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ENGROSSED SUBSTITUTE HOUSE BILL 2746

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State of Washington

64th Legislature

2016 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Walkinshaw, Walsh, Kagi, Senn, Frame, Kilduff, Sawyer, McBride, Goodman, Ormsby, and Tarleton)

READ FIRST TIME 02/04/16.

1 AN ACT Relating to mental health and chemical dependency  
2 treatment for juvenile offenders; amending RCW 13.40.020, 13.40.0357,  
3 and 13.40.165; and repealing RCW 13.40.167.

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

5 **Sec. 1.** RCW 13.40.020 and 2014 c 110 s 1 are each amended to  
6 read as follows:

7 For the purposes of this chapter:

8 (1) "Assessment" means an individualized examination of a child  
9 to determine the child's psychosocial needs and problems, including  
10 the type and extent of any mental health, substance abuse, or co-  
11 occurring mental health and substance abuse disorders, and  
12 recommendations for treatment. "Assessment" includes, but is not  
13 limited to, drug and alcohol evaluations, psychological and  
14 psychiatric evaluations, records review, clinical interview, and  
15 administration of a formal test or instrument;

16 (2) "Community-based rehabilitation" means one or more of the  
17 following: Employment; attendance of information classes; literacy  
18 classes; counseling, outpatient substance abuse treatment programs,  
19 outpatient mental health programs, anger management classes,  
20 education or outpatient treatment programs to prevent animal cruelty,  
21 or other services; or attendance at school or other educational

1 programs appropriate for the juvenile as determined by the school  
2 district. Placement in community-based rehabilitation programs is  
3 subject to available funds;

4 (3) "Community-based sanctions" may include one or more of the  
5 following:

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

7 (b) Community restitution not to exceed one hundred fifty hours  
8 of community restitution;

9 (4) "Community restitution" means compulsory service, without  
10 compensation, performed for the benefit of the community by the  
11 offender as punishment for committing an offense. Community  
12 restitution may be performed through public or private organizations  
13 or through work crews;

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

27 (a) Community-based sanctions;

28 (b) Community-based rehabilitation;

29 (c) Monitoring and reporting requirements;

30 (d) Posting of a probation bond;

31 (e) Residential treatment, where substance abuse, mental health,  
32 and/or co-occurring disorders have been identified in an assessment  
33 by a qualified mental health professional, psychologist,  
34 psychiatrist, or chemical dependency professional and a funded bed is  
35 available. If a child agrees to voluntary placement in a state-funded  
36 long-term evaluation and treatment facility, the case must follow the  
37 existing placement procedure including consideration of less  
38 restrictive treatment options and medical necessity.

39 (i) A court may order residential treatment after consideration  
40 and findings regarding whether:

1 (A) The referral is necessary to rehabilitate the child;

2 (B) The referral is necessary to protect the public or the child;

3 (C) The referral is in the child's best interest;

4 (D) The child has been given the opportunity to engage in less  
5 restrictive treatment and has been unable or unwilling to comply; and

6 (E) Inpatient treatment is the least restrictive action  
7 consistent with the child's needs and circumstances.

8 (ii) In any case where a court orders a child to inpatient  
9 treatment under this section, the court must hold a review hearing no  
10 later than sixty days after the youth begins inpatient treatment, and  
11 every thirty days thereafter, as long as the youth is in inpatient  
12 treatment;

13 (6) "Confinement" means physical custody by the department of  
14 social and health services in a facility operated by or pursuant to a  
15 contract with the state, or physical custody in a detention facility  
16 operated by or pursuant to a contract with any county. The county may  
17 operate or contract with vendors to operate county detention  
18 facilities. The department may operate or contract to operate  
19 detention facilities for juveniles committed to the department.  
20 Pretrial confinement or confinement of less than thirty-one days  
21 imposed as part of a disposition or modification order may be served  
22 consecutively or intermittently, in the discretion of the court;

23 (7) "Court," when used without further qualification, means the  
24 juvenile court judge(s) or commissioner(s);

25 (8) "Criminal history" includes all criminal complaints against  
26 the respondent for which, prior to the commission of a current  
27 offense:

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

32 (b) The criminal complaint was diverted by a prosecutor pursuant  
33 to the provisions of this chapter on agreement of the respondent and  
34 after an advisement to the respondent that the criminal complaint  
35 would be considered as part of the respondent's criminal history. A  
36 successfully completed deferred adjudication that was entered before  
37 July 1, 1998, or a deferred disposition shall not be considered part  
38 of the respondent's criminal history;

39 (9) "Department" means the department of social and health  
40 services;

1 (10) "Detention facility" means a county facility, paid for by  
2 the county, for the physical confinement of a juvenile alleged to  
3 have committed an offense or an adjudicated offender subject to a  
4 disposition or modification order. "Detention facility" includes  
5 county group homes, inpatient substance abuse programs, juvenile  
6 basic training camps, and electronic monitoring;

7 (11) "Diversion unit" means any probation counselor who enters  
8 into a diversion agreement with an alleged youthful offender, or any  
9 other person, community accountability board, youth court under the  
10 supervision of the juvenile court, or other entity except a law  
11 enforcement official or entity, with whom the juvenile court  
12 administrator has contracted to arrange and supervise such agreements  
13 pursuant to RCW 13.40.080, or any person, community accountability  
14 board, or other entity specially funded by the legislature to arrange  
15 and supervise diversion agreements in accordance with the  
16 requirements of this chapter. For purposes of this subsection,  
17 "community accountability board" means a board comprised of members  
18 of the local community in which the juvenile offender resides. The  
19 superior court shall appoint the members. The boards shall consist of  
20 at least three and not more than seven members. If possible, the  
21 board should include a variety of representatives from the community,  
22 such as a law enforcement officer, teacher or school administrator,  
23 high school student, parent, and business owner, and should represent  
24 the cultural diversity of the local community;

25 (12) "Foster care" means temporary physical care in a foster  
26 family home or group care facility as defined in RCW 74.15.020 and  
27 licensed by the department, or other legally authorized care;

28 (13) "Institution" means a juvenile facility established pursuant  
29 to chapters 72.05 and 72.16 through 72.20 RCW;

30 (14) "Intensive supervision program" means a parole program that  
31 requires intensive supervision and monitoring, offers an array of  
32 individualized treatment and transitional services, and emphasizes  
33 community involvement and support in order to reduce the likelihood a  
34 juvenile offender will commit further offenses;

35 (15) "Juvenile," "youth," and "child" mean any individual who is  
36 under the chronological age of eighteen years and who has not been  
37 previously transferred to adult court pursuant to RCW 13.40.110,  
38 unless the individual was convicted of a lesser charge or acquitted  
39 of the charge for which he or she was previously transferred pursuant

1 to RCW 13.40.110 or who is not otherwise under adult court  
2 jurisdiction;

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

7 (17) "Labor" means the period of time before a birth during which  
8 contractions are of sufficient frequency, intensity, and duration to  
9 bring about effacement and progressive dilation of the cervix;

10 (18) "Local sanctions" means one or more of the following: (a)  
11 0-30 days of confinement; (b) 0-12 months of community supervision;  
12 (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

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

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

25 (21) "Offense" means an act designated a violation or a crime if  
26 committed by an adult under the law of this state, under any  
27 ordinance of any city or county of this state, under any federal law,  
28 or under the law of another state if the act occurred in that state;

29 (22) "Physical restraint" means the use of any bodily force or  
30 physical intervention to control a juvenile offender or limit a  
31 juvenile offender's freedom of movement in a way that does not  
32 involve a mechanical restraint. Physical restraint does not include  
33 momentary periods of minimal physical restriction by direct person-  
34 to-person contact, without the aid of mechanical restraint,  
35 accomplished with limited force and designed to:

36 (a) Prevent a juvenile offender from completing an act that would  
37 result in potential bodily harm to self or others or damage property;

38 (b) Remove a disruptive juvenile offender who is unwilling to  
39 leave the area voluntarily; or

40 (c) Guide a juvenile offender from one location to another;

1 (23) "Postpartum recovery" means (a) the entire period a woman or  
2 youth is in the hospital, birthing center, or clinic after giving  
3 birth and (b) an additional time period, if any, a treating physician  
4 determines is necessary for healing after the youth leaves the  
5 hospital, birthing center, or clinic;

6 (24) "Probation bond" means a bond, posted with sufficient  
7 security by a surety justified and approved by the court, to secure  
8 the offender's appearance at required court proceedings and  
9 compliance with court-ordered community supervision or conditions of  
10 release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means  
11 a deposit of cash or posting of other collateral in lieu of a bond if  
12 approved by the court;

13 (25) "Respondent" means a juvenile who is alleged or proven to  
14 have committed an offense;

15 (26) "Restitution" means financial reimbursement by the offender  
16 to the victim, and shall be limited to easily ascertainable damages  
17 for injury to or loss of property, actual expenses incurred for  
18 medical treatment for physical injury to persons, lost wages  
19 resulting from physical injury, and costs of the victim's counseling  
20 reasonably related to the offense. Restitution shall not include  
21 reimbursement for damages for mental anguish, pain and suffering, or  
22 other intangible losses. Nothing in this chapter shall limit or  
23 replace civil remedies or defenses available to the victim or  
24 offender;

25 (27) "Restorative justice" means practices, policies, and  
26 programs informed by and sensitive to the needs of crime victims that  
27 are designed to encourage offenders to accept responsibility for  
28 repairing the harm caused by their offense by providing safe and  
29 supportive opportunities for voluntary participation and  
30 communication between the victim, the offender, their families, and  
31 relevant community members;

32 (28) "Restraints" means anything used to control the movement of  
33 a person's body or limbs and includes:

34 (a) Physical restraint; or

35 (b) Mechanical device including but not limited to: Metal  
36 handcuffs, plastic ties, ankle restraints, leather cuffs, other  
37 hospital-type restraints, tasers, or batons;

38 (29) "Screening" means a process that is designed to identify a  
39 child who is at risk of having mental health, substance abuse, or co-  
40 occurring mental health and substance abuse disorders that warrant

1 immediate attention, intervention, or more comprehensive assessment.  
2 A screening may be undertaken with or without the administration of a  
3 formal instrument;

4 (30) "Secretary" means the secretary of the department of social  
5 and health services. "Assistant secretary" means the assistant  
6 secretary for juvenile rehabilitation for the department;

7 (31) "Services" means services which provide alternatives to  
8 incarceration for those juveniles who have pleaded or been  
9 adjudicated guilty of an offense or have signed a diversion agreement  
10 pursuant to this chapter;

11 (32) "Sex offense" means an offense defined as a sex offense in  
12 RCW 9.94A.030;

13 (33) "Sexual motivation" means that one of the purposes for which  
14 the respondent committed the offense was for the purpose of his or  
15 her sexual gratification;

16 (34) "Surety" means an entity licensed under state insurance laws  
17 or by the state department of licensing, to write corporate,  
18 property, or probation bonds within the state, and justified and  
19 approved by the superior court of the county having jurisdiction of  
20 the case;

21 (35) "Transportation" means the conveying, by any means, of an  
22 incarcerated pregnant youth from the institution or detention  
23 facility to another location from the moment she leaves the  
24 institution or detention facility to the time of arrival at the other  
25 location, and includes the escorting of the pregnant incarcerated  
26 youth from the institution or detention facility to a transport  
27 vehicle and from the vehicle to the other location;

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

31 (37) "Violent offense" means a violent offense as defined in RCW  
32 9.94A.030;

33 (38) "Youth court" means a diversion unit under the supervision  
34 of the juvenile court.

35 **Sec. 2.** RCW 13.40.0357 and 2013 c 20 s 2 are each amended to  
36 read as follows:

37 **DESCRIPTION AND OFFENSE CATEGORY**

1		JUVENILE DISPOSITION	
2	JUVENILE		CATEGORY FOR
3	DISPOSITION		ATTEMPT, BAILJUMP,
4	OFFENSE		CONSPIRACY, OR
5	CATEGORY	DESCRIPTION (RCW CITATION)	SOLICITATION
6	.....		
7	<b>Arson and Malicious Mischief</b>		
8	A	Arson 1 (9A.48.020)	B+
9	B	Arson 2 (9A.48.030)	C
10	C	Reckless Burning 1 (9A.48.040)	D
11	D	Reckless Burning 2 (9A.48.050)	E
12	B	Malicious Mischief 1 (9A.48.070)	C
13	C	Malicious Mischief 2 (9A.48.080)	D
14	D	Malicious Mischief 3 (9A.48.090)	E
15			
16	E	Tampering with Fire Alarm Apparatus	
17		(9.40.100)	E
18	E	Tampering with Fire Alarm Apparatus with	
19		Intent to Commit Arson (9.40.105)	E
20	A	Possession of Incendiary Device (9.40.120)	B+
21	<b>Assault and Other Crimes Involving</b>		
22	<b>Physical Harm</b>		
23	A	Assault 1 (9A.36.011)	B+
24	B+	Assault 2 (9A.36.021)	C+
25	C+	Assault 3 (9A.36.031)	D+
26	D+	Assault 4 (9A.36.041)	E
27	B+	Drive-By Shooting (9A.36.045)	C+
28	D+	Reckless Endangerment (9A.36.050)	E
29	C+	Promoting Suicide Attempt (9A.36.060)	D+
30	D+	Coercion (9A.36.070)	E
31	C+	Custodial Assault (9A.36.100)	D+
32	<b>Burglary and Trespass</b>		
33	B+	Burglary 1 (9A.52.020)	C+
34	B	Residential Burglary (9A.52.025)	C
35	B	Burglary 2 (9A.52.030)	C
36	D	Burglary Tools (Possession of) (9A.52.060)	E



1	D	Criminal Trespass 1 (9A.52.070)	E
2	E	Criminal Trespass 2 (9A.52.080)	E
3	C	Mineral Trespass (78.44.330)	C
4	C	Vehicle Prowling 1 (9A.52.095)	D
5	D	Vehicle Prowling 2 (9A.52.100)	E
6		<b>Drugs</b>	
7	E	Possession/Consumption of Alcohol	
8		(66.44.270)	E
9	C	Illegally Obtaining Legend Drug	
10		(69.41.020)	D
11	C+	Sale, Delivery, Possession of Legend Drug	
12		with Intent to Sell (69.41.030(2)(a))	D+
13	E	Possession of Legend Drug	
14		(69.41.030(2)(b))	E
15	B+	Violation of Uniform Controlled	
16		Substances Act - Narcotic,	
17		Methamphetamine, or Flunitrazepam Sale	
18		(69.50.401(2) (a) or (b))	B+
19	C	Violation of Uniform Controlled	
20		Substances Act - Nonnarcotic Sale	
21		(69.50.401(2)(c))	C
22	E	Possession of Marihuana <40 grams	
23		(69.50.4014)	E
24	C	Fraudulently Obtaining Controlled	
25		Substance (69.50.403)	C
26	C+	Sale of Controlled Substance for Profit	
27		(69.50.410)	C+
28	E	Unlawful Inhalation (9.47A.020)	E
29	B	Violation of Uniform Controlled	
30		Substances Act - Narcotic,	
31		Methamphetamine, or Flunitrazepam	
32		Counterfeit Substances (69.50.4011(2) (a)	
33		or (b))	B
34	C	Violation of Uniform Controlled	
35		Substances Act - Nonnarcotic Counterfeit	
36		Substances (69.50.4011(2) (c), (d), or (e))	C

1	C	Violation of Uniform Controlled	
2		Substances Act - Possession of a Controlled	
3		Substance (69.50.4013)	C
4	C	Violation of Uniform Controlled	
5		Substances Act - Possession of a Controlled	
6		Substance (69.50.4012)	C
7		<b>Firearms and Weapons</b>	
8	B	Theft of Firearm (9A.56.300)	C
9	B	Possession of Stolen Firearm (9A.56.310)	C
10	E	Carrying Loaded Pistol Without Permit	
11		(9.41.050)	E
12	C	Possession of Firearms by Minor (<18)	
13		(9.41.040(2)(a)(( <del>iii</del> )) (iv))	C
14	D+	Possession of Dangerous Weapon	
15		(9.41.250)	E
16	D	Intimidating Another Person by use of	
17		Weapon (9.41.270)	E
18		<b>Homicide</b>	
19	A+	Murder 1 (9A.32.030)	A
20	A+	Murder 2 (9A.32.050)	B+
21	B+	Manslaughter 1 (9A.32.060)	C+
22	C+	Manslaughter 2 (9A.32.070)	D+
23	B+	Vehicular Homicide (46.61.520)	C+
24		<b>Kidnapping</b>	
25	A	Kidnap 1 (9A.40.020)	B+
26	B+	Kidnap 2 (9A.40.030)	C+
27	C+	Unlawful Imprisonment (9A.40.040)	D+
28		<b>Obstructing Governmental Operation</b>	
29	D	Obstructing a Law Enforcement Officer	
30		(9A.76.020)	E
31	E	Resisting Arrest (9A.76.040)	E
32	B	Introducing Contraband 1 (9A.76.140)	C
33	C	Introducing Contraband 2 (9A.76.150)	D
34	E	Introducing Contraband 3 (9A.76.160)	E
35	B+	Intimidating a Public Servant (9A.76.180)	C+
36	B+	Intimidating a Witness (9A.72.110)	C+

1		<b>Public Disturbance</b>	
2	C+	Criminal Mischief with Weapon	
3		(9A.84.010(2)(b))	D+
4	D+	Criminal Mischief Without Weapon	
5		(9A.84.010(2)(a))	E
6	E	Failure to Disperse (9A.84.020)	E
7	E	Disorderly Conduct (9A.84.030)	E
8		<b>Sex Crimes</b>	
9	A	Rape 1 (9A.44.040)	B+
10	A-	Rape 2 (9A.44.050)	B+
11	C+	Rape 3 (9A.44.060)	D+
12	A-	Rape of a Child 1 (9A.44.073)	B+
13	B+	Rape of a Child 2 (9A.44.076)	C+
14	B	Incest 1 (9A.64.020(1))	C
15	C	Incest 2 (9A.64.020(2))	D
16	D+	Indecent Exposure (Victim <14)	
17		(9A.88.010)	E
18	E	Indecent Exposure (Victim 14 or over)	
19		(9A.88.010)	E
20	B+	Promoting Prostitution 1 (9A.88.070)	C+
21	C+	Promoting Prostitution 2 (9A.88.080)	D+
22	E	O & A (Prostitution) (9A.88.030)	E
23	B+	Indecent Liberties (9A.44.100)	C+
24	A-	Child Molestation 1 (9A.44.083)	B+
25	B	Child Molestation 2 (9A.44.086)	C+
26	C	Failure to Register as a Sex Offender	
27		(9A.44.132)	D
28		<b>Theft, Robbery, Extortion, and Forgery</b>	
29	B	Theft 1 (9A.56.030)	C
30	C	Theft 2 (9A.56.040)	D
31	D	Theft 3 (9A.56.050)	E
32	B	Theft of Livestock 1 and 2 (9A.56.080 and	
33		9A.56.083)	C
34	C	Forgery (9A.60.020)	D
35	A	Robbery 1 (9A.56.200)	B+
36	B+	Robbery 2 (9A.56.210)	C+

1	B+	Extortion 1 (9A.56.120)	C+
2	C+	Extortion 2 (9A.56.130)	D+
3	C	Identity Theft 1 (9.35.020(2))	D
4	D	Identity Theft 2 (9.35.020(3))	E
5	D	Improperly Obtaining Financial	
6		Information (9.35.010)	E
7	B	Possession of a Stolen Vehicle (9A.56.068)	C
8	B	Possession of Stolen Property 1	
9		(9A.56.150)	C
10	C	Possession of Stolen Property 2	
11		(9A.56.160)	D
12	D	Possession of Stolen Property 3	
13		(9A.56.170)	E
14	B	Taking Motor Vehicle Without Permission	
15		1 (9A.56.070)	C
16	C	Taking Motor Vehicle Without Permission	
17		2 (9A.56.075)	D
18	B	Theft of a Motor Vehicle (9A.56.065)	C
19		<b>Motor Vehicle Related Crimes</b>	
20	E	Driving Without a License (46.20.005)	E
21	B+	Hit and Run - Death (46.52.020(4)(a))	C+
22	C	Hit and Run - Injury (46.52.020(4)(b))	D
23	D	Hit and Run-Attended (46.52.020(5))	E
24	E	Hit and Run-Unattended (46.52.010)	E
25	C	Vehicular Assault (46.61.522)	D
26	C	Attempting to Elude Pursuing Police	
27		Vehicle (46.61.024)	D
28	E	Reckless Driving (46.61.500)	E
29	D	Driving While Under the Influence	
30		(46.61.502 and 46.61.504)	E
31	B+	Felony Driving While Under the Influence	
32		(46.61.502(6))	B
33	B+	Felony Physical Control of a Vehicle While	
34		Under the Influence (46.61.504(6))	B
35		<b>Other</b>	
36	B	Animal Cruelty 1 (16.52.205)	C

1	B	Bomb Threat (9.61.160)	C
2	C	Escape 1 <sup>1</sup> (9A.76.110)	C
3	C	Escape 2 <sup>1</sup> (9A.76.120)	C
4	D	Escape 3 (9A.76.130)	E
5	E	Obscene, Harassing, Etc., Phone Calls	
6		(9.61.230)	E
7	A	Other Offense Equivalent to an Adult Class	
8		A Felony	B+
9	B	Other Offense Equivalent to an Adult Class	
10		B Felony	C
11	C	Other Offense Equivalent to an Adult Class	
12		C Felony	D
13	D	Other Offense Equivalent to an Adult Gross	
14		Misdemeanor	E
15	E	Other Offense Equivalent to an Adult	
16		Misdemeanor	E
17	V	Violation of Order of Restitution,	
18		Community Supervision, or Confinement	
19		(13.40.200) <sup>2</sup>	V

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

22 1st escape or attempted escape during 12-month period - 4 weeks  
23 confinement

24 2nd escape or attempted escape during 12-month period - 8 weeks  
25 confinement

26 3rd and subsequent escape or attempted escape during 12-month  
27 period - 12 weeks confinement

28 <sup>2</sup>If the court finds that a respondent has violated terms of an order,  
29 it may impose a penalty of up to 30 days of confinement.

30 **JUVENILE SENTENCING STANDARDS**

31 This schedule must be used for juvenile offenders. The court may  
32 select sentencing option A, B, C, or D(~~, or RCW 13.40.167~~).

33 OPTION A

34 JUVENILE OFFENDER SENTENCING GRID

35 STANDARD RANGE

1	A+	180 weeks to age 21 for all category A+ offenses					
2	A	103-129 weeks for all category A offenses					
3	A-	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
4		Except 30-40 weeks					
5		for 15 to 17 year olds					
6	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
7	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
8	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
9		C	LS	LS	LS	LS	15-36 weeks
10		D+	LS	LS	LS	LS	LS
11		D	LS	LS	LS	LS	LS
12		E	LS	LS	LS	LS	LS
13							
14	PRIOR		0	1	2	3	4 or more
15	ADJUDICATIONS						

16 NOTE: References in the grid to days or weeks mean periods of  
17 confinement. "LS" means "local sanctions" as defined in RCW  
18 13.40.020.

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

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

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

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

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

35 OR



1 controlled substances act (RCW 69.50.401 (2)(a) and (b)), or  
2 manslaughter 2 (RCW 9A.32.070), when the offense includes infliction  
3 of bodily harm upon another or when during the commission or  
4 immediate withdrawal from the offense the respondent was armed with a  
5 deadly weapon;

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

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

9 OR

10 OPTION C

11 **CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

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

16 OR

17 OPTION D

18 **MANIFEST INJUSTICE**

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

22 **Sec. 3.** RCW 13.40.165 and 2004 c 120 s 5 are each amended to  
23 read as follows:

24 (1) The purpose of this disposition alternative is to ensure that  
25 successful treatment options to reduce recidivism are available to  
26 eligible youth, pursuant to RCW 70.96A.520. It is also the purpose of  
27 the disposition alternative to assure that minors in need of chemical  
28 dependency, mental health, and/or co-occurring disorder treatment  
29 receive an appropriate continuum of culturally relevant care and  
30 treatment, including prevention and early intervention, self-directed  
31 care, parent-directed care, and residential treatment. To facilitate  
32 the continuum of care and treatment to minors in out-of-home  
33 placements, all divisions of the department that provide these  
34 services to minors shall jointly plan and deliver these services. It  
35 is also the purpose of the disposition alternative to protect the  
36 rights of minors against needless hospitalization and deprivations of  
37 liberty and to enable treatment decisions to be made in response to



1 clinical needs and in accordance with sound professional judgment.  
2 The mental health, substance abuse, and co-occurring disorder  
3 treatment providers shall, to the extent possible, offer services  
4 that involve minors' parents, guardians, and family.

5 (2) The court must consider eligibility for the chemical  
6 dependency or mental health disposition alternative when a juvenile  
7 offender is subject to a standard range disposition of local  
8 sanctions or 15 to 36 weeks of confinement and has not committed an  
9 A- or B+ offense, other than a first time B+ offense under chapter  
10 69.50 RCW. The court, on its own motion or the motion of the state or  
11 the respondent if the evidence shows that the offender may be  
12 chemically dependent ~~(( $\oplus$ ))~~, substance abusing, or has significant  
13 mental health or co-occurring disorders may order an examination by a  
14 chemical dependency counselor from a chemical dependency treatment  
15 facility approved under chapter 70.96A RCW or a mental health  
16 professional as defined in chapter 71.34 RCW to determine if the  
17 youth is chemically dependent ~~(( $\oplus$ ))~~, substance abusing, or suffers  
18 from significant mental health or co-occurring disorders. The  
19 offender shall pay the cost of any examination ordered under this  
20 subsection unless the court finds that the offender is indigent and  
21 no third party insurance coverage is available, in which case the  
22 state shall pay the cost.

23 ~~((+2))~~ (3) The report of the examination shall include at a  
24 minimum the following: The respondent's version of the facts and the  
25 official version of the facts, the respondent's offense history, an  
26 assessment of drug-alcohol problems ~~((and))~~, mental health diagnoses,  
27 previous treatment attempts, the respondent's social, educational,  
28 and employment situation, and other evaluation measures used. The  
29 report shall set forth the sources of the examiner's information.

30 ~~((+3))~~ (4) The examiner shall assess and report regarding the  
31 respondent's relative risk to the community. A proposed treatment  
32 plan shall be provided and shall include, at a minimum:

- 33 (a) Whether inpatient and/or outpatient treatment is recommended;
- 34 (b) Availability of appropriate treatment;
- 35 (c) Monitoring plans, including any requirements regarding living  
36 conditions, lifestyle requirements, and monitoring by family members,  
37 legal guardians, or others;
- 38 (d) Anticipated length of treatment; and
- 39 (e) Recommended crime-related prohibitions.

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

9        ~~((5))~~ (6)(a) After receipt of reports of the examination, the  
10 court shall then consider whether the offender and the community will  
11 benefit from use of this ~~((chemical-dependency))~~ disposition  
12 alternative and consider the victim's opinion whether the offender  
13 should receive a treatment disposition under this section.

14        (b) If the court determines that this ~~((chemical-dependency))~~  
15 disposition alternative is appropriate, then the court shall impose  
16 the standard range for the offense, or if the court concludes, and  
17 enters reasons for its conclusion, that such disposition would  
18 effectuate a manifest injustice, the court shall impose a disposition  
19 above the standard range as indicated in option D of RCW 13.40.0357  
20 if the disposition is an increase from the standard range and the  
21 confinement of the offender does not exceed a maximum of fifty-two  
22 weeks, suspend execution of the disposition, and place the offender  
23 on community supervision for up to one year. As a condition of the  
24 suspended disposition, the court shall require the offender to  
25 undergo available outpatient drug/alcohol, mental health, or co-  
26 occurring disorder treatment and/or inpatient mental health or drug/  
27 alcohol treatment. ~~((For purposes of this section,))~~ The court shall  
28 only order inpatient treatment under this section if a funded bed is  
29 available. If the inpatient treatment ~~((may not exceed))~~ is longer  
30 than ninety days, the court shall hold a review hearing every thirty  
31 days beyond the initial ninety days. The respondent may appear  
32 telephonically at these review hearings if in compliance with  
33 treatment. As a condition of the suspended disposition, the court may  
34 impose conditions of community supervision and other sanctions,  
35 including up to thirty days of confinement, one hundred fifty hours  
36 of community restitution, and payment of legal financial obligations  
37 and restitution.

38        ~~((6))~~ (7) The mental health/co-occurring disorder/drug/alcohol  
39 treatment provider shall submit monthly reports on the respondent's  
40 progress in treatment to the court and the parties. The reports shall

1 reference the treatment plan and include at a minimum the following:  
2 Dates of attendance, respondent's compliance with requirements,  
3 treatment activities, the respondent's relative progress in  
4 treatment, and any other material specified by the court at the time  
5 of the disposition.

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

8 If the offender violates any condition of the disposition or the  
9 court finds that the respondent is failing to make satisfactory  
10 progress in treatment, the court may impose sanctions pursuant to RCW  
11 13.40.200 or revoke the suspension and order execution of the  
12 disposition. The court shall give credit for any confinement time  
13 previously served if that confinement was for the offense for which  
14 the suspension is being revoked.

15 ~~((+7))~~ (8) For purposes of this section, "victim" means any  
16 person who has sustained emotional, psychological, physical, or  
17 financial injury to person or property as a direct result of the  
18 offense charged. "Victim" may also include a known parent or guardian  
19 of a victim who is a minor child or is not a minor child but is  
20 incapacitated, incompetent, disabled, or deceased.

21 ~~((+8))~~ (9) Whenever a juvenile offender is entitled to credit  
22 for time spent in detention prior to a dispositional order, the  
23 dispositional order shall specifically state the number of days of  
24 credit for time served.

25 ~~((+9))~~ (10) In no case shall the term of confinement imposed by  
26 the court at disposition exceed that to which an adult could be  
27 subjected for the same offense.

28 ~~((+10))~~ (11) A disposition under this section is not appealable  
29 under RCW 13.40.230.

30 (12) Subject to funds appropriated for this specific purpose, the  
31 costs incurred by the juvenile courts for the mental health, chemical  
32 dependency, and/or co-occurring disorder evaluations, treatment, and  
33 costs of supervision required under this section shall be paid by the  
34 department.

35 NEW SECTION. **Sec. 4.** RCW 13.40.167 (Mental health disposition  
36 alternative) and 2005 c 508 s 1 & 2003 c 378 s 4 are each repealed.

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