

ESSB 5903 - H COMM AMD

By Committee on Juvenile Justice & Family Law

ADOPTED AS AMENDED 04/24/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 72.05 RCW
4 to read as follows:

5 (1) It is the intent of the legislature that appropriate treatment
6 services be provided to juvenile offenders in order to achieve
7 rehabilitation. The treatment should be provided at either local
8 detention facilities or at state institutions depending upon which
9 facility best meets the needs of the individual juvenile offender. The
10 legislature recognizes that a consequence of the treatment alternatives
11 established under this act is a reduction in the juvenile
12 rehabilitation administration's institutional population. As a result
13 of a decrease in institutional population it may become necessary to
14 consolidate institutional facilities or services.

15 (2) No juvenile rehabilitation administration institution shall be
16 closed without specific authorization in an act of the legislature.

17 (3) If a juvenile rehabilitation administration institution is
18 closed by the legislature, the department of corrections shall be
19 prohibited from operating the institution and the institution shall not
20 be used to incarcerate adult offenders.

21 **Sec. 2.** RCW 13.40.0357 and 2002 c 324 s 3 and 2002 c 175 s 20 are
22 each reenacted and amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

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

1		
2	Arson and Malicious Mischief		
3	A	Arson 1 (9A.48.020)	B+
4	B	Arson 2 (9A.48.030)	C
5	C	Reckless Burning 1 (9A.48.040)	D
6	D	Reckless Burning 2 (9A.48.050)	E
7	B	Malicious Mischief 1 (9A.48.070)	C
8	C	Malicious Mischief 2 (9A.48.080)	D
9	D	Malicious Mischief 3 (<\$50 is E class)	
10		(9A.48.090)	E
11	E	Tampering with Fire Alarm Apparatus	
12		(9.40.100)	E
13	A	Possession of Incendiary Device (9.40.120)	B+
14	Assault and Other Crimes Involving		
15	Physical Harm		
16	A	Assault 1 (9A.36.011)	B+
17	B+	Assault 2 (9A.36.021)	C+
18	C+	Assault 3 (9A.36.031)	D+
19	D+	Assault 4 (9A.36.041)	E
20	B+	Drive-By Shooting (9A.36.045)	C+
21	D+	Reckless Endangerment (9A.36.050)	E
22	C+	Promoting Suicide Attempt (9A.36.060)	D+
23	D+	Coercion (9A.36.070)	E
24	C+	Custodial Assault (9A.36.100)	D+
25	Burglary and Trespass		
26	B+	Burglary 1 (9A.52.020)	C+
27	B	Residential Burglary (9A.52.025)	C
28	B	Burglary 2 (9A.52.030)	C
29	D	Burglary Tools (Possession of) (9A.52.060)	E
30	D	Criminal Trespass 1 (9A.52.070)	E
31	E	Criminal Trespass 2 (9A.52.080)	E
32	C	Vehicle Prowling 1 (9A.52.095)	D
33	D	Vehicle Prowling 2 (9A.52.100)	E
34	Drugs		
35	E	Possession/Consumption of Alcohol	
36		(66.44.270)	E

1	C	Illegally Obtaining Legend Drug	
2		(69.41.020)	D
3	C+	Sale, Delivery, Possession of Legend Drug	
4		with Intent to Sell (69.41.030)	D+
5	E	Possession of Legend Drug (69.41.030)	E
6	B+	Violation of Uniform Controlled	
7		Substances Act - Narcotic,	
8		Methamphetamine, or Flunitrazepam Sale	
9		(69.50.401(a)(1) (i) or (ii))	B+
10	C	Violation of Uniform Controlled	
11		Substances Act - Nonnarcotic Sale	
12		(69.50.401(a)(1)(iii))	C
13	E	Possession of Marihuana <40 grams	
14		(69.50.401(e))	E
15	C	Fraudulently Obtaining Controlled	
16		Substance (69.50.403)	C
17	C+	Sale of Controlled Substance for Profit	
18		(69.50.410)	C+
19	E	Unlawful Inhalation (9.47A.020)	E
20	B	Violation of Uniform Controlled	
21		Substances Act - Narcotic,	
22		Methamphetamine, or Flunitrazepam	
23		Counterfeit Substances (69.50.401(b)(1) (i)	
24		or (ii))	B
25	C	Violation of Uniform Controlled	
26		Substances Act - Nonnarcotic Counterfeit	
27		Substances (69.50.401(b)(1) (iii), (iv), (v))	C
28	C	Violation of Uniform Controlled	
29		Substances Act - Possession of a Controlled	
30		Substance (69.50.401(d))	C
31	C	Violation of Uniform Controlled	
32		Substances Act - Possession of a Controlled	
33		Substance (69.50.401(c))	C
34		Firearms and Weapons	
35	B	Theft of Firearm (9A.56.300)	C
36	B	Possession of Stolen Firearm (9A.56.310)	C

1	E	Carrying Loaded Pistol Without Permit (9.41.050)	E
2			
3	C	Possession of Firearms by Minor (<18) (9.41.040(1)(b)(iii))	C
4			
5	D+	Possession of Dangerous Weapon (9.41.250)	E
6			
7	D	Intimidating Another Person by use of Weapon (9.41.270)	E
8			
9		Homicide	
10	A+	Murder 1 (9A.32.030)	A
11	A+	Murder 2 (9A.32.050)	B+
12	B+	Manslaughter 1 (9A.32.060)	C+
13	C+	Manslaughter 2 (9A.32.070)	D+
14	B+	Vehicular Homicide (46.61.520)	C+
15		Kidnapping	
16	A	Kidnap 1 (9A.40.020)	B+
17	B+	Kidnap 2 (9A.40.030)	C+
18	C+	Unlawful Imprisonment (9A.40.040)	D+
19		Obstructing Governmental Operation	
20	D	Obstructing a Law Enforcement Officer (9A.76.020)	E
21			
22	E	Resisting Arrest (9A.76.040)	E
23	B	Introducing Contraband 1 (9A.76.140)	C
24	C	Introducing Contraband 2 (9A.76.150)	D
25	E	Introducing Contraband 3 (9A.76.160)	E
26	B+	Intimidating a Public Servant (9A.76.180)	C+
27	B+	Intimidating a Witness (9A.72.110)	C+
28		Public Disturbance	
29	C+	Riot with Weapon (9A.84.010)	D+
30	D+	Riot Without Weapon (9A.84.010)	E
31	E	Failure to Disperse (9A.84.020)	E
32	E	Disorderly Conduct (9A.84.030)	E
33		Sex Crimes	
34	A	Rape 1 (9A.44.040)	B+
35	A-	Rape 2 (9A.44.050)	B+
36	C+	Rape 3 (9A.44.060)	D+

1	A-	Rape of a Child 1 (9A.44.073)	B+
2	B+	Rape of a Child 2 (9A.44.076)	C+
3	B	Incest 1 (9A.64.020(1))	C
4	C	Incest 2 (9A.64.020(2))	D
5	D+	Indecent Exposure (Victim <14)	
6		(9A.88.010)	E
7	E	Indecent Exposure (Victim 14 or over)	
8		(9A.88.010)	E
9	B+	Promoting Prostitution 1 (9A.88.070)	C+
10	C+	Promoting Prostitution 2 (9A.88.080)	D+
11	E	O & A (Prostitution) (9A.88.030)	E
12	B+	Indecent Liberties (9A.44.100)	C+
13	A-	Child Molestation 1 (9A.44.083)	B+
14	B	Child Molestation 2 (9A.44.086)	C+
15		Theft, Robbery, Extortion, and Forgery	
16	B	Theft 1 (9A.56.030)	C
17	C	Theft 2 (9A.56.040)	D
18	D	Theft 3 (9A.56.050)	E
19	B	Theft of Livestock (9A.56.080)	C
20	C	Forgery (9A.60.020)	D
21	A	Robbery 1 (9A.56.200)	B+
22	B+	Robbery 2 (9A.56.210)	C+
23	B+	Extortion 1 (9A.56.120)	C+
24	C+	Extortion 2 (9A.56.130)	D+
25	C	Identity Theft 1 (9.35.020(2)(a))	D
26	D	Identity Theft 2 (9.35.020(2)(b))	E
27	D	Improperly Obtaining Financial	
28		Information (9.35.010)	E
29	B	Possession of Stolen Property 1	
30		(9A.56.150)	C
31	C	Possession of Stolen Property 2	
32		(9A.56.160)	D
33	D	Possession of Stolen Property 3	
34		(9A.56.170)	E
35	C	Taking Motor Vehicle Without Permission	
36		1 and 2 (9A.56.070 (1) and (2))	D
37		Motor Vehicle Related Crimes	

1	E	Driving Without a License (46.20.005)	E
2	B+	Hit and Run - Death (46.52.020(4)(a))	C+
3	C	Hit and Run - Injury (46.52.020(4)(b))	D
4	D	Hit and Run-Attended (46.52.020(5))	E
5	E	Hit and Run-Unattended (46.52.010)	E
6	C	Vehicular Assault (46.61.522)	D
7	C	Attempting to Elude Pursuing Police	
8		Vehicle (46.61.024)	D
9	E	Reckless Driving (46.61.500)	E
10	D	Driving While Under the Influence	
11		(46.61.502 and 46.61.504)	E
12		Other	
13	B	Bomb Threat (9.61.160)	C
14	C	Escape 1 ¹ (9A.76.110)	C
15	C	Escape 2 ¹ (9A.76.120)	C
16	D	Escape 3 (9A.76.130)	E
17	E	Obscene, Harassing, Etc., Phone Calls	
18		(9.61.230)	E
19	A	Other Offense Equivalent to an Adult Class	
20		A Felony	B+
21	B	Other Offense Equivalent to an Adult Class	
22		B Felony	C
23	C	Other Offense Equivalent to an Adult Class	
24		C Felony	D
25	D	Other Offense Equivalent to an Adult	
26		Gross Misdemeanor	E
27	E	Other Offense Equivalent to an Adult	
28		Misdemeanor	E
29	V	Violation of Order of Restitution,	
30		Community Supervision, or Confinement	
31		(13.40.200) ²	V

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

34 1st escape or attempted escape during 12-month period - 4 weeks
35 confinement

1 2nd escape or attempted escape during 12-month period - 8 weeks
 2 confinement

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

5 ²If the court finds that a respondent has violated terms of an order,
 6 it may impose a penalty of up to 30 days of confinement.

7 **JUVENILE SENTENCING STANDARDS**

8 This schedule must be used for juvenile offenders. The court may
 9 select sentencing option A, B, ((~~C~~)) C, D, or section 4 of this act.

10 **OPTION A**
 11 **JUVENILE OFFENDER SENTENCING GRID**
 12 **STANDARD RANGE**

13 A+ 180 WEEKS TO AGE 21 YEARS

14 A 103 WEEKS TO 129 WEEKS

15

16

17 A- 15-36 | 52-65 | 80-100 | 103-129
 18 WEEKS | WEEKS | WEEKS | WEEKS
 19 EXCEPT
 20 30-40
 21 WEEKS FOR
 22 15-17
 23 YEAR OLDS

24

25 Current B+ 15-36 | 52-65 | 80-100 | 103-129
 26 Offense WEEKS | WEEKS | WEEKS | WEEKS

27 Category

28 B LOCAL | | |
 29 SANCTIONS (LS) | 15-36 WEEKS | 52-65
 | | WEEKS

30

31 C+ LS | | |
 32 | | 15-36 WEEKS

33

34 C LS | | | 15-36 WEEKS
 35 | | |

36 Local Sanctions:

37 0 to 30 Days

38 D+ LS 0 to 12 Months Community Supervision

39 0 to 150 Hours Community Restitution

D LS \$0 to \$500 Fine

E LS

0 1 2 3 4
or more

PRIOR ADJUDICATIONS

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

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

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

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

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

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

OR

OPTION B

SUSPENDED DISPOSITION ALTERNATIVE

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee.

(2) If the offender fails to comply with the suspended disposition,

1 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke
2 the suspended disposition and order the disposition's execution.

3 (3) An offender is ineligible for the suspended disposition option
4 under this section if the offender is:

5 (a) Adjudicated of an A+ offense;

6 (b) Fourteen years of age or older and is adjudicated of one or
7 more of the following offenses:

8 (i) A class A offense, or an attempt, conspiracy, or solicitation
9 to commit a class A offense;

10 (ii) Manslaughter in the first degree (RCW 9A.32.060); or

11 (iii) Assault in the second degree (RCW 9A.36.021), extortion in
12 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW
13 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential
14 burglary (RCW 9A.52.025), burglary in the second degree (RCW
15 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW
16 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a
17 witness (RCW 9A.72.110), violation of the uniform controlled substances
18 act (RCW 69.50.401(a)(1) (i) or (ii)), or manslaughter 2 (RCW
19 9A.32.070), when the offense includes infliction of bodily harm upon
20 another or when during the commission or immediate withdrawal from the
21 offense the respondent was armed with a deadly weapon;

22 (c) Ordered to serve a disposition for a firearm violation under
23 RCW 13.40.193; or

24 (d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

25 **OR**

26 **OPTION C**

27 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

28 If the juvenile offender is subject to a standard range disposition
29 of local sanctions or 15 to 36 weeks of confinement and has not
30 committed an A- or B+ offense, the court may impose a disposition
31 under RCW 13.40.160(4) and 13.40.165.

32 **OR**

33 **OPTION ((E)) D**

34 **MANIFEST INJUSTICE**

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

4 **Sec. 3.** RCW 13.40.160 and 2002 c 175 s 22 are each amended to read
5 as follows:

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

8 (a) When the court sentences an offender to a local sanction as
9 provided in RCW 13.40.0357 option A, the court shall impose a
10 determinate disposition within the standard ranges, except as provided
11 in subsections (2), (3), (~~and~~) (4), or (5) of this section. The
12 disposition may be comprised of one or more local sanctions.

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

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

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

33 (3) When a juvenile offender is found to have committed a sex
34 offense, other than a sex offense that is also a serious violent
35 offense as defined by RCW 9.94A.030, and has no history of a prior sex

1 offense, the court, on its own motion or the motion of the state or the
2 respondent, may order an examination to determine whether the
3 respondent is amenable to treatment.

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

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

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

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

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

22 (iv) Anticipated length of treatment; and

23 (v) Recommended crime-related prohibitions.

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

30 After receipt of reports of the examination, the court shall then
31 consider whether the offender and the community will benefit from use
32 of this special sex offender disposition alternative and consider the
33 victim's opinion whether the offender should receive a treatment
34 disposition under this section. If the court determines that this
35 special sex offender disposition alternative is appropriate, then the
36 court shall impose a determinate disposition within the standard range
37 for the offense, or if the court concludes, and enters reasons for its

1 conclusions, that such disposition would cause a manifest injustice,
2 the court shall impose a disposition under option ((E)) D, and the
3 court may suspend the execution of the disposition and place the
4 offender on community supervision for at least two years. As a
5 condition of the suspended disposition, the court may impose the
6 conditions of community supervision and other conditions, including up
7 to thirty days of confinement and requirements that the offender do any
8 one or more of the following:

9 (b)(i) Devote time to a specific education, employment, or
10 occupation;

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

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

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

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

28 (vi) Pay all court-ordered legal financial obligations, perform
29 community restitution, or any combination thereof;

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

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

34 (ix) The court shall order that the offender may not attend the
35 public or approved private elementary, middle, or high school attended
36 by the victim or the victim's siblings. The parents or legal guardians
37 of the offender are responsible for transportation or other costs

1 associated with the offender's change of school that would otherwise be
2 paid by the school district. The court shall send notice of the
3 disposition and restriction on attending the same school as the victim
4 or victim's siblings to the public or approved private school the
5 juvenile will attend, if known, or if unknown, to the approved private
6 schools and the public school district board of directors of the
7 district in which the juvenile resides or intends to reside. This
8 notice must be sent at the earliest possible date but not later than
9 ten calendar days after entry of the disposition.

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

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

19 Except as provided in this subsection (3), after July 1, 1991,
20 examinations and treatment ordered pursuant to this subsection shall
21 only be conducted by sex offender treatment providers certified by the
22 department of health pursuant to chapter 18.155 RCW. A sex offender
23 therapist who examines or treats a juvenile sex offender pursuant to
24 this subsection does not have to be certified by the department of
25 health pursuant to chapter 18.155 RCW if the court finds that: (A) The
26 offender has already moved to another state or plans to move to another
27 state for reasons other than circumventing the certification
28 requirements; (B) no certified providers are available for treatment
29 within a reasonable geographical distance of the offender's home; and
30 (C) the evaluation and treatment plan comply with this subsection (3)
31 and the rules adopted by the department of health.

32 If the offender violates any condition of the disposition or the
33 court finds that the respondent is failing to make satisfactory
34 progress in treatment, the court may revoke the suspension and order
35 execution of the disposition or the court may impose a penalty of up to
36 thirty days' confinement for violating conditions of the disposition.
37 The court may order both execution of the disposition and up to thirty

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

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

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

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

16 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of
17 confinement, the court may impose the disposition alternative under
18 section 4 of this act.

19 (6) RCW 13.40.193 shall govern the disposition of any juvenile
20 adjudicated of possessing a firearm in violation of RCW
21 9.41.040(1)(b)(iii) or any crime in which a special finding is entered
22 that the juvenile was armed with a firearm.

23 ~~((+6+))~~ (7) Whenever a juvenile offender is entitled to credit for
24 time spent in detention prior to a dispositional order, the
25 dispositional order shall specifically state the number of days of
26 credit for time served.

27 ~~((+7+))~~ (8) Except as provided under subsection (3) ~~((+7+))~~, (4), or
28 (5) of this section, or option B of RCW 13.40.0357, or RCW 13.40.127,
29 the court shall not suspend or defer the imposition or the execution of
30 the disposition.

31 ~~((+8+))~~ (9) In no case shall the term of confinement imposed by the
32 court at disposition exceed that to which an adult could be subjected
33 for the same offense.

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

1 (1) When an offender is subject to a standard range commitment of
2 15 to 65 weeks, the court may:

3 (a) Impose the standard range; or

4 (b) Suspend the standard range disposition on condition that the
5 offender complies with the terms of this mental health disposition
6 alternative.

7 (2) The court may impose this disposition alternative when the
8 court finds the following:

9 (a) The offender has a current diagnosis, consistent with the
10 American psychiatry association diagnostic and statistical manual of
11 mental disorders, of axis I psychiatric disorder, excluding youth that
12 are diagnosed as solely having a conduct disorder, oppositional defiant
13 disorder, substance abuse disorder, paraphilia, or pedophilia;

14 (b) An appropriate treatment option is available in the local
15 community;

16 (c) The plan for the offender identifies and addresses requirements
17 for successful participation and completion of the treatment
18 intervention program including: Incentives and graduated sanctions
19 designed specifically for amenable youth, including the use of
20 detention, detoxication, and in-patient or outpatient substance abuse
21 treatment and psychiatric hospitalization, and structured community
22 support consisting of mental health providers, probation, educational
23 and vocational advocates, child welfare services, and family and
24 community support. For any mental health treatment ordered for an
25 offender under this section, the treatment option selected shall be
26 chosen from among programs which have been successful in addressing
27 mental health needs of juveniles and successful in mental health
28 treatment of juveniles and identified as research-based best practice
29 programs. A list of programs which meet these criteria shall be agreed
30 upon by: The Washington association of juvenile court administrators,
31 the juvenile rehabilitation administration of the department of social
32 and health services, a representative of the division of public
33 behavioral health and justice policy at the University of Washington,
34 and the Washington institute for public policy. The list of programs
35 shall be created not later than July 1, 2003. The group shall provide
36 the list to all superior courts, its own membership, the legislature,

1 and the governor. The group shall meet annually and revise the list as
2 appropriate; and

3 (d) The offender, offender's family, and community will benefit
4 from use of the mental health disposition alternative.

5 (3) The court on its own motion may order, or on motion by either
6 party, shall order a comprehensive mental health evaluation to
7 determine if the offender has a designated mental disorder. The court
8 may also order a chemical dependency evaluation to determine if the
9 offender also has a co-occurring chemical dependency disorder. The
10 evaluation shall include at a minimum the following: The offender's
11 version of the facts and the official version of the facts, the
12 offender's offense, an assessment of the offender's mental health and
13 drug-alcohol problems and previous treatment attempts, and the
14 offender's social, criminal, educational, and employment history and
15 living situation.

16 (4) The evaluator shall determine if the offender is amenable to
17 research-based treatment. A proposed case management and treatment
18 plan shall include at a minimum:

- 19 (a) The availability of treatment;
- 20 (b) Anticipated length of treatment;
- 21 (c) Whether one or more treatment interventions are proposed and
22 the anticipated sequence of those treatment interventions;
- 23 (d) The education plan;
- 24 (e) The residential plan; and
- 25 (f) The monitoring plan.

26 (5) The court on its own motion may order, or on motion by either
27 party, shall order a second mental health or chemical dependency
28 evaluation. The party making the motion shall select the evaluator.
29 The requesting party shall pay the cost of any examination ordered
30 under this subsection and subsection (3) of this section unless the
31 court finds the offender is indigent and no third party insurance
32 coverage is available, in which case the state shall pay the cost.

33 (6) Upon receipt of the assessments, evaluations, and reports the
34 court shall consider whether the offender and the community will
35 benefit from use of the mental health disposition alternative. The
36 court shall consider the victim's opinion whether the offender should
37 receive the option.

1 (7) If the court determines that the mental health disposition
2 alternative is appropriate, the court shall impose a standard range
3 disposition of not more than 65 weeks, suspend execution of the
4 disposition, and place the offender on community supervision up to one
5 year and impose one or more other local sanctions. Confinement in a
6 secure county detention facility, other than county group homes,
7 inpatient psychiatric treatment facilities, and substance abuse
8 programs, shall be limited to thirty days. As a condition of a
9 suspended disposition, the court shall require the offender to
10 participate in the recommended treatment interventions.

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

18 (9) If the offender fails to comply with the suspended disposition,
19 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke
20 the suspended disposition and order the disposition's execution.

21 (10) An offender is ineligible for the mental health disposition
22 option under this section if the offender is adjudicated of a sex or
23 violent offense as defined in RCW 9.94A.030.

24 **Sec. 5.** RCW 13.40.165 and 2002 c 175 s 23 and 2002 c 42 s 1 are
25 each reenacted and amended to read as follows:

26 (1) The purpose of this disposition alternative is to ensure that
27 successful treatment options to reduce recidivism are available to
28 eligible youth, pursuant to RCW 70.96A.520. The court must consider
29 eligibility for the chemical dependency disposition alternative when a
30 juvenile offender is subject to a standard range disposition of local
31 sanctions or 15 to 36 weeks of confinement and has not committed an A-
32 or B+ offense, other than a first time B+ offense under chapter 69.50
33 RCW. The court, on its own motion or the motion of the state or the
34 respondent if the evidence shows that the offender may be chemically
35 dependent or substance abusing, may order an examination by a chemical
36 dependency counselor from a chemical dependency treatment facility

1 approved under chapter 70.96A RCW to determine if the youth is
2 chemically dependent or substance abusing. The offender shall pay the
3 cost of any examination ordered under this subsection unless the court
4 finds that the offender is indigent and no third party insurance
5 coverage is available, in which case the state shall pay the cost.

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

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

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

17 (b) Availability of appropriate treatment;

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

21 (d) Anticipated length of treatment; and

22 (e) Recommended crime-related prohibitions.

23 (4) The court on its own motion may order, or on a motion by the
24 state or the respondent shall order, a second examination. The
25 evaluator shall be selected by the party making the motion. The
26 requesting party shall pay the cost of any examination ordered under
27 this subsection unless the requesting party is the offender and the
28 court finds that the offender is indigent and no third party insurance
29 coverage is available, in which case the state shall pay the cost.

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

35 (b) If the court determines that this chemical dependency
36 disposition alternative is appropriate, then the court shall impose the
37 standard range for the offense, or if the court concludes, and enters

1 reasons for its conclusion, that such disposition would effectuate a
2 manifest injustice, the court shall impose a disposition above the
3 standard range as indicated in option ((C)) D of RCW 13.40.0357 if the
4 disposition is an increase from the standard range and the confinement
5 of the offender does not exceed a maximum of fifty-two weeks, suspend
6 execution of the disposition, and place the offender on community
7 supervision for up to one year. As a condition of the suspended
8 disposition, the court shall require the offender to undergo available
9 outpatient drug/alcohol treatment and/or inpatient drug/alcohol
10 treatment. For purposes of this section, inpatient treatment may not
11 exceed ninety days. As a condition of the suspended disposition, the
12 court may impose conditions of community supervision and other
13 sanctions, including up to thirty days of confinement, one hundred
14 fifty hours of community restitution, and payment of legal financial
15 obligations and restitution.

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

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

25 If the offender violates any condition of the disposition or the
26 court finds that the respondent is failing to make satisfactory
27 progress in treatment, the court may impose sanctions pursuant to RCW
28 13.40.200 or revoke the suspension and order execution of the
29 disposition. The court shall give credit for any confinement time
30 previously served if that confinement was for the offense for which the
31 suspension is being revoked.

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

35 (8) Whenever a juvenile offender is entitled to credit for time
36 spent in detention prior to a dispositional order, the dispositional

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

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

6 (10) A disposition under this section is not appealable under RCW
7 13.40.230.

8 NEW SECTION. **Sec. 6.** Because model adherence and competent
9 delivery of research-based intervention programs is critical for
10 reducing recidivism, the Washington state institute for public policy
11 shall develop adherence and outcome standards for measuring
12 effectiveness of treatment programs referred to in this act. The
13 standards shall be developed and presented to the governor and
14 legislature no later than January 1, 2004. The standards shall include
15 methods for measuring competent delivery of interventions as well as
16 success factors following treatment. The standards shall include, but
17 not be limited to hiring, training and retaining qualified providers,
18 managing and overseeing the delivery of treatment services, and
19 developing quality assurance measures. The department shall utilize
20 these standards to assess program effectiveness. The courts shall also
21 utilize these standards in determining their continued use of these
22 alternatives. The courts shall not continue to use programs that do
23 not comply with these standards.

24 NEW SECTION. **Sec. 7.** (1) A task force is created for the purpose
25 of examining the coordination of information, education services, and
26 matters of public safety when juvenile offenders are placed into public
27 schools, following their conviction.

28 (2) The task force shall be chaired by the superintendent of public
29 instruction and include a representative from the juvenile
30 rehabilitation administration of the department of social and health
31 services, the state board of education, associations which represent
32 school teachers, administrators, and school boards, superior court
33 judges, the Washington association of juvenile court administrators,
34 prosecuting attorneys, the governor, attorneys whose practice includes
35 criminal defense work for juvenile defendants, three groups whose

1 primary purpose is the delivery of services to families and children,
2 and law enforcement. The three groups who deliver services shall be
3 selected by the superintendent of public instruction.

4 (3) The task force shall identify specific policies and statutory,
5 administrative, and practice processes and barriers that may operate to
6 impede: (a) The identification and delivery of appropriate and
7 coordinated services to juvenile offenders who are placed in, or
8 returned to public schools following conviction of an offense; and (b)
9 transmittal of information regarding juvenile offenders who are
10 returned to, or placed in, public schools following conviction of an
11 offense. The task force shall recommend specific statutory and
12 administrative changes as it finds appropriate to eliminate or reduce
13 the barriers identified as a result of this subsection (3).

14 (4) The task force shall report its findings and recommendations to
15 the governor, the legislature, and the agencies represented on the task
16 force not later than December 1, 2003.

17 NEW SECTION. **Sec. 8.** Sections 6 and 7 of this act expire December
18 31, 2003.

19 NEW SECTION. **Sec. 9.** If specific funding for the purposes of this
20 act, referencing this act by bill or chapter number, is not provided by
21 June 30, 2003, in the omnibus appropriations act, this act is null and
22 void."

23 Correct the title.

- EFFECT:
- (1) Specifies that the court may order the offender to follow an educational program or treatment requirement as a part of the Suspended Sentence Disposition Alternative.
 - (2) Requires the treatment programs used under the Suspended Disposition Alternative and the Mental Health Disposition Alternative to be a research-based best practice program.
 - (3) Removes the Community Commitment Disposition Alternative.
 - (4) Adds a null and void clause which clarifies that the provisions of the act will be null and void if funding is not provided.

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