

SSB 5903 - S AMD 247  
By Senators Hargrove, Stevens

ADOPTED 03/19/2003

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

3 "Sec. 1. RCW 13.40.0357 and 2002 c 324 s 3 and 2002 c 175 s 20 are  
4 each reenacted and amended to read as follows:

5 **DESCRIPTION AND OFFENSE CATEGORY**

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

.....

12 **Arson and Malicious Mischief**

13	A	Arson 1 (9A.48.020)	B+
14	B	Arson 2 (9A.48.030)	C
15	C	Reckless Burning 1 (9A.48.040)	D
16	D	Reckless Burning 2 (9A.48.050)	E
17	B	Malicious Mischief 1 (9A.48.070)	C
18	C	Malicious Mischief 2 (9A.48.080)	D
19	D	Malicious Mischief 3 (<\$50 is E class)	
20		(9A.48.090)	E
21	E	Tampering with Fire Alarm Apparatus	
22		(9.40.100)	E
23	A	Possession of Incendiary Device (9.40.120)	B+

24 **Assault and Other Crimes Involving**

25 **Physical Harm**

26	A	Assault 1 (9A.36.011)	B+
----	---	-----------------------	----

1	B+	Assault 2 (9A.36.021)	C+
2	C+	Assault 3 (9A.36.031)	D+
3	D+	Assault 4 (9A.36.041)	E
4	B+	Drive-By Shooting (9A.36.045)	C+
5	D+	Reckless Endangerment (9A.36.050)	E
6	C+	Promoting Suicide Attempt (9A.36.060)	D+
7	D+	Coercion (9A.36.070)	E
8	C+	Custodial Assault (9A.36.100)	D+
9		<b>Burglary and Trespass</b>	
10	B+	Burglary 1 (9A.52.020)	C+
11	B	Residential Burglary (9A.52.025)	C
12	B	Burglary 2 (9A.52.030)	C
13	D	Burglary Tools (Possession of) (9A.52.060)	E
14	D	Criminal Trespass 1 (9A.52.070)	E
15	E	Criminal Trespass 2 (9A.52.080)	E
16	C	Vehicle Prowling 1 (9A.52.095)	D
17	D	Vehicle Prowling 2 (9A.52.100)	E
18		<b>Drugs</b>	
19	E	Possession/Consumption of Alcohol	
20		(66.44.270)	E
21	C	Illegally Obtaining Legend Drug	
22		(69.41.020)	D
23	C+	Sale, Delivery, Possession of Legend Drug	
24		with Intent to Sell (69.41.030)	D+
25	E	Possession of Legend Drug (69.41.030)	E
26	B+	Violation of Uniform Controlled	
27		Substances Act - Narcotic,	
28		Methamphetamine, or Flunitrazepam Sale	
29		(69.50.401(a)(1) (i) or (ii))	B+
30	C	Violation of Uniform Controlled	
31		Substances Act - Nonnarcotic Sale	
32		(69.50.401(a)(1)(iii))	C
33	E	Possession of Marihuana <40 grams	
34		(69.50.401(e))	E
35	C	Fraudulently Obtaining Controlled	
36		Substance (69.50.403)	C

1	C+	Sale of Controlled Substance for Profit	
2		(69.50.410)	C+
3	E	Unlawful Inhalation (9.47A.020)	E
4	B	Violation of Uniform Controlled	
5		Substances Act - Narcotic,	
6		Methamphetamine, or Flunitrazepam	
7		Counterfeit Substances (69.50.401(b)(1) (i)	
8		or (ii))	B
9	C	Violation of Uniform Controlled	
10		Substances Act - Nonnarcotic Counterfeit	
11		Substances (69.50.401(b)(1) (iii), (iv), (v))	C
12	C	Violation of Uniform Controlled	
13		Substances Act - Possession of a Controlled	
14		Substance (69.50.401(d))	C
15	C	Violation of Uniform Controlled	
16		Substances Act - Possession of a Controlled	
17		Substance (69.50.401(c))	C
18		<b>Firearms and Weapons</b>	
19	B	Theft of Firearm (9A.56.300)	C
20	B	Possession of Stolen Firearm (9A.56.310)	C
21	E	Carrying Loaded Pistol Without Permit	
22		(9.41.050)	E
23	C	Possession of Firearms by Minor (<18)	
24		(9.41.040(1)(b)(iii))	C
25	D+	Possession of Dangerous Weapon	
26		(9.41.250)	E
27	D	Intimidating Another Person by use of	
28		Weapon (9.41.270)	E
29		<b>Homicide</b>	
30	A+	Murder 1 (9A.32.030)	A
31	A+	Murder 2 (9A.32.050)	B+
32	B+	Manslaughter 1 (9A.32.060)	C+
33	C+	Manslaughter 2 (9A.32.070)	D+
34	B+	Vehicular Homicide (46.61.520)	C+
35		<b>Kidnapping</b>	
36	A	Kidnap 1 (9A.40.020)	B+

1	B+	Kidnap 2 (9A.40.030)	C+
2	C+	Unlawful Imprisonment (9A.40.040)	D+
3		<b>Obstructing Governmental Operation</b>	
4	D	Obstructing a Law Enforcement Officer	
5		(9A.76.020)	E
6	E	Resisting Arrest (9A.76.040)	E
7	B	Introducing Contraband 1 (9A.76.140)	C
8	C	Introducing Contraband 2 (9A.76.150)	D
9	E	Introducing Contraband 3 (9A.76.160)	E
10	B+	Intimidating a Public Servant (9A.76.180)	C+
11	B+	Intimidating a Witness (9A.72.110)	C+
12		<b>Public Disturbance</b>	
13	C+	Riot with Weapon (9A.84.010)	D+
14	D+	Riot Without Weapon (9A.84.010)	E
15	E	Failure to Disperse (9A.84.020)	E
16	E	Disorderly Conduct (9A.84.030)	E
17		<b>Sex Crimes</b>	
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 (Victim <14)	
26		(9A.88.010)	E
27	E	Indecent Exposure (Victim 14 or over)	
28		(9A.88.010)	E
29	B+	Promoting Prostitution 1 (9A.88.070)	C+
30	C+	Promoting Prostitution 2 (9A.88.080)	D+
31	E	O & A (Prostitution) (9A.88.030)	E
32	B+	Indecent Liberties (9A.44.100)	C+
33	A-	Child Molestation 1 (9A.44.083)	B+
34	B	Child Molestation 2 (9A.44.086)	C+
35		<b>Theft, Robbery, Extortion, and Forgery</b>	
36	B	Theft 1 (9A.56.030)	C

1	C	Theft 2 (9A.56.040)	D
2	D	Theft 3 (9A.56.050)	E
3	B	Theft of Livestock (9A.56.080)	C
4	C	Forgery (9A.60.020)	D
5	A	Robbery 1 (9A.56.200)	B+
6	B+	Robbery 2 (9A.56.210)	C+
7	B+	Extortion 1 (9A.56.120)	C+
8	C+	Extortion 2 (9A.56.130)	D+
9	C	Identity Theft 1 (9.35.020(2)(a))	D
10	D	Identity Theft 2 (9.35.020(2)(b))	E
11	D	Improperly Obtaining Financial	
12		Information (9.35.010)	E
13	B	Possession of Stolen Property 1	
14		(9A.56.150)	C
15	C	Possession of Stolen Property 2	
16		(9A.56.160)	D
17	D	Possession of Stolen Property 3	
18		(9A.56.170)	E
19	C	Taking Motor Vehicle Without Permission	
20		1 and 2 (9A.56.070 (1) and (2))	D
21		<b>Motor Vehicle Related Crimes</b>	
22	E	Driving Without a License (46.20.005)	E
23	B+	Hit and Run - Death (46.52.020(4)(a))	C+
24	C	Hit and Run - Injury (46.52.020(4)(b))	D
25	D	Hit and Run-Attended (46.52.020(5))	E
26	E	Hit and Run-Unattended (46.52.010)	E
27	C	Vehicular Assault (46.61.522)	D
28	C	Attempting to Elude Pursuing Police	
29		Vehicle (46.61.024)	D
30	E	Reckless Driving (46.61.500)	E
31	D	Driving While Under the Influence	
32		(46.61.502 and 46.61.504)	E
33		<b>Other</b>	
34	B	Bomb Threat (9.61.160)	C
35	C	Escape 1 <sup>1</sup> (9A.76.110)	C
36	C	Escape 2 <sup>1</sup> (9A.76.120)	C
37	D	Escape 3 (9A.76.130)	E

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

16 <sup>1</sup>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 <sup>2</sup>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, or D.

29	OPTION A	
30	JUVENILE OFFENDER SENTENCING GRID	
31	STANDARD RANGE	
32	A+	180 WEEKS TO AGE 21 YEARS
33	A	103 WEEKS TO 129 WEEKS
34		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

		15-36	52-65	80-100	103-129	
A-	WEEKS					
		EXCEPT				
		30-40				
		WEEKS FOR				
		15-17				
		YEAR OLDS				
<hr/>						
Current Offense Category	B+	15-36	52-65	80-100	103-129	
		WEEKS	WEEKS	WEEKS	WEEKS	
<hr/>						
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 Restitution				
D	LS	\$0 to \$500 Fine				
E	LS					
<hr/>						
		0	1	2	3	4
						or more
PRIOR ADJUDICATIONS						

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

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

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

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

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

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

6 OR

7 **OPTION B**

8 **SUSPENDED DISPOSITION ALTERNATIVE**

9 (1) If the offender is subject to a standard range disposition  
10 involving confinement by the department, the court may impose the  
11 standard range and suspend the disposition on condition that the  
12 offender comply with one or more local sanctions.

13 (2) If the offender fails to comply with the suspended disposition,  
14 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke  
15 the suspended disposition and order the disposition's execution.

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

18 (a) Adjudicated of an A+ offense;

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

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

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

24 (iii) Assault in the second degree (RCW 9A.36.021), extortion in  
25 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW  
26 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential  
27 burglary (RCW 9A.52.025), burglary in the second degree (RCW  
28 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW  
29 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a  
30 witness (RCW 9A.72.110), violation of the uniform controlled substances  
31 act (RCW 69.50.401(a)(1) (i) or (ii)), or manslaughter 2 (RCW  
32 9A.32.070), when the offense includes infliction of bodily harm upon  
33 another or when during the commission or immediate withdrawal from the  
34 offense the respondent was armed with a deadly weapon;

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

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



1 OR

2 OPTION C

3 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

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

8 OR

9 OPTION ((C)) D

10 **MANIFEST INJUSTICE**

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

14 **Sec. 2.** RCW 13.40.160 and 2002 c 175 s 22 are each amended to read  
15 as follows:

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

18 (a) When the court sentences an offender to a local sanction as  
19 provided in RCW 13.40.0357 option A, the court shall impose a  
20 determinate disposition within the standard ranges, except as provided  
21 in subsections (2), (3), (~~and~~) (4), (5), and (6) of this section.  
22 The disposition may be comprised of one or more local sanctions.

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

28 (2) If the court concludes, and enters reasons for its conclusion,  
29 that disposition within the standard range would effectuate a manifest  
30 injustice the court shall impose a disposition outside the standard  
31 range, as indicated in option ((C)) D of RCW 13.40.0357. The court's  
32 finding of manifest injustice shall be supported by clear and  
33 convincing evidence.

34 A disposition outside the standard range shall be determinate and  
35 shall be comprised of confinement or community supervision, or a

1 combination thereof. When a judge finds a manifest injustice and  
2 imposes a sentence of confinement exceeding thirty days, the court  
3 shall sentence the juvenile to a maximum term, and the provisions of  
4 RCW 13.40.030(2) shall be used to determine the range. A disposition  
5 outside the standard range is appealable under RCW 13.40.230 by the  
6 state or the respondent. A disposition within the standard range is  
7 not appealable under RCW 13.40.230.

8 (3) When a juvenile offender is found to have committed a sex  
9 offense, other than a sex offense that is also a serious violent  
10 offense as defined by RCW 9.94A.030, and has no history of a prior sex  
11 offense, the court, on its own motion or the motion of the state or the  
12 respondent, may order an examination to determine whether the  
13 respondent is amenable to treatment.

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

21 The examiner shall assess and report regarding the respondent's  
22 amenability to treatment and relative risk to the community. A  
23 proposed treatment plan shall be provided and shall include, at a  
24 minimum:

25 (a)(i) Frequency and type of contact between the offender and  
26 therapist;

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

29 (iii) Monitoring plans, including any requirements regarding living  
30 conditions, lifestyle requirements, and monitoring by family members,  
31 legal guardians, or others;

32 (iv) Anticipated length of treatment; and

33 (v) Recommended crime-related prohibitions.

34 The court on its own motion may order, or on a motion by the state  
35 shall order, a second examination regarding the offender's amenability  
36 to treatment. The evaluator shall be selected by the party making the  
37 motion. The defendant shall pay the cost of any second examination

1 ordered unless the court finds the defendant to be indigent in which  
2 case the state shall pay the cost.

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

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

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

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

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

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

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

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

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

7 (ix) The court shall order that the offender may not attend the  
8 public or approved private elementary, middle, or high school attended  
9 by the victim or the victim's siblings. The parents or legal guardians  
10 of the offender are responsible for transportation or other costs  
11 associated with the offender's change of school that would otherwise be  
12 paid by the school district. The court shall send notice of the  
13 disposition and restriction on attending the same school as the victim  
14 or victim's siblings to the public or approved private school the  
15 juvenile will attend, if known, or if unknown, to the approved private  
16 schools and the public school district board of directors of the  
17 district in which the juvenile resides or intends to reside. This  
18 notice must be sent at the earliest possible date but not later than  
19 ten calendar days after entry of the disposition.

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

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

29 Except as provided in this subsection (3), after July 1, 1991,  
30 examinations and treatment ordered pursuant to this subsection shall  
31 only be conducted by sex offender treatment providers certified by the  
32 department of health pursuant to chapter 18.155 RCW. A sex offender  
33 therapist who examines or treats a juvenile sex offender pursuant to  
34 this subsection does not have to be certified by the department of  
35 health pursuant to chapter 18.155 RCW if the court finds that: (A) The  
36 offender has already moved to another state or plans to move to another  
37 state for reasons other than circumventing the certification  
38 requirements; (B) no certified providers are available for treatment

1 within a reasonable geographical distance of the offender's home; and  
2 (C) the evaluation and treatment plan comply with this subsection (3)  
3 and the rules adopted by the department of health.

4 If the offender violates any condition of the disposition or the  
5 court finds that the respondent is failing to make satisfactory  
6 progress in treatment, the court may revoke the suspension and order  
7 execution of the disposition or the court may impose a penalty of up to  
8 thirty days' confinement for violating conditions of the disposition.  
9 The court may order both execution of the disposition and up to thirty  
10 days' confinement for the violation of the conditions of the  
11 disposition. The court shall give credit for any confinement time  
12 previously served if that confinement was for the offense for which the  
13 suspension is being revoked.

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

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

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

25 (5) If a juvenile is subject to a commitment of 15 to 65 weeks of  
26 confinement, the court may impose the disposition alternative under  
27 section 3 of this act.

28 (6) When the offender is subject to a standard range commitment of  
29 15 to 36 weeks and is ineligible for a suspended disposition  
30 alternative, a manifest injustice disposition below the standard range,  
31 special sex offender disposition alternative, chemical dependency  
32 disposition alternative, or mental health disposition alternative, the  
33 court may impose the disposition alternative under section 4 of this  
34 act.

35 (7) 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        ~~((6))~~ (8) Whenever a juvenile offender is entitled to credit for  
2 time spent in detention prior to a dispositional order, the  
3 dispositional order shall specifically state the number of days of  
4 credit for time served.

5        ~~((7))~~ (9) Except as provided under subsection (3) ~~((~~4~~))~~ (4)  
6 (5), or (6) of this section or RCW 13.40.127, the court shall not  
7 suspend or defer the imposition or the execution of the disposition.

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

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

13        (1) When an offender is subject to a standard range commitment of  
14 15 to 65 weeks, the court may:

15        (a) Impose the standard range; or

16        (b) Suspend the standard range disposition on condition that the  
17 offender complies with the terms of this mental health disposition  
18 alternative.

19        (2) The court may impose this disposition alternative when the  
20 court finds the following:

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

26        (b) An appropriate treatment option is available in the local  
27 community;

28        (c) The plan for the offender identifies and addresses requirements  
29 for successful participation and completion of the treatment  
30 intervention program including: Incentives and graduated sanctions  
31 designed specifically for amenable youth, including the use of  
32 detention, detoxication, and in-patient or outpatient substance abuse  
33 treatment and psychiatric hospitalization, and structured community  
34 support consisting of mental health providers, probation, educational  
35 and vocational advocates, child welfare services, and family and  
36 community support. For any mental health treatment ordered for an  
37 offender under this section, the treatment option selected shall be

1 chosen from among programs which have been successful in addressing  
2 mental health needs of juveniles and successful in mental health  
3 treatment of juveniles. A list of programs which meet these criteria  
4 shall be agreed upon by: The Washington association of juvenile court  
5 administrators, the juvenile rehabilitation administration of the  
6 department of social and health services, a representative of the  
7 division of public behavioral health and justice policy at the  
8 University of Washington, and the Washington institute for public  
9 policy. The list of programs shall be created not later than July 1,  
10 2003. The group shall provide the list to all superior courts, its own  
11 membership, the legislature, and the governor. The group shall meet  
12 annually and revise the list as appropriate; and

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

15 (3) The court on its own motion may order, or on motion by either  
16 party, shall order a comprehensive mental health evaluation to  
17 determine if the offender has a designated mental disorder. The court  
18 may also order a chemical dependency evaluation to determine if the  
19 offender also has a co-occurring chemical dependency disorder. The  
20 evaluation shall include at a minimum the following: The offender's  
21 version of the facts and the official version of the facts, the  
22 offender's offense, an assessment of the offender's mental health and  
23 drug-alcohol problems and previous treatment attempts, and the  
24 offender's social, criminal, educational, and employment history and  
25 living situation.

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

29 (a) The availability of treatment;

30 (b) Anticipated length of treatment;

31 (c) Whether one or more treatment interventions are proposed and  
32 the anticipated sequence of those treatment interventions;

33 (d) The education plan;

34 (e) The residential plan; and

35 (f) The monitoring plan.

36 (5) The court on its own motion may order, or on motion by either  
37 party, shall order a second mental health or chemical dependency  
38 evaluation. The party making the motion shall select the evaluator.

1 The requesting party shall pay the cost of any examination ordered  
2 under this subsection and subsection (3) of this section unless the  
3 court finds the offender is indigent and no third party insurance  
4 coverage is available, in which case the state shall pay the cost.

5 (6) Upon receipt of the assessments, evaluations, and reports the  
6 court shall consider whether the offender and the community will  
7 benefit from use of the mental health disposition alternative. The  
8 court shall consider the victim's opinion whether the offender should  
9 receive the option.

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

20 (8) The treatment providers shall submit monthly reports to the  
21 court and parties on the offender's progress in treatment. The report  
22 shall reference the treatment plan and include at a minimum the  
23 following: Dates of attendance, offender's compliance with  
24 requirements, treatment activities, medication management, the  
25 offender's relative progress in treatment, and any other material  
26 specified by the court at the time of the disposition.

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

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

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

35 (1) When the offender is subject to a standard range commitment of  
36 15 to 36 weeks and is ineligible for a suspended disposition  
37 alternative, a manifest injustice disposition below the standard range,



1 special sex offender disposition alternative, chemical dependency  
2 disposition alternative, or mental health disposition alternative, the  
3 court may impose a community commitment disposition alternative and:

4 (a) Retain juvenile court jurisdiction over the youth;

5 (b) Confine the youth in a county detention facility:

6 (i) For the standard range; or

7 (ii) After finding a manifest injustice, a determinate disposition  
8 up to 52 weeks; and

9 (c) Impose a term of postrelease community supervision for up to  
10 one year.

11 If the youth receives a standard range disposition, the court shall  
12 set the release date within the standard range. The court shall  
13 determine the release date prior to expiration of sixty percent of the  
14 juvenile's minimum term of confinement.

15 (2) The court may impose this community commitment disposition  
16 alternative if the court finds the following:

17 (a) Placement in a local detention facility in close proximity to  
18 the youth's family or local support systems will facilitate a smoother  
19 reintegration to the youth's family and community;

20 (b) Placement in the local detention facility will allow the youth  
21 to benefit from locally provided family intervention programs and other  
22 research-based treatment programs, school, employment, and drug and  
23 alcohol or mental health counseling; or

24 (c) Confinement in a facility operated by the department would  
25 result in a negative disruption to local services, school, or  
26 employment or impede or delay developing those services and support  
27 systems in the community.

28 (3) The court shall consider the youth's offense, prior criminal  
29 history, security classification, risk level, and treatment needs and  
30 history when determining whether the youth is appropriate for the  
31 community commitment disposition alternative. If the court finds that  
32 a community commitment disposition alternative is appropriate, the  
33 court shall order the youth into secure detention while the details of  
34 the reintegration program are developed.

35 (4) Upon approval of the treatment and community reintegration  
36 plan, the court may order the youth to serve the term of confinement in  
37 one or more of the following placements or combination of placements:  
38 Secure detention, an alternative to secure detention such as electronic

1 home monitoring, county group care, day or evening reporting, or home  
2 detention. The court may order the youth to serve time in detention on  
3 weekends or intermittently. The court shall set periodic reviews to  
4 review the youth's progress in the program. At least fifty percent of  
5 the term of confinement shall be served in secure detention.

6 (5) If the youth violates the conditions of the community  
7 commitment program, the court may impose sanctions under RCW 13.40.200  
8 or modify the terms of the reintegration plan and order the youth to  
9 serve all or a portion of the remaining confinement term in secure  
10 detention.

11 (6) A county may enter into interlocal agreements with other  
12 counties to develop joint community commitment programs or to allow one  
13 county to send a youth appropriate for this alternative to another  
14 county that has a community commitment program.

15 (7) Implementation of this alternative is subject to available  
16 state funding for the costs of the community commitment program,  
17 including costs of detention and community supervision.

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

20 (1) The purpose of this disposition alternative is to ensure that  
21 successful treatment options to reduce recidivism are available to  
22 eligible youth, pursuant to RCW 70.96A.520. The court must consider  
23 eligibility for the chemical dependency disposition alternative when a  
24 juvenile offender is subject to a standard range disposition of local  
25 sanctions or 15 to 36 weeks of confinement and has not committed an A-  
26 or B+ offense, other than a first time B+ offense under chapter 69.50  
27 RCW. The court, on its own motion or the motion of the state or the  
28 respondent if the evidence shows that the offender may be chemically  
29 dependent or substance abusing, may order an examination by a chemical  
30 dependency counselor from a chemical dependency treatment facility  
31 approved under chapter 70.96A RCW to determine if the youth is  
32 chemically dependent or substance abusing. The offender shall pay the  
33 cost of any examination ordered under this subsection unless the court  
34 finds that the offender is indigent and no third party insurance  
35 coverage is available, in which case the state shall pay the cost.

36 (2) The report of the examination shall include at a minimum the  
37 following: The respondent's version of the facts and the official

1 version of the facts, the respondent's offense history, an assessment  
2 of drug-alcohol problems and previous treatment attempts, the  
3 respondent's social, educational, and employment situation, and other  
4 evaluation measures used. The report shall set forth the sources of  
5 the examiner's information.

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

- 9 (a) Whether inpatient and/or outpatient treatment is recommended;
- 10 (b) Availability of appropriate treatment;
- 11 (c) Monitoring plans, including any requirements regarding living  
12 conditions, lifestyle requirements, and monitoring by family members,  
13 legal guardians, or others;
- 14 (d) Anticipated length of treatment; and
- 15 (e) Recommended crime-related prohibitions.

16 (4) The court on its own motion may order, or on a motion by the  
17 state or the respondent shall order, a second examination. The  
18 evaluator shall be selected by the party making the motion. The  
19 requesting party shall pay the cost of any examination ordered under  
20 this subsection unless the requesting party is the offender and the  
21 court finds that the offender is indigent and no third party insurance  
22 coverage is available, in which case the state shall pay the cost.

23 (5)(a) After receipt of reports of the examination, the court shall  
24 then consider whether the offender and the community will benefit from  
25 use of this chemical dependency disposition alternative and consider  
26 the victim's opinion whether the offender should receive a treatment  
27 disposition under this section.

28 (b) If the court determines that this chemical dependency  
29 disposition alternative is appropriate, then the court shall impose the  
30 standard range for the offense, or if the court concludes, and enters  
31 reasons for its conclusion, that such disposition would effectuate a  
32 manifest injustice, the court shall impose a disposition above the  
33 standard range as indicated in option ((E)) D of RCW 13.40.0357 if the  
34 disposition is an increase from the standard range and the confinement  
35 of the offender does not exceed a maximum of fifty-two weeks, suspend  
36 execution of the disposition, and place the offender on community  
37 supervision for up to one year. As a condition of the suspended  
38 disposition, the court shall require the offender to undergo available

1 outpatient drug/alcohol treatment and/or inpatient drug/alcohol  
2 treatment. For purposes of this section, inpatient treatment may not  
3 exceed ninety days. As a condition of the suspended disposition, the  
4 court may impose conditions of community supervision and other  
5 sanctions, including up to thirty days of confinement, one hundred  
6 fifty hours of community restitution, and payment of legal financial  
7 obligations and restitution.

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

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

17 If the offender violates any condition of the disposition or the  
18 court finds that the respondent is failing to make satisfactory  
19 progress in treatment, the court may impose sanctions pursuant to RCW  
20 13.40.200 or revoke the suspension and order execution 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 (7) 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 offense charged.

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

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

34 (10) A disposition under this section is not appealable under RCW  
35 13.40.230.

36 NEW SECTION. **Sec. 6.** Because model adherence and competent  
37 delivery of research-based intervention programs is critical for

1 reducing recidivism, the Washington state institute for public policy  
2 shall develop adherence and outcome standards for measuring  
3 effectiveness of treatment programs referred to in this act. The  
4 standards shall be developed and presented to the governor and  
5 legislature no later than January 1, 2004. The standards shall include  
6 methods for measuring competent delivery of interventions as well as  
7 success factors following treatment. The standards shall include, but  
8 not be limited to hiring, training and retaining qualified providers,  
9 managing and overseeing the delivery of treatment services, and  
10 developing quality assurance measures. The department shall utilize  
11 these standards to assess program effectiveness. The courts shall also  
12 utilize these standards in determining their continued use of these  
13 alternatives. The courts shall not continue to use programs that do  
14 not comply with these standards.

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

19 (2) The task force shall be chaired by the superintendent of public  
20 instruction and include a representative from the juvenile  
21 rehabilitation administration of the department of social and health  
22 services, the state board of education, associations which represent  
23 school teachers, administrators, and school boards, superior court  
24 judges, the Washington association of juvenile court administrators,  
25 prosecuting attorneys, the governor, attorneys whose practice includes  
26 criminal defense work for juvenile defendants, three groups whose  
27 primary purpose is the delivery of services to families and children,  
28 and law enforcement. The three groups who deliver services shall be  
29 selected by the superintendent of public instruction.

30 (3) The task force shall identify specific policies and statutory,  
31 administrative, and practice processes and barriers that may operate to  
32 impede: (a) The identification and delivery of appropriate and  
33 coordinated services to juvenile offenders who are placed in, or  
34 returned to public schools following conviction of an offense; and (b)  
35 transmittal of information regarding juvenile offenders who are  
36 returned to, or placed in, public schools following conviction of an

1 offense. The task force shall recommend specific statutory and  
2 administrative changes as it finds appropriate to eliminate or reduce  
3 the barriers identified as a result of this subsection (3).

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

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

**SSB 5903 - S AMD 247**

By Senators Hargrove, Stevens

**ADOPTED 03/19/2003**

9 On page 1, line 1 of the title, after "sentences;" strike the  
10 remainder of the title and insert "amending RCW 13.40.160; reenacting  
11 and amending RCW 13.40.0357 and 13.40.165; adding new sections to  
12 chapter 13.40 RCW; creating new sections; and providing an expiration  
13 date."

**EFFECT:** Partially restores limited option B sentencing  
alternative for juveniles who are not:  
convicted of a category A+ offense;  
found to have used a firearm in an offense;  
committed a sex offense; or  
are under 14 and are: convicted of Class A offense; or  
injure someone or use a deadly weapon and are convicted of Manslaughter  
1 or 2, or Assault 2, Kidnap 2, Robbery 2, Residential Burglary, Drive-  
by Shooting, Vehicular Homicide, Hit and Run with a Death, Meth  
offenses, Intimidating a Witness.  
Establishes requirements for outcome measures and standards.  
Limits number of offenders eligible for Mental Health alternative.

--- END ---