equal to one cubic foot.

21 (b) It is a class 1 civil infraction as provided in RCW 7.80.120
22 for a person to litter in an amount greater than one cubic foot.
23 Unless suspended or modified by a court, the person shall also pay a
24 litter cleanup fee of twenty-five dollars per cubic foot of litter.
25 The court may, in addition to or in lieu of part or all of the cleanup
26 fee, order the person to pick up and remove litter from the property,
27 with prior permission of the legal owner or, in the case of public
28 property, of the agency managing the property.

29 (3) If the violation occurs in a state park, the court shall, in
30 addition to any other penalties assessed, order the person to perform
31 twenty-four hours of community (~~service~~) restitution in the state
32 park where the violation occurred if the state park has stated an
33 intent to participate as provided in RCW 43.51.048(2).

34 (4) It is a class 1 civil infraction as provided in RCW 7.80.120
35 for a person to discard, in violation of this section, a cigarette,
36 cigar, or other tobacco product that is capable of starting a fire.

1 **Sec. 36.** RCW 70.93.250 and 1998 c 257 s 10 and 1998 c 245 s 128
2 are each reenacted and amended to read as follows:

3 (1) The department shall provide funding to local units of
4 government to establish, conduct, and evaluate community ((~~service~~))
5 restitution and other programs for waste reduction, litter and illegal
6 dump cleanup, and recycling. Programs eligible for funding under this
7 section shall include, but not be limited to, programs established
8 pursuant to RCW 72.09.260.

9 (2) Funds may be offered for costs associated with community waste
10 reduction, litter cleanup and prevention, and recycling activities.
11 The funding program must be flexible, allowing local governments to use
12 funds broadly to meet their needs to reduce waste, control litter and
13 illegal dumping, and promote recycling. Local governments are required
14 to contribute resources or in-kind services. The department shall
15 evaluate funding requests from local government according to the same
16 criteria as those developed in RCW 70.93.220, provide funds according
17 to the effectiveness and efficiency of local government litter control
18 programs, and monitor the results of all local government programs
19 under this section.

20 (3) Local governments shall report information as requested by the
21 department in funding agreements entered into by the department and a
22 local government. The department shall report to the appropriate
23 standing committees of the legislature by December of even-numbered
24 years on the effectiveness of local government waste reduction, litter,
25 and recycling programs funded under this section.

26 **Sec. 37.** RCW 70.155.080 and 1998 c 133 s 2 are each amended to
27 read as follows:

28 (1) A person under the age of eighteen who purchases or attempts
29 to purchase, possesses, or obtains or attempts to obtain cigarettes or
30 tobacco products commits a class 3 civil infraction under chapter 7.80
31 RCW and is subject to a fine as set out in chapter 7.80 RCW or
32 participation in up to four hours of community ((~~service~~)) restitution,
33 or both. The court may also require participation in a smoking
34 cessation program. This provision does not apply if a person under the
35 age of eighteen, with parental authorization, is participating in a
36 controlled purchase as part of a liquor control board, law enforcement,
37 or local health department activity.

1 (2) Municipal and district courts within the state have
2 jurisdiction for enforcement of this section.

3 **Sec. 38.** RCW 72.09.060 and 1989 c 185 s 3 are each amended to
4 read as follows:

5 The department of corrections may be organized into such divisions
6 or offices as the secretary may determine, but shall include divisions
7 for (1) correctional industries, (2) prisons and other custodial
8 institutions and (3) probation, parole, community ~~((service))~~
9 restitution, restitution, and other nonincarcerative sanctions. The
10 secretary shall have at least one person on his or her staff who shall
11 have the responsibility for developing a program which encourages the
12 use of volunteers, for citizen advisory groups, and for similar public
13 involvement programs in the corrections area. Minimum qualification
14 for staff assigned to public involvement responsibilities shall include
15 previous experience in working with volunteers or volunteer agencies.

16 **Sec. 39.** RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each
17 amended to read as follows:

18 It is the intent of the legislature to vest in the department the
19 power to provide for a comprehensive inmate work program and to remove
20 statutory and other restrictions which have limited work programs in
21 the past. For purposes of establishing such a comprehensive program,
22 the legislature recommends that the department consider adopting any or
23 all, or any variation of, the following classes of work programs:

24 (1) CLASS I: FREE VENTURE INDUSTRIES. The employer model
25 industries in this class shall be operated and managed in total or in
26 part by any profit or nonprofit organization pursuant to an agreement
27 between the organization and the department. The organization shall
28 produce goods or services for sale to both the public and private
29 sector.

30 The customer model industries in this class shall be operated and
31 managed by the department to provide Washington state manufacturers or
32 businesses with products or services currently produced or provided by
33 out-of-state or foreign suppliers. The correctional industries board
34 of directors shall review these proposed industries before the
35 department contracts to provide such products or services. The review
36 shall include an analysis of the potential impact of the proposed

1 products and services on the Washington state business community and
2 labor market.

3 The department of corrections shall supply appropriate security
4 and custody services without charge to the participating firms.

5 Inmates who work in free venture industries shall do so at their
6 own choice. They shall be paid a wage comparable to the wage paid for
7 work of a similar nature in the locality in which the industry is
8 located, as determined by the director of correctional industries. If
9 the director cannot reasonably determine the comparable wage, then the
10 pay shall not be less than the federal minimum wage.

11 An inmate who is employed in the class I program of correctional
12 industries shall not be eligible for unemployment compensation benefits
13 pursuant to any of the provisions of Title 50 RCW until released on
14 parole or discharged.

15 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class
16 shall be state-owned and operated enterprises designed to reduce the
17 costs for goods and services for tax-supported agencies and for
18 nonprofit organizations. The industries selected for development
19 within this class shall, as much as possible, match the available pool
20 of inmate work skills and aptitudes with the work opportunities in the
21 free community. The industries shall be closely patterned after
22 private sector industries but with the objective of reducing public
23 support costs rather than making a profit. The products and services
24 of this industry, including purchased products and services necessary
25 for a complete product line, may be sold to public agencies, to
26 nonprofit organizations, and to private contractors when the goods
27 purchased will be ultimately used by a public agency or a nonprofit
28 organization. Clothing manufactured by an industry in this class may
29 be donated to nonprofit organizations that provide clothing free of
30 charge to low-income persons. Correctional industries products and
31 services shall be reviewed by the correctional industries board of
32 directors before offering such products and services for sale to
33 private contractors. The board of directors shall conduct a yearly
34 marketing review of the products and services offered under this
35 subsection. Such review shall include an analysis of the potential
36 impact of the proposed products and services on the Washington state
37 business community. To avoid waste or spoilage and consequent loss to
38 the state, when there is no public sector market for such goods,
39 byproducts and surpluses of timber, agricultural, and animal husbandry

1 enterprises may be sold to private persons, at private sale. Surplus
2 byproducts and surpluses of timber, agricultural and animal husbandry
3 enterprises that cannot be sold to public agencies or to private
4 persons may be donated to nonprofit organizations. All sales of
5 surplus products shall be carried out in accordance with rules
6 prescribed by the secretary.

7 Security and custody services shall be provided without charge by
8 the department of corrections.

9 Inmates working in this class of industries shall do so at their
10 own choice and shall be paid for their work on a gratuity scale which
11 shall not exceed the wage paid for work of a similar nature in the
12 locality in which the industry is located and which is approved by the
13 director of correctional industries.

14 Subject to approval of the correctional industries board,
15 provisions of RCW 41.06.380 prohibiting contracting out work performed
16 by classified employees shall not apply to contracts with Washington
17 state businesses entered into by the department of corrections through
18 class II industries.

19 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries in
20 this class shall be operated by the department of corrections. They
21 shall be designed and managed to accomplish the following objectives:

22 (a) Whenever possible, to provide basic work training and
23 experience so that the inmate will be able to qualify for better work
24 both within correctional industries and the free community. It is not
25 intended that an inmate's work within this class of industries should
26 be his or her final and total work experience as an inmate.

27 (b) Whenever possible, to provide forty hours of work or work
28 training per week.

29 (c) Whenever possible, to offset tax and other public support
30 costs.

31 Supervising, management, and custody staff shall be employees of
32 the department.

33 All able and eligible inmates who are assigned work and who are
34 not working in other classes of industries shall work in this class.

35 Except for inmates who work in work training programs, inmates in
36 this class shall be paid for their work in accordance with an inmate
37 gratuity scale. The scale shall be adopted by the secretary of
38 corrections.

1 (4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this
2 class shall be operated by the department of corrections. They shall
3 be designed and managed to provide services in the inmate's resident
4 community at a reduced cost. The services shall be provided to public
5 agencies, to persons who are poor or infirm, or to nonprofit
6 organizations.

7 Inmates in this program shall reside in facilities owned by,
8 contracted for, or licensed by the department of corrections. A unit
9 of local government shall provide work supervision services without
10 charge to the state and shall pay the inmate's wage.

11 The department of corrections shall reimburse participating units
12 of local government for liability and workers compensation insurance
13 costs.

14 Inmates who work in this class of industries shall do so at their
15 own choice and shall receive a gratuity which shall not exceed the wage
16 paid for work of a similar nature in the locality in which the industry
17 is located.

18 (5) CLASS V: COMMUNITY (~~(SERVICE)~~) RESTITUTION PROGRAMS.
19 Programs in this class shall be subject to supervision by the
20 department of corrections. The purpose of this class of industries is
21 to enable an inmate, placed on community supervision, to work off all
22 or part of a community (~~(service)~~) restitution order as ordered by the
23 sentencing court.

24 Employment shall be in a community (~~(service)~~) restitution program
25 operated by the state, local units of government, or a nonprofit
26 agency.

27 To the extent that funds are specifically made available for such
28 purposes, the department of corrections shall reimburse nonprofit
29 agencies for workers compensation insurance costs.

30 **Sec. 40.** RCW 72.09.260 and 1990 c 66 s 2 are each amended to read
31 as follows:

32 (1) The department shall assist local units of government in
33 establishing community (~~(service)~~) restitution programs for litter
34 cleanup. Community (~~(service)~~) restitution litter cleanup programs
35 must include the following: (a) Procedures for documenting the number
36 of community (~~(service)~~) restitution hours worked in litter cleanup by
37 each offender; (b) plans to coordinate litter cleanup activities with
38 local governmental entities responsible for roadside and park

1 maintenance; (c) insurance coverage for offenders during litter cleanup
2 activities pursuant to RCW 51.12.045; (d) provision of adequate safety
3 equipment and, if needed, weather protection gear; and (e) provision
4 for including felons and misdemeanants in the program.

5 (2) Community ((~~service~~)) restitution programs established under
6 this section shall involve, but not be limited to, persons convicted of
7 nonviolent, drug-related offenses.

8 (3) Nothing in this section shall diminish the department's
9 authority to place offenders in community ((~~service~~)) restitution
10 programs or to determine the suitability of offenders for specific
11 programs.

12 (4) As used in this section, "litter cleanup" includes cleanup and
13 removal of solid waste that is illegally dumped.

--- END ---