

E2SHB 1646 - S COMM AMD

By Committee on Human Services, Reentry & Rehabilitation

ADOPTED 04/15/2019

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

3 "NEW SECTION. **Sec. 1.** The legislature recognizes state and
4 national efforts to reform policies that incarcerate youth and young
5 adults in the adult criminal justice system. The legislature
6 acknowledges that transferring youth and young adults to the adult
7 criminal justice system is not effective in reducing future criminal
8 behavior. Youth and young adults incarcerated in the adult criminal
9 justice system are more likely to recidivate than their counterparts
10 housed in juvenile facilities.

11 The legislature intends to enhance community safety by
12 emphasizing rehabilitation of juveniles convicted even of the most
13 serious violent offenses under the adult criminal justice system.
14 Juveniles adjudicated as adults should be served and housed within
15 the facilities of the juvenile rehabilitation administration up until
16 age twenty-five, but released earlier if their sentence ends prior to
17 that. In doing so, the legislature takes advantage of recent changes
18 made by congress during the reauthorization of the juvenile justice
19 and delinquency prevention act by the juvenile justice reform act of
20 2018 that allow youth and young adults who at the time of their
21 offense are younger than the maximum age of confinement in a juvenile
22 correctional facility, to be placed in a juvenile correctional
23 facility by operation of state law. The emphasis on rehabilitation up
24 to age twenty-five reflects similar programming in other states,
25 which has significantly reduced recidivism of juveniles confined in
26 adult correctional facilities.

27 **Sec. 2.** RCW 72.01.410 and 2017 3rd sp.s. c 6 s 728 are each
28 amended to read as follows:

29 (1) Whenever any (~~child under the age of eighteen~~) person is
30 convicted as an adult in the courts of this state of a (~~crime~~

1 ~~amounting to a~~) felony offense committed under the age of eighteen,
2 and is committed for a term of confinement, that ~~((child))~~ person
3 shall be initially placed in a facility operated by the department of
4 ~~((corrections to))~~ children, youth, and families. The department of
5 corrections shall determine the ~~((child's))~~ person's earned release
6 date.

7 (a) ~~((If the earned release date is prior to the child's twenty-~~
8 ~~first birthday, the department of corrections shall transfer the~~
9 ~~child to the custody of the department of children, youth, and~~
10 ~~families, or to such other institution as is now, or may hereafter be~~
11 ~~authorized by law to receive such child, until such time as the child~~
12 ~~completes the ordered term of confinement or arrives at the age of~~
13 ~~twenty-one years.~~

14 ~~((i))~~) While in the custody of the department of children, youth,
15 and families, the ~~((child))~~ person must have the same treatment,
16 housing options, transfer, and access to program resources as any
17 other ~~((child))~~ person committed ~~((directly))~~ to that juvenile
18 correctional facility or institution pursuant to chapter 13.40 RCW.
19 Except as provided under (d) of this subsection, treatment,
20 placement, and program decisions shall be at the sole discretion of
21 the department of children, youth, and families. The ~~((youth))~~ person
22 shall ~~((only))~~ not be transferred ~~((back))~~ to the custody of the
23 department of corrections ~~((with))~~ without the approval of the
24 department of children, youth, and families ~~((or when the child))~~
25 until the person reaches the age of ~~((twenty-one))~~ twenty-five.

26 ~~((ii))~~) (b) If the ~~((child's))~~ person's sentence includes a term
27 of community custody, the department of children, youth, and families
28 shall not release the ~~((child))~~ person to community custody until the
29 department of corrections has approved the ~~((child's))~~ person's
30 release plan pursuant to RCW 9.94A.729(5)(b). If a ~~((child))~~ person
31 is held past his or her earned release date pending release plan
32 approval, the department of children, youth, and families shall
33 retain custody until a plan is approved or the ~~((child))~~ person
34 completes the ordered term of confinement prior to age ~~((twenty-one))~~
35 twenty-five.

36 ~~((iii))~~) (c) If the department of children, youth, and families
37 determines that retaining custody of the ~~((child))~~ person in a
38 facility of the department of children, youth, and families presents
39 a significant safety risk, the ~~((child may be returned))~~ department

1 of children, youth, and families may transfer the person to the
2 custody of the department of corrections.

3 ~~((b) If the child's earned release date is on or after the~~
4 ~~child's twenty-first birthday, the department of corrections shall,~~
5 ~~with the consent of the secretary of children, youth, and families,~~
6 ~~transfer the child to a facility or institution operated by the~~
7 ~~department of children, youth, and families. Despite the transfer,))~~

8 (d) The department of corrections ((retains)) must retain authority
9 over custody decisions relating to a person whose earned release date
10 is on or after the person's twenty-fifth birthday and who is placed
11 in a facility operated by the department of children, youth, and
12 families under this section, unless the person qualifies for partial
13 confinement under section 6 of this act, and must approve any leave
14 from the facility. When the ((child)) person turns age ((twenty-one))
15 twenty-five, he or she must be transferred ((back)) to the department
16 of corrections, except as described under section 6 of this act. The
17 department of children, youth, and families has all routine and day-
18 to-day operations authority for the ((child)) person while the person
19 is in its custody.

20 (2) (a) Except as provided in (b) and (c) of this subsection, ~~((an~~
21 ~~offender))~~ a person under the age of eighteen who is ~~((convicted in~~
22 ~~adult criminal court and who is committed to a term of confinement~~
23 ~~at))~~ transferred to the custody of the department of corrections must
24 be placed in a housing unit, or a portion of a housing unit, that is
25 separated from ~~((offenders))~~ other persons in custody who are
26 eighteen years of age or older, until the ((offender)) person reaches
27 the age of eighteen.

28 (b) ~~((An offender))~~ A person who is transferred to the custody of
29 the department of corrections and reaches eighteen years of age may
30 remain in a housing unit for ((offenders)) persons under the age of
31 eighteen if the secretary of corrections determines that: (i) The
32 ((offender's)) person's needs and the ((correctional)) rehabilitation
33 goals for the ((offender)) person could continue to be better met by
34 the programs and housing environment that is separate from
35 ((offenders)) other persons in custody who are eighteen years of age
36 and older; and (ii) the programs or housing environment for
37 ((offenders)) persons under the age of eighteen will not be
38 substantially affected by the continued placement of the ((offender))
39 person in that environment. The ((offender)) person may remain placed
40 in a housing unit for ((offenders)) persons under the age of eighteen

1 until such time as the secretary of corrections determines that the
2 (~~offender's~~) person's needs and (~~correctional~~) goals are no
3 longer better met in that environment but in no case past the
4 (~~offender's twenty-first~~) person's twenty-fifth birthday.

5 (c) (~~An offender~~) A person transferred to the custody of the
6 department of corrections who is under the age of eighteen may be
7 housed in an intensive management unit or administrative segregation
8 unit containing offenders eighteen years of age or older if it is
9 necessary for the safety or security of the offender or staff. In
10 these cases, the offender must be kept physically separate from other
11 offenders at all times.

12 (3) The department of children, youth, and families must review
13 the placement of a person over age twenty-one in the custody of the
14 department of children, youth, and families under this section to
15 determine whether the person should be transferred to the custody of
16 the department of corrections. The department of children, youth, and
17 families may determine the frequency of the review required under
18 this subsection, but the review must occur at least once before the
19 person reaches age twenty-three if the person's commitment period in
20 a juvenile institution extends beyond the person's twenty-third
21 birthday.

22 **Sec. 3.** RCW 13.40.300 and 2018 c 162 s 7 are each amended to
23 read as follows:

24 (1) Except as provided in subsection (2) of this section, a
25 juvenile offender may not be committed by the juvenile court to the
26 department of children, youth, and families for placement in a
27 juvenile (~~correctional institution~~) rehabilitation facility beyond
28 the juvenile offender's twenty-first birthday.

29 (2) A juvenile offender (~~convicted~~) adjudicated of an A++
30 juvenile disposition category offense listed in RCW 13.40.0357, or
31 found to be armed with a firearm and sentenced to an additional
32 twelve months pursuant to RCW 13.40.193(3)(b), may be committed by
33 the juvenile court to the department of children, youth, and families
34 for placement in a juvenile (~~correctional institution~~)
35 rehabilitation facility up to the juvenile offender's twenty-fifth
36 birthday, but not beyond.

37 (3) A juvenile may be under the jurisdiction of the juvenile
38 court or the authority of the department of children, youth, and

1 families beyond the juvenile's eighteenth birthday only if prior to
2 the juvenile's eighteenth birthday:

3 (a) Proceedings are pending seeking the adjudication of a
4 juvenile offense and the court by written order setting forth its
5 reasons extends jurisdiction of juvenile court over the juvenile
6 beyond his or her eighteenth birthday, except:

7 (i) If the court enters a written order extending jurisdiction
8 under this subsection, it shall not extend jurisdiction beyond the
9 juvenile's twenty-first birthday;

10 (ii) If the order fails to specify a specific date, it shall be
11 presumed that jurisdiction is extended to age twenty-one; and

12 (iii) If the juvenile court previously extended jurisdiction
13 beyond the juvenile's eighteenth birthday, and that period of
14 extension has not expired, the court may further extend jurisdiction
15 by written order setting forth its reasons;

16 (b) The juvenile has been found guilty after a fact finding or
17 after a plea of guilty and an automatic extension is necessary to
18 allow for the imposition of disposition;

19 (c) Disposition has been held and an automatic extension is
20 necessary to allow for the execution and enforcement of the court's
21 order of disposition, subject to the following:

22 (i) If an order of disposition imposes commitment to the
23 department, then jurisdiction is automatically extended to include a
24 period of up to twelve months of parole, in no case extending beyond
25 the offender's twenty-first birthday, except;

26 (ii) If an order of disposition imposes a commitment to the
27 department for a juvenile offender (~~(convicted)~~) adjudicated of an
28 A++ juvenile disposition category offense listed in RCW 13.40.0357,
29 or found to be armed with a firearm and sentenced to an additional
30 twelve months pursuant to RCW 13.40.193(3)(b), then jurisdiction for
31 parole is automatically extended to include a period of up to twenty-
32 four months of parole, in no case extending beyond the offender's
33 twenty-fifth birthday;

34 (d) While proceedings are pending in a case in which jurisdiction
35 is vested in the adult criminal court pursuant to RCW 13.04.030, the
36 juvenile turns eighteen years of age and is subsequently found not
37 guilty of the charge for which he or she was transferred, or is
38 convicted in the adult criminal court of (~~(a lesser included)~~) an
39 offense that is not also an offense listed in RCW 13.04.030(1)(e)(v),

1 and an automatic extension is necessary to impose the juvenile
2 disposition as required by RCW 13.04.030(1)(e)(v)(C)(II); or

3 (e) Pursuant to the terms of RCW 13.40.190 and 13.40.198, the
4 juvenile court maintains jurisdiction beyond the juvenile offender's
5 twenty-first birthday for the purpose of enforcing an order of
6 restitution or penalty assessment.

7 (4) Except as otherwise provided herein, in no event may the
8 juvenile court have authority to extend jurisdiction over any
9 juvenile offender beyond the juvenile offender's twenty-first
10 birthday.

11 (5) Notwithstanding any extension of jurisdiction over a person
12 pursuant to this section, the juvenile court has no jurisdiction over
13 any offenses alleged to have been committed by a person eighteen
14 years of age or older.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 72.01
16 RCW to read as follows:

17 (1) Any person in the custody of the department of social and
18 health services or the department of children, youth, and families on
19 or before the effective date of this section, who was under the age
20 of eighteen at the time of the commission of the offense and who was
21 convicted as an adult, must remain in the custody of the department
22 of children, youth, and families until transfer to the department of
23 corrections or release pursuant to RCW 72.01.410.

24 (2) Any person in the custody of the department of corrections on
25 the effective date of this section, who was under the age of eighteen
26 at the time of the commission of the offense and who was convicted as
27 an adult, and who has not yet reached the age of twenty-five, is
28 eligible for transfer to the custody of the department of children,
29 youth, and families beginning January 1, 2020, subject to the process
30 established in subsection (3) of this section.

31 (3) By February 1, 2020, the department of corrections and the
32 department of children, youth, and families must review and determine
33 whether a person identified in subsection (2) of this section should
34 transfer from the department of corrections to the department of
35 children, youth, and families through the following process:

36 (a) No later than September 1, 2019, the department of
37 corrections and the department of children, youth, and families shall
38 establish, through a memorandum of understanding, a multidisciplinary
39 interagency team to conduct a case-by-case review of the transfer of

1 persons from the department of corrections to the department of
2 children, youth, and families pursuant to subsection (2) of this
3 section. The multidisciplinary interagency team must include a
4 minimum of three representatives from the department of corrections
5 and three representatives from the department of children, youth, and
6 families, and must provide the person whose transfer is being
7 considered an opportunity to consent to the transfer. In considering
8 whether a transfer to the department of children, youth, and families
9 is appropriate, the multidisciplinary interagency team may consider
10 any relevant factors including, but not limited to:

11 (i) The safety and security of the person, staff, and other
12 persons in the custody of the department of children, youth, and
13 families;

14 (ii) The person's behavior and assessed risks and needs;

15 (iii) Whether the department of children, youth, and families or
16 the department of corrections' programs are better equipped to
17 facilitate successful rehabilitation and reentry into the community;
18 and

19 (iv) Any statements regarding the transfer made by the person
20 whose transfer is being considered.

21 (b) After reviewing each proposed transfer, the multidisciplinary
22 interagency team shall make a recommendation regarding the transfer
23 to the secretaries of the department of children, youth, and families
24 and the department of corrections. This recommendation must be
25 provided to the secretaries of each department by January 1, 2020.

26 (c) The secretaries of the department of children, youth, and
27 families and the department of corrections, or their designees, shall
28 approve or deny the transfer within thirty days of receiving the
29 recommendation of the multidisciplinary interagency team, and by no
30 later than February 1, 2020.

31 (4) This section expires July 1, 2021.

32 **Sec. 5.** 2018 c 162 s 9 (uncodified) is amended to read as
33 follows:

34 (1) The Washington state institute for public policy must:

35 (a) Assess the impact of ((this act)) chapter 162, Laws of 2018,
36 and sections 2 through 6, chapter . . ., Laws of 2019 (sections 2
37 through 6 of this act) on community safety, racial
38 disproportionality, recidivism, state expenditures, and youth
39 rehabilitation, to the extent possible((τ)); and

1 (b) Conduct a cost-benefit analysis, including health impacts and
2 recidivism effects, of extending RCW 72.01.410 to include all
3 offenses committed under the age of twenty-one.

4 (2) The institute shall submit, in compliance with RCW 43.01.036,
5 a preliminary report on the requirements listed in subsection (1) of
6 this section to the governor and the appropriate committees of the
7 legislature by December 1, 2023, and a final report to the governor
8 and the appropriate committees of the legislature by December 1,
9 2031.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 72.01
11 RCW to read as follows:

12 (1) A person in the custody of the department of children, youth,
13 and families under RCW 72.01.410 who has an earned release date that
14 is after the person's twenty-fifth birthday but on or before the
15 person's twenty-sixth birthday may, after turning twenty-five, serve
16 the remainder of the person's term of confinement in partial
17 confinement on electronic home monitoring under the authority and
18 supervision of the department of children, youth, and families,
19 provided that the department of children, youth, and families
20 determines that such placement and retention by the department of
21 children, youth, and families is in the best interests of the person
22 and the community. The department of children, youth, and families
23 retains the authority to transfer the person to the custody of the
24 department of corrections under RCW 72.01.410.

25 (2) A person placed on electronic home monitoring under this
26 section must otherwise continue to be subject to similar treatment,
27 options, access to programs and resources, conditions, and
28 restrictions applicable to other similarly situated persons under the
29 jurisdiction of the department of children, youth, and families. If
30 the person has a sentence that includes a term of community custody,
31 this term of community custody must begin after the current term of
32 confinement has ended.

33 (3) If a person placed on electronic home monitoring under this
34 section commits a violation requiring the return of the person to
35 total confinement, the person must be transferred to the custody and
36 supervision of the department of corrections for the remainder of the
37 sentence.

1 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.216
2 RCW to read as follows:

3 (1) The department shall meet regularly with the school districts
4 that educate students who are in the custody of medium and maximum
5 security facilities operated by juvenile rehabilitation to help
6 coordinate activities in areas of common interest, such as
7 communication with parents. The office of the superintendent of
8 public instruction shall facilitate upon request of the department.

9 (2) The office of the superintendent of public instruction, in
10 collaboration with the department, shall create a comprehensive plan
11 for the education of students in juvenile rehabilitation and provide
12 it to the governor and relevant committees of the legislature by
13 September 1, 2020.

14 **Sec. 8.** RCW 13.40.0357 and 2018 c 162 s 3 are each amended to
15 read as follows:

16 **DESCRIPTION AND OFFENSE CATEGORY**

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

22 **Arson and Malicious Mischief**

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+

36 **Assault and Other Crimes Involving**
37 **Physical Harm**

1	A	Assault 1 (9A.36.011)	B+
2	B+	Assault 2 (9A.36.021)	C+
3	C+	Assault 3 (9A.36.031)	D+
4	D+	Assault 4 (9A.36.041)	E
5	B+	Drive-By Shooting (9A.36.045)	C+
6		committed at age 15 or under	
7	A++	Drive-By Shooting (9A.36.045)	((A+))
8		committed at age 16 or 17	<u>A</u>
9	D+	Reckless Endangerment (9A.36.050)	E
10	C+	Promoting Suicide Attempt (9A.36.060)	D+
11	D+	Coercion (9A.36.070)	E
12	C+	Custodial Assault (9A.36.100)	D+
13		Burglary and Trespass	
14	B+	Burglary 1 (9A.52.020) committed at	C+
15		age 15 or under	
16	A-	Burglary 1 (9A.52.020) committed at	B+
17		age 16 or 17	
18	B	Residential Burglary (9A.52.025)	C
19	B	Burglary 2 (9A.52.030)	C
20	D	Burglary Tools (Possession of)	E
21		(9A.52.060)	
22	D	Criminal Trespass 1 (9A.52.070)	E
23	E	Criminal Trespass 2 (9A.52.080)	E
24	C	Mineral Trespass (78.44.330)	C
25	C	Vehicle Prowling 1 (9A.52.095)	D
26	D	Vehicle Prowling 2 (9A.52.100)	E
27		Drugs	
28	E	Possession/Consumption of Alcohol	E
29		(66.44.270)	
30	C	Illegally Obtaining Legend Drug	D
31		(69.41.020)	
32	C+	Sale, Delivery, Possession of Legend	D+
33		Drug with Intent to Sell (69.41.030(2)(a))	
34	E	Possession of Legend	E
35		Drug (69.41.030(2)(b))	

1	B+	Violation of Uniform Controlled	B+
2		Substances Act - Narcotic,	
3		Methamphetamine, or Flunitrazepam	
4		Sale (69.50.401(2) (a) or (b))	
5	C	Violation of Uniform Controlled	C
6		Substances Act - Nonnarcotic Sale	
7		(69.50.401(2)(c))	
8	E	Possession of Marihuana <40 grams	E
9		(69.50.4014)	
10	C	Fraudulently Obtaining Controlled	C
11		Substance (69.50.403)	
12	C+	Sale of Controlled Substance for Profit	C+
13		(69.50.410)	
14	E	Unlawful Inhalation (9.47A.020)	E
15	B	Violation of Uniform Controlled	B
16		Substances Act - Narcotic,	
17		Methamphetamine, or Flunitrazepam	
18		Counterfeit Substances (69.50.4011(2)	
19		(a) or (b))	
20	C	Violation of Uniform Controlled	C
21		Substances Act - Nonnarcotic Counterfeit	
22		Substances (69.50.4011(2) (c), (d), or (e))	
23	C	Violation of Uniform Controlled	C
24		Substances Act - Possession of a	
25		Controlled Substance (69.50.4013)	
26	C	Violation of Uniform Controlled	C
27		Substances Act - Possession of a	
28		Controlled Substance (69.50.4012)	
29		Firearms and Weapons	
30	B	Theft of Firearm (9A.56.300)	C
31	B	Possession of Stolen Firearm	C
32		(9A.56.310)	
33	E	Carrying Loaded Pistol Without Permit	E
34		(9.41.050)	
35	C	Possession of Firearms by Minor (<18)	C
36		(9.41.040(2)(a) ((iv)) (v))	
37	D+	Possession of Dangerous Weapon	E
38		(9.41.250)	

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

1	B++	Rape of a Child 1 (9A.44.073)	B+
2		committed at age 14 or under	
3	A-	Rape of a Child 1 (9A.44.073)	B+
4		committed at age 15	
5	B+	Rape of a Child 2 (9A.44.076)	C+
6	B	Incest 1 (9A.64.020(1))	C
7	C	Incest 2 (9A.64.020(2))	D
8	D+	Indecent Exposure (Victim <14)	E
9		(9A.88.010)	
10	E	Indecent Exposure (Victim 14 or over)	E
11		(9A.88.010)	
12	B+	Promoting Prostitution 1 (9A.88.070)	C+
13	C+	Promoting Prostitution 2 (9A.88.080)	D+
14	E	O & A (Prostitution) (9A.88.030)	E
15	B+	Indecent Liberties (9A.44.100)	C+
16	B++	Child Molestation 1 (9A.44.083)	B+
17		committed at age 14 or under	
18	A-	Child Molestation 1 (9A.44.083)	B+
19		committed at age 15 through age 17	
20	B	Child Molestation 2 (9A.44.086)	C+
21	C	Failure to Register as a Sex Offender	D
22		(9A.44.132)	
23		Theft, Robbery, Extortion, and	
24		Forgery	
25	B	Theft 1 (9A.56.030)	C
26	C	Theft 2 (9A.56.040)	D
27	D	Theft 3 (9A.56.050)	E
28	B	Theft of Livestock 1 and 2 (9A.56.080	C
29		and 9A.56.083)	
30	C	Forgery (9A.60.020)	D
31	A	Robbery 1 (9A.56.200) committed at	B+
32		age 15 or under	
33	A++	Robbery 1 (9A.56.200) committed at	((A+))
34		age 16 or 17	<u>A</u>
35	B+	Robbery 2 (9A.56.210)	C+
36	B+	Extortion 1 (9A.56.120)	C+
37	C+	Extortion 2 (9A.56.130)	D+

1	C	Identity Theft 1 (9.35.020(2))	D
2	D	Identity Theft 2 (9.35.020(3))	E
3	D	Improperly Obtaining Financial	E
4		Information (9.35.010)	
5	B	Possession of a Stolen Vehicle	C
6		(9A.56.068)	
7	B	Possession of Stolen Property 1	C
8		(9A.56.150)	
9	C	Possession of Stolen Property 2	D
10		(9A.56.160)	
11	D	Possession of Stolen Property 3	E
12		(9A.56.170)	
13	B	Taking Motor Vehicle Without	C
14		Permission 1 (9A.56.070)	
15	C	Taking Motor Vehicle Without	D
16		Permission 2 (9A.56.075)	
17	B	Theft of a Motor Vehicle (9A.56.065)	C
18		Motor Vehicle Related Crimes	
19	E	Driving Without a License (46.20.005)	E
20	B+	Hit and Run - Death (46.52.020(4)(a))	C+
21	C	Hit and Run - Injury (46.52.020(4)(b))	D
22	D	Hit and Run-Attended (46.52.020(5))	E
23	E	Hit and Run-Unattended (46.52.010)	E
24	C	Vehicular Assault (46.61.522)	D
25	C	Attempting to Elude Pursuing Police	D
26		Vehicle (46.61.024)	
27	E	Reckless Driving (46.61.500)	E
28	D	Driving While Under the Influence	E
29		(46.61.502 and 46.61.504)	
30	B+	Felony Driving While Under the	B
31		Influence (46.61.502(6))	
32	B+	Felony Physical Control of a Vehicle	B
33		While Under the Influence (46.61.504(6))	
34		Other	
35	B	Animal Cruelty 1 (16.52.205)	C
36	B	Bomb Threat (9.61.160)	C

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

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

21 1st escape or attempted escape during 12-month period - 28 days
22 confinement

23 2nd escape or attempted escape during 12-month period - 8 weeks
24 confinement

25 3rd and subsequent escape or attempted escape during 12-month
26 period - 12 weeks confinement

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

29 **JUVENILE SENTENCING STANDARDS**

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

32 **OPTION A**

33 **JUVENILE OFFENDER SENTENCING GRID**

34 **STANDARD RANGE**

35 A++ 129 to 260 weeks for all category A++ offenses

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

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

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

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

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

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

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

33 **OR**
34 **OPTION B**
35 **SUSPENDED DISPOSITION ALTERNATIVE**

1 (1) If the offender is subject to a standard range disposition
2 involving confinement by the department, the court may impose the
3 standard range and suspend the disposition on condition that the
4 offender comply with one or more local sanctions and any educational
5 or treatment requirement. The treatment programs provided to the
6 offender must be either research-based best practice programs as
7 identified by the Washington state institute for public policy or the
8 joint legislative audit and review committee, or for chemical
9 dependency treatment programs or services, they must be evidence-
10 based or research-based best practice programs. For the purposes of
11 this subsection:

12 (a) "Evidence-based" means a program or practice that has had
13 multiple site random controlled trials across heterogeneous
14 populations demonstrating that the program or practice is effective
15 for the population; and

16 (b) "Research-based" means a program or practice that has some
17 research demonstrating effectiveness, but that does not yet meet the
18 standard of evidence-based practices.

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

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

25 (a) Is adjudicated of an A+ or A++ offense;

26 (b) Is fourteen years of age or older and is adjudicated of one
27 or more of the following offenses:

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

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

31 (iii) Assault in the second degree (RCW 9A.36.021), extortion in
32 the first degree (RCW 9A.56.120), kidnapping in the second degree
33 (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular
34 homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or
35 manslaughter 2 (RCW 9A.32.070); or

36 (iv) Violation of the uniform controlled substances act (RCW
37 69.50.401(2) (a) and (b)), when the offense includes infliction of
38 bodily harm upon another or when during the commission or immediate

1 withdrawal from the offense the respondent was armed with a deadly
2 weapon;

3 (c) Is ordered to serve a disposition for a firearm violation
4 under RCW 13.40.193;

5 (d) Is adjudicated of a sex offense as defined in RCW 9.94A.030;
6 or

7 (e) Has a prior option B disposition.

8 **OR**

9 **OPTION C**

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

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

15 **OR**

16 **OPTION D**

17 **MANIFEST INJUSTICE**

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

21 **Sec. 9.** RCW 13.04.030 and 2018 c 162 s 2 are each amended to
22 read as follows:

23 (1) Except as provided in this section, the juvenile courts in
24 this state shall have exclusive original jurisdiction over all
25 proceedings:

26 (a) Under the interstate compact on placement of children as
27 provided in chapter 26.34 RCW;

28 (b) Relating to children alleged or found to be dependent as
29 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

30 (c) Relating to the termination of a parent and child
31 relationship as provided in RCW 13.34.180 through 13.34.210;

32 (d) To approve or disapprove out-of-home placement as provided in
33 RCW 13.32A.170;

34 (e) Relating to juveniles alleged or found to have committed
35 offenses, traffic or civil infractions, or violations as provided in
36 RCW 13.40.020 through 13.40.230, unless:

1 (i) The juvenile court transfers jurisdiction of a particular
2 juvenile to adult criminal court pursuant to RCW 13.40.110;

3 (ii) The statute of limitations applicable to adult prosecution
4 for the offense, traffic or civil infraction, or violation has
5 expired;

6 (iii) The alleged offense or infraction is a traffic, fish,
7 boating, or game offense, or traffic or civil infraction committed by
8 a juvenile sixteen years of age or older and would, if committed by
9 an adult, be tried or heard in a court of limited jurisdiction, in
10 which instance the appropriate court of limited jurisdiction shall
11 have jurisdiction over the alleged offense or infraction, and no
12 guardian ad litem is required in any such proceeding due to the
13 juvenile's age. If such an alleged offense or infraction and an
14 alleged offense or infraction subject to juvenile court jurisdiction
15 arise out of the same event or incident, the juvenile court may have
16 jurisdiction of both matters. The jurisdiction under this subsection
17 does not constitute "transfer" or a "decline" for purposes of RCW
18 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited
19 jurisdiction which confine juveniles for an alleged offense or
20 infraction may place juveniles in juvenile detention facilities under
21 an agreement with the officials responsible for the administration of
22 the juvenile detention facility in RCW 13.04.035 and 13.20.060;

23 (iv) The alleged offense is a traffic or civil infraction, a
24 violation of compulsory school attendance provisions under chapter
25 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction
26 has assumed concurrent jurisdiction over those offenses as provided
27 in RCW 13.04.0301; or

28 (v) The juvenile is sixteen or seventeen years old on the date
29 the alleged offense is committed and the alleged offense is:

30 (A) A serious violent offense as defined in RCW 9.94A.030;

31 (B) A violent offense as defined in RCW 9.94A.030 and the
32 juvenile has a criminal history consisting of: One or more prior
33 serious violent offenses; two or more prior violent offenses; or
34 three or more of any combination of the following offenses: Any class
35 A felony, any class B felony, vehicular assault, or manslaughter in
36 the second degree, all of which must have been committed after the
37 juvenile's thirteenth birthday and prosecuted separately; or

38 (C) Rape of a child in the first degree.

1 (I) In such a case the adult criminal court shall have exclusive
2 original jurisdiction, except as provided in (e)(v)(C)(II) and (III)
3 of this subsection.

4 (II) The juvenile court shall have exclusive jurisdiction over
5 the disposition of any remaining charges in any case in which the
6 juvenile is found not guilty in the adult criminal court of the
7 charge or charges for which he or she was transferred, or is
8 convicted in the adult criminal court of ~~((a lesser included))~~ an
9 offense that is not also an offense listed in (e)(v) of this
10 subsection. The juvenile court shall maintain residual juvenile court
11 jurisdiction up to age twenty-five if the juvenile has turned
12 eighteen years of age during the adult criminal court proceedings but
13 only for the purpose of returning a case to juvenile court for
14 disposition pursuant to RCW 13.40.300(3)(d). ~~((However, once the case
15 is returned to juvenile court, the court may hold a decline hearing
16 pursuant to RCW 13.40.110 to determine whether to retain the case in
17 juvenile court for the purpose of disposition or return the case to
18 adult criminal court for sentencing.))~~

19 (III) The prosecutor and respondent may agree to juvenile court
20 jurisdiction and waive application of exclusive adult criminal
21 jurisdiction in (e)(v)(A) through (C) of this subsection and remove
22 the proceeding back to juvenile court with the court's approval.

23 If the juvenile challenges the state's determination of the
24 juvenile's criminal history under (e)(v) of this subsection, the
25 state may establish the offender's criminal history by a
26 preponderance of the evidence. If the criminal history consists of
27 adjudications entered upon a plea of guilty, the state shall not bear
28 a burden of establishing the knowing and voluntariness of the plea;

29 (f) Under the interstate compact on juveniles as provided in
30 chapter 13.24 RCW;

31 (g) Relating to termination of a diversion agreement under RCW
32 13.40.080, including a proceeding in which the divertee has attained
33 eighteen years of age;

34 (h) Relating to court validation of a voluntary consent to an
35 out-of-home placement under chapter 13.34 RCW, by the parent or
36 Indian custodian of an Indian child, except if the parent or Indian
37 custodian and child are residents of or domiciled within the
38 boundaries of a federally recognized Indian reservation over which
39 the tribe exercises exclusive jurisdiction;

1 (i) Relating to petitions to compel disclosure of information
2 filed by the department of social and health services pursuant to RCW
3 74.13.042; and

4 (j) Relating to judicial determinations and permanency planning
5 hearings involving developmentally disabled children who have been
6 placed in out-of-home care pursuant to a voluntary placement
7 agreement between the child's parent, guardian, or legal custodian
8 and the department of social and health services and the department
9 of children, youth, and families.

10 (2) The family court shall have concurrent original jurisdiction
11 with the juvenile court over all proceedings under this section if
12 the superior court judges of a county authorize concurrent
13 jurisdiction as provided in RCW 26.12.010.

14 (3) The juvenile court shall have concurrent original
15 jurisdiction with the family court over child custody proceedings
16 under chapter 26.10 RCW and parenting plans or residential schedules
17 under chapter((s)) 26.09 ((and ~~26.26~~)), 26.26A, or 26.26B RCW as
18 provided for in RCW 13.34.155.

19 (4) A juvenile subject to adult superior court jurisdiction under
20 subsection (1)(e)(i) through (v) of this section, who is detained
21 pending trial, may be detained in a detention facility as defined in
22 RCW 13.40.020 pending sentencing or a dismissal.

23 **Sec. 10.** RCW 13.40.110 and 2018 c 162 s 4 are each amended to
24 read as follows:

25 (1) Discretionary decline hearing - The prosecutor, respondent,
26 or the court on its own motion may, before a hearing on the
27 information on its merits, file a motion requesting the court to
28 transfer the respondent for adult criminal prosecution and the matter
29 shall be set for a hearing on the question of declining jurisdiction
30 only if:

31 (a) The respondent is, at the time of proceedings, at least
32 fifteen years of age or older and is charged with a serious violent
33 offense as defined in RCW 9.94A.030; ((~~or~~))

34 (b) The respondent is, at the time of proceedings, fourteen years
35 of age or younger and is charged with murder in the first degree (RCW
36 9A.32.030), and/or murder in the second degree (RCW 9A.32.050); or

37 (c) The respondent is any age and is charged with custodial
38 assault, RCW 9A.36.100, and, at the time the respondent is charged,
39 is already serving a minimum juvenile sentence to age twenty-one.

1 (2) Mandatory decline hearing - Unless waived by the court, the
2 parties, and their counsel, a decline hearing shall be held when the
3 information alleges an escape by the respondent and the respondent is
4 serving a minimum juvenile sentence to age twenty-one.

5 (3) The court after a decline hearing may order the case
6 transferred for adult criminal prosecution upon a finding that the
7 declination would be in the best interest of the juvenile or the
8 public. The court shall consider the relevant reports, facts,
9 opinions, and arguments presented by the parties and their counsel.

10 (4) When the respondent is transferred for criminal prosecution
11 or retained for prosecution in juvenile court, the court shall set
12 forth in writing its finding which shall be supported by relevant
13 facts and opinions produced at the hearing.

14 NEW SECTION. **Sec. 11.** If specific funding for the purposes of
15 this act, referencing this act by bill or chapter number, is not
16 provided by June 30, 2019, in the omnibus appropriations act,
17 sections 1 through 6 of this act are null and void."

E2SHB 1646 - S COMM AMD

By Committee on Human Services, Reentry & Rehabilitation

ADOPTED 04/15/2019

18 On page 1, line 2 of the title, after "facilities;" strike the
19 remainder of the title and insert "amending RCW 72.01.410, 13.40.300,
20 13.40.0357, 13.04.030, and 13.40.110; amending 2018 c 162 s 9
21 (uncodified); adding new sections to chapter 72.01 RCW; adding a new
22 section to chapter 43.216 RCW; creating new sections; prescribing
23 penalties; and providing an expiration date."

EFFECT: (1) Removes the increase in the maximum age of juvenile
jurisdiction until age 25 for minors who are adjudicated in juvenile
court for a serious violent offense or a violent offense when the
minor has a specified criminal history.

(2) Applies the opportunity for transfer to Juvenile
Rehabilitation (JR) to persons sentenced as adults who are under 18
at the time of the offense, instead of persons who are under 18 at
the time of conviction.

(3) Replaces the terms "individual" and "offender" with "person"
and replaces "when the individual reaches the maximum age of juvenile
offender commitment by a juvenile court for the same offense provided
under RCW 13.40.300" with "age twenty-five."

(4) Allows persons in the custody of the Department of Children,
Youth, and Families (DCYF) who have an earned release date after

their 25th birthday but on or before their 26th birthday to serve the remainder of their sentence after their 25th birthday in partial confinement under the authority and supervision of DCYF.

(5) Requires DCYF to meet regularly with school districts who educate students in the custody of medium and maximum security JR institutions in order to coordinate activities of common interest.

(6) Requires the Superintendent of Public Instruction in collaboration with DCYF to create a comprehensive plan for the education of students in JR and provide it to the Governor and Legislative committees by September 1, 2020.

(7) Reduces sentencing ranges in juvenile court for attempted drive-by shooting and attempted robbery first degree when committed at age 16 or 17.

(8) Eliminates a discretionary decline hearing when an offense is automatically transferred from adult court to juvenile court for disposition, and allows a discretionary decline hearing when a juvenile is charged with custodial assault in juvenile court while serving a sentence in JR until age 21.

(9) Expands the study by the Washington State Institute for Public Policy to include a cost-benefit analysis, including health and recidivism effects, of increasing confinement in JR to include persons sentenced in adult court for offenses committed under the age of 21.

(10) Amends the null and void clause to apply to sections 1 through 6.

--- END ---