

**SUBSTITUTE SENATE BILL 6105**

**State of Washington                      58th Legislature                      2004 Regular Session**

**By Senate Committee on Judiciary (originally sponsored by Senator McCaslin)**

READ FIRST TIME 01/23/04.

1            AN ACT Relating to juvenile penalties for animal cruelty; amending  
2 RCW 13.40.127; reenacting and amending RCW 13.40.0357; prescribing  
3 penalties; and providing an effective date.

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

5            **Sec. 1.** RCW 13.40.0357 and 2003 c 378 s 2, 2003 c 335 s 6, and  
6 2003 c 53 s 97 are each reenacted and amended to read as follows:

**DESCRIPTION AND OFFENSE CATEGORY**

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

.....

**Arson and Malicious Mischief**

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C

1	C	Reckless Burning 1 (9A.48.040)	D
2	D	Reckless Burning 2 (9A.48.050)	E
3	B	Malicious Mischief 1 (9A.48.070)	C
4	C	Malicious Mischief 2 (9A.48.080)	D
5	D	Malicious Mischief 3 (9A.48.090(2) (a)	
6		and (c))	E
7	E	Malicious Mischief 3 (9A.48.090(2)(b))	E
8	E	Tampering with Fire Alarm Apparatus	
9		(9.40.100)	E
10	E	Tampering with Fire Alarm Apparatus	
11		with Intent to Commit Arson (9.40.105)	E
12	A	Possession of Incendiary Device (9.40.120)	B+
13		<b>Assault and Other Crimes Involving</b>	
14		<b>Physical Harm</b>	
15	A	Assault 1 (9A.36.011)	B+
16	B+	Assault 2 (9A.36.021)	C+
17	C+	Assault 3 (9A.36.031)	D+
18	D+	Assault 4 (9A.36.041)	E
19	B+	Drive-By Shooting (9A.36.045)	C+
20	D+	Reckless Endangerment (9A.36.050)	E
21	C+	Promoting Suicide Attempt (9A.36.060)	D+
22	D+	Coercion (9A.36.070)	E
23	C+	Custodial Assault (9A.36.100)	D+
24		<b>Burglary and Trespass</b>	
25	B+	Burglary 1 (9A.52.020)	C+
26	B	Residential Burglary (9A.52.025)	C
27	B	Burglary 2 (9A.52.030)	C
28	D	Burglary Tools (Possession of) (9A.52.060)	E
29	D	Criminal Trespass 1 (9A.52.070)	E
30	E	Criminal Trespass 2 (9A.52.080)	E
31	C	Mineral Trespass (78.44.330)	C
32	C	Vehicle Prowling 1 (9A.52.095)	D
33	D	Vehicle Prowling 2 (9A.52.100)	E
34		<b>Drugs</b>	
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(2)(a))	D+
5	E	Possession of Legend Drug	
6		(69.41.030(2)(b))	E
7	B+	Violation of Uniform Controlled	
8		Substances Act - Narcotic,	
9		Methamphetamine, or Flunitrazepam Sale	
10		(69.50.401(2) (a) or (b))	B+
11	C	Violation of Uniform Controlled	
12		Substances Act - Nonnarcotic Sale	
13		(69.50.401(2)(c))	C
14	E	Possession of Marihuana <40 grams	
15		(69.50.4014)	E
16	C	Fraudulently Obtaining Controlled	
17		Substance (69.50.403)	C
18	C+	Sale of Controlled Substance for Profit	
19		(69.50.410)	C+
20	E	Unlawful Inhalation (9.47A.020)	E
21	B	Violation of Uniform Controlled	
22		Substances Act - Narcotic,	
23		Methamphetamine, or Flunitrazepam	
24		Counterfeit Substances (69.50.4011(2) (a)	
25		or (b))	B
26	C	Violation of Uniform Controlled	
27		Substances Act - Nonnarcotic Counterfeit	
28		Substances (69.50.4011(2) (c), (d), or (e))	C
29	C	Violation of Uniform Controlled	
30		Substances Act - Possession of a Controlled	
31		Substance (69.50.4013)	C
32	C	Violation of Uniform Controlled	
33		Substances Act - Possession of a Controlled	
34		Substance (69.50.4012)	C
35		<b>Firearms and Weapons</b>	
36	B	Theft of Firearm (9A.56.300)	C
37	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(2)(a)(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		<b>Homicide</b>	
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		<b>Kidnapping</b>	
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		<b>Obstructing Governmental Operation</b>	
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		<b>Public Disturbance</b>	
29	C+	Riot with Weapon (9A.84.010(2)(b))	D+
30	D+	Riot Without Weapon (9A.84.010(2)(a))	E
31	E	Failure to Disperse (9A.84.020)	E
32	E	Disorderly Conduct (9A.84.030)	E
33		<b>Sex Crimes</b>	
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		<b>Theft, Robbery, Extortion, and Forgery</b>	
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 1 and 2 (9A.56.080 and	
20		9A.56.083)	C
21	C	Forgery (9A.60.020)	D
22	A	Robbery 1 (9A.56.200)	B+
23	B+	Robbery 2 (9A.56.210)	C+
24	B+	Extortion 1 (9A.56.120)	C+
25	C+	Extortion 2 (9A.56.130)	D+
26	C	Identity Theft 1 (9.35.020(2))	D
27	D	Identity Theft 2 (9.35.020(3))	E
28	D	Improperly Obtaining Financial	
29		Information (9.35.010)	E
30	B	Possession of Stolen Property 1	
31		(9A.56.150)	C
32	C	Possession of Stolen Property 2	
33		(9A.56.160)	D
34	D	Possession of Stolen Property 3	
35		(9A.56.170)	E
36	C	Taking Motor Vehicle Without Permission	
37		1 and 2 (9A.56.070 and 9A.56.075)	D

1		<b>Motor Vehicle Related Crimes</b>	
2	E	Driving Without a License (46.20.005)	E
3	B+	Hit and Run - Death (46.52.020(4)(a))	C+
4	C	Hit and Run - Injury (46.52.020(4)(b))	D
5	D	Hit and Run-Attended (46.52.020(5))	E
6	E	Hit and Run-Unattended (46.52.010)	E
7	C	Vehicular Assault (46.61.522)	D
8	C	Attempting to Elude Pursuing Police	
9		Vehicle (46.61.024)	D
10	E	Reckless Driving (46.61.500)	E
11	D	Driving While Under the Influence	
12		(46.61.502 and 46.61.504)	E
13		<b>Other</b>	
14	<u>B+</u>	<u>Animal Cruelty 1</u>	<u>C+</u>
15	B	Bomb Threat (9.61.160)	C
16	C	Escape 1 <sup>1</sup> (9A.76.110)	C
17	C	Escape 2 <sup>1</sup> (9A.76.120)	C
18	D	Escape 3 (9A.76.130)	E
19	E	Obscene, Harassing, Etc., Phone Calls	
20		(9.61.230)	E
21	A	Other Offense Equivalent to an Adult Class	
22		A Felony	B+
23	B	Other Offense Equivalent to an Adult Class	
24		B Felony	C
25	C	Other Offense Equivalent to an Adult Class	
26		C Felony	D
27	D	Other Offense Equivalent to an Adult	
28		Gross Misdemeanor	E
29	E	Other Offense Equivalent to an Adult	
30		Misdemeanor	E
31	V	Violation of Order of Restitution,	
32		Community Supervision, or Confinement	
33		(13.40.200) <sup>2</sup>	V

34 <sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
35 and the standard range is established as follows:

36 1st escape or attempted escape during 12-month period - 4 weeks  
37 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 <sup>2</sup>If 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, D, or RCW 13.40.167.

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
	WEEKS	WEEKS	WEEKS	WEEKS
	EXCEPT			
	30-40			
	WEEKS FOR			
	15-17			
	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			52-65
29	SANCTIONS (LS)		15-36 WEEKS	WEEKS

30	C+	LS		
31				15-36 WEEKS

32	C	LS		15-36 WEEKS
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33 Local Sanctions:

34 0 to 30 Days

35 D+ LS 0 to 12 Months Community Supervision

36 0 to 150 Hours Community Restitution

37 D LS \$0 to \$500 Fine

E LS

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



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

3 (a) Adjudicated of an A+ offense;

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

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

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

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

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

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

24 **OR**

25 **OPTION C**

26 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

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

31 **OR**

32 **OPTION D**

33 **MANIFEST INJUSTICE**

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

1       **Sec. 2.** RCW 13.40.127 and 2001 c 175 s 3 are each amended to read  
2 as follows:

3       (1) A juvenile is eligible for deferred disposition unless he or  
4 she:

5       (a) Is charged with a sex or violent offense;

6       (b) Has a criminal history which includes any felony;

7       (c) Has a prior deferred disposition or deferred adjudication; or

8       (d) Has two or more adjudications.

9       (2) The juvenile court may, upon motion at least fourteen days  
10 before commencement of trial and, after consulting the juvenile's  
11 custodial parent or parents or guardian and with the consent of the  
12 juvenile, continue the case for disposition for a period not to exceed  
13 one year from the date the juvenile is found guilty. The court shall  
14 consider whether the offender and the community will benefit from a  
15 deferred disposition before deferring the disposition.

16       (3) Any juvenile who agrees to a deferral of disposition shall:

17       (a) Stipulate to the admissibility of the facts contained in the  
18 written police report;

19       (b) Acknowledge that the report will be entered and used to support  
20 a finding of guilt and to impose a disposition if the juvenile fails to  
21 comply with terms of supervision; and

22       (c) Waive the following rights to: (i) A speedy disposition; and  
23 (ii) call and confront witnesses.

24       The adjudicatory hearing shall be limited to a reading of the  
25 court's record.

26       (4) Following the stipulation, acknowledgment, waiver, and entry of  
27 a finding or plea of guilt, the court shall defer entry of an order of  
28 disposition of the juvenile.

29       (5) Any juvenile granted a deferral of disposition under this  
30 section shall be placed under community supervision. The court may  
31 impose any conditions of supervision that it deems appropriate  
32 including posting a probation bond. Payment of restitution under RCW  
33 13.40.190 shall be a condition of community supervision under this  
34 section.

35       The court may require a juvenile offender convicted of animal  
36 cruelty in the first degree to submit to a mental health evaluation to  
37 determine if the offender would benefit from treatment and such  
38 intervention would promote the safety of the community. After

1 consideration of the results of the evaluation, as a condition of  
2 community supervision, the court may order the offender to attend  
3 treatment to address issues pertinent to the offense.

4 (6) A parent who signed for a probation bond has the right to  
5 notify the counselor if the juvenile fails to comply with the bond or  
6 conditions of supervision. The counselor shall notify the court and  
7 surety of any failure to comply. A surety shall notify the court of  
8 the juvenile's failure to comply with the probation bond. The state  
9 shall bear the burden to prove, by a preponderance of the evidence,  
10 that the juvenile has failed to comply with the terms of community  
11 supervision.

12 (7) A juvenile's lack of compliance shall be determined by the  
13 judge upon written motion by the prosecutor or the juvenile's juvenile  
14 court community supervision counselor. If a juvenile fails to comply  
15 with terms of supervision, the court shall enter an order of  
16 disposition.

17 (8) At any time following deferral of disposition the court may,  
18 following a hearing, continue the case for an additional one-year  
19 period for good cause.

20 (9) At the conclusion of the period set forth in the order of  
21 deferral and upon a finding by the court of full compliance with  
22 conditions of supervision and payment of full restitution, the  
23 respondent's conviction shall be vacated and the court shall dismiss  
24 the case with prejudice, except that a conviction under RCW 16.52.205  
25 shall not be vacated.

26 NEW SECTION. **Sec. 3.** This act takes effect July 1, 2004.

--- END ---