
HOUSE BILL 1855

State of Washington

66th Legislature

2019 Regular Session

By Representatives Orwall, Pettigrew, Goodman, Appleton, and Santos

Read first time 02/01/19. Referred to Committee on Human Services & Early Learning.

1 AN ACT Relating to juvenile offenses involving unlawful
2 possession of a firearm; amending RCW 13.40.0357 and 13.40.210;
3 reenacting and amending RCW 13.40.193; adding a new section to
4 chapter 13.40 RCW; creating new sections; providing an expiration
5 date; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** Possession of firearms by juveniles is a
8 serious issue facing communities in this state. The legislature
9 intends to provide tools to local governments to help address this
10 issue, including the creation of a grant program to provide support
11 for development of innovative interventions targeting these youth.

12 While these tools include the use of detention for repeat
13 offenders, the legislature recognizes that local programs that
14 encourage youth participation and limit a youth's contact with the
15 juvenile justice system are necessary to change behavior and prevent
16 firearm violence.

17 The legislature encourages juvenile courts and prosecutors to use
18 diversion programs, deferred dispositions, and other creative methods
19 in response to juvenile unlawful possession of a firearm offenses.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 13.40
2 RCW to read as follows:

3 (1) Beginning July 1, 2020, the department shall grant funding
4 for up to three local governments that have demonstrated a need for
5 services for juveniles who are alleged to have committed or who have
6 been adjudicated for unlawful possession of a firearm under RCW
7 9.41.040(2)(a)(v). Upon certification by the department that a
8 proposal satisfies the application and selection criteria, the
9 department shall distribute grant funds to the local government
10 agency that administers funding for consolidated juvenile services.

11 (2) By February 1, 2020, the department, in consultation with the
12 Washington association of juvenile court administrators and the state
13 law and justice advisory council, shall establish guidelines for
14 interventions designed for juveniles who are alleged to have
15 committed or who have been adjudicated for unlawful possession of a
16 firearm under RCW 9.41.040(2)(a)(v). The guidelines established under
17 this subsection must:

18 (a) Include assessment methods to determine services, programs,
19 and intervention strategies most likely to change behavior norms of
20 juveniles who are alleged to have committed or who have been
21 adjudicated for unlawful possession of a firearm under RCW
22 9.41.040(2)(a)(v);

23 (b) Provide maximum structured supervision in the community.
24 Programs should use natural surveillance and community guardians such
25 as employers, relatives, teachers, clergy, and community mentors to
26 the greatest extent possible;

27 (c) Promote good work ethic values and educational skills and
28 competencies necessary for the juvenile to function effectively and
29 positively in the community;

30 (d) Maximize efficient delivery of treatment services that
31 include intervention components demonstrated to reduce risk factors
32 associated with the commission of juvenile offenses;

33 (e) Maximize reintegration of the juvenile into the community
34 upon release from confinement;

35 (f) Be compatible with research that shows which prevention and
36 early intervention strategies work with juveniles;

37 (g) Be outcome-based in that it describes what outcomes will be
38 achieved or what outcomes have already been achieved;

39 (h) Include a routine, ongoing performance monitoring component
40 that includes performance benchmarks determined by the department, in

1 consultation with the Washington association of juvenile court
2 administrators and the state law and justice advisory council and the
3 Washington state center for court research;

4 (i) Include a mentoring component;

5 (j) Include services or referral to services to help juveniles
6 obtain education and career goals; and

7 (k) Recognize the diversity of local needs.

8 (3) Beginning March 1, 2020, local governments may, through their
9 respective agencies that administer funding for consolidated juvenile
10 services, submit proposals to the department that establish
11 interventions designed for juveniles who are alleged to have
12 committed or who have been adjudicated for unlawful possession of a
13 firearm under RCW 9.41.040(2) (a) (v).

14 (4) The local governments receiving grants under this section
15 shall prioritize serving youth who are alleged to have committed or
16 who have been adjudicated for unlawful possession of a firearm under
17 RCW 9.41.040(2) (a) (v) for the first or second time.

18 (5) The guidelines and funding established under this section
19 must be separate from those established under RCW 13.40.500 through
20 13.40.540. The funding established under this section must be
21 separate from the juvenile block grant funding provided in the
22 omnibus operating appropriations act.

23 NEW SECTION. **Sec. 3.** (1) The Washington state institute for
24 public policy shall complete a literature review of interventions
25 targeting juveniles adjudicated for or alleged to have committed
26 unlawful possession of a firearm and identify interventions that are
27 evidence-based, research-based, and promising practices. Based on
28 this literature review, the institute shall submit a report to the
29 appropriate committees of the legislature by December 1, 2019.

30 (2) This section expires July 1, 2020.

31 **Sec. 4.** RCW 13.40.0357 and 2018 c 162 s 3 are each amended to
32 read as follows:

33 **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		Arson and Malicious Mischief	
7	A	Arson 1 (9A.48.020)	B+
8	B	Arson 2 (9A.48.030)	C
9	C	Reckless Burning 1 (9A.48.040)	D
10	D	Reckless Burning 2 (9A.48.050)	E
11	B	Malicious Mischief 1 (9A.48.070)	C
12	C	Malicious Mischief 2 (9A.48.080)	D
13	D	Malicious Mischief 3 (9A.48.090)	E
14	E	Tampering with Fire Alarm Apparatus	
15		(9.40.100)	E
16	E	Tampering with Fire Alarm Apparatus with	
17		Intent to Commit Arson (9.40.105)	E
18	A	Possession of Incendiary Device (9.40.120)	B+
19		Assault and Other Crimes Involving	
20		Physical Harm	
21	A	Assault 1 (9A.36.011)	B+
22	B+	Assault 2 (9A.36.021)	C+
23	C+	Assault 3 (9A.36.031)	D+
24	D+	Assault 4 (9A.36.041)	E
25	B+	Drive-By Shooting (9A.36.045) committed	
26		at age 15 or under	C+
27	A++	Drive-By Shooting (9A.36.045) committed	
28		at age 16 or 17	A+
29	D+	Reckless Endangerment (9A.36.050)	E
30	C+	Promoting Suicide Attempt (9A.36.060)	D+
31	D+	Coercion (9A.36.070)	E
32	C+	Custodial Assault (9A.36.100)	D+
33		Burglary and Trespass	
34	B+	Burglary 1 (9A.52.020) committed at age	
35		15 or under	C+

1	A-	Burglary 1 (9A.52.020) committed at age	
2		16 or 17	B+
3	B	Residential Burglary (9A.52.025)	C
4	B	Burglary 2 (9A.52.030)	C
5	D	Burglary Tools (Possession of) (9A.52.060)	E
6	D	Criminal Trespass 1 (9A.52.070)	E
7	E	Criminal Trespass 2 (9A.52.080)	E
8	C	Mineral Trespass (78.44.330)	C
9	C	Vehicle Prowling 1 (9A.52.095)	D
10	D	Vehicle Prowling 2 (9A.52.100)	E
11		Drugs	
12	E	Possession/Consumption of Alcohol	
13		(66.44.270)	E
14	C	Illegally Obtaining Legend Drug	
15		(69.41.020)	D
16	C+	Sale, Delivery, Possession of Legend Drug	
17		with Intent to Sell (69.41.030(2)(a))	D+
18	E	Possession of Legend Drug	
19		(69.41.030(2)(b))	E
20	B+	Violation of Uniform Controlled	
21		Substances Act - Narcotic,	
22		Methamphetamine, or Flunitrazepam Sale	
23		(69.50.401(2) (a) or (b))	B+
24	C	Violation of Uniform Controlled	
25		Substances Act - Nonnarcotic Sale	
26		(69.50.401(2)(c))	C
27	E	Possession of Marihuana <40 grams	
28		(69.50.4014)	E
29	C	Fraudulently Obtaining Controlled	
30		Substance (69.50.403)	C
31	C+	Sale of Controlled Substance for Profit	
32		(69.50.410)	C+
33	E	Unlawful Inhalation (9.47A.020)	E

1	B	Violation of Uniform Controlled	
2		Substances Act - Narcotic,	
3		Methamphetamine, or Flunitrazepam	
4		Counterfeit Substances (69.50.4011(2) (a)	
5		or (b))	B
6	C	Violation of Uniform Controlled	
7		Substances Act - Nonnarcotic Counterfeit	
8		Substances (69.50.4011(2) (c), (d), or (e))	C
9	C	Violation of Uniform Controlled	
10		Substances Act - Possession of a Controlled	
11		Substance (69.50.4013)	C
12	C	Violation of Uniform Controlled	
13		Substances Act - Possession of a Controlled	
14		Substance (69.50.4012)	C
15		Firearms and Weapons	
16	B	Theft of Firearm (9A.56.300)	C
17	B	Possession of Stolen Firearm (9A.56.310)	C
18	E	Carrying Loaded Pistol Without Permit	
19		(9.41.050)	E
20	C	Possession of Firearms by Minor (<18)	
21		(9.41.040(2)(a) ((i+v)) (v)) (at the time of	
22		<u>the offense the juvenile has criminal history</u>	
23		<u>that includes less than three prior</u>	
24		<u>adjudications for violating any provision of</u>	
25		<u>RCW 9.41.040)</u>	C
26	B	Possession of Firearms by Minor (<18)	
27		(9.41.040(2)(a)(v)) (at the time of the	
28		<u>offense the juvenile has criminal history</u>	
29		<u>that includes three or more prior</u>	
30		<u>adjudications for violating any provision of</u>	
31		<u>RCW 9.41.040)</u>	B
32	D+	Possession of Dangerous Weapon	
33		(9.41.250)	E
34	D	Intimidating Another Person by use of	
35		Weapon (9.41.270)	E
36		Homicide	
37	A+	Murder 1 (9A.32.030)	A
38	A+	Murder 2 (9A.32.050)	B+

1	B+	Manslaughter 1 (9A.32.060)	C+
2	C+	Manslaughter 2 (9A.32.070)	D+
3	B+	Vehicular Homicide (46.61.520)	C+
4		Kidnapping	
5	A	Kidnap 1 (9A.40.020)	B+
6	B+	Kidnap 2 (9A.40.030)	C+
7	C+	Unlawful Imprisonment (9A.40.040)	D+
8		Obstructing Governmental Operation	
9	D	Obstructing a Law Enforcement Officer	
10		(9A.76.020)	E
11	E	Resisting Arrest (9A.76.040)	E
12	B	Introducing Contraband 1 (9A.76.140)	C
13	C	Introducing Contraband 2 (9A.76.150)	D
14	E	Introducing Contraband 3 (9A.76.160)	E
15	B+	Intimidating a Public Servant (9A.76.180)	C+
16	B+	Intimidating a Witness (9A.72.110)	C+
17		Public Disturbance	
18	C+	Criminal Mischief with Weapon	
19		(9A.84.010(2)(b))	D+
20	D+	Criminal Mischief Without Weapon	
21		(9A.84.010(2)(a))	E
22	E	Failure to Disperse (9A.84.020)	E
23	E	Disorderly Conduct (9A.84.030)	E
24		Sex Crimes	
25	A	Rape 1 (9A.44.040)	B+
26	B++	Rape 2 (9A.44.050) committed at age 14 or	
27		under	B+
28	A-	Rape 2 (9A.44.050) committed at age 15	
29		through age 17	B+
30	C+	Rape 3 (9A.44.060)	D+
31	B++	Rape of a Child 1 (9A.44.073) committed at	
32		age 14 or under	B+
33	A-	Rape of a Child 1 (9A.44.073) committed at	
34		age 15	B+
35	B+	Rape of a Child 2 (9A.44.076)	C+
36	B	Incest 1 (9A.64.020(1))	C

1	C	Incest 2 (9A.64.020(2))	D
2	D+	Indecent Exposure (Victim <14)	
3		(9A.88.010)	E
4	E	Indecent Exposure (Victim 14 or over)	
5		(9A.88.010)	E
6	B+	Promoting Prostitution 1 (9A.88.070)	C+
7	C+	Promoting Prostitution 2 (9A.88.080)	D+
8	E	O & A (Prostitution) (9A.88.030)	E
9	B+	Indecent Liberties (9A.44.100)	C+
10	B++	Child Molestation 1 (9A.44.083) committed	
11		at age 14 or under	B+
12	A-	Child Molestation 1 (9A.44.083) committed	
13		at age 15 through age 17	B+
14	B	Child Molestation 2 (9A.44.086)	C+
15	C	Failure to Register as a Sex Offender	
16		(9A.44.132)	D
17		Theft, Robbery, Extortion, and Forgery	
18	B	Theft 1 (9A.56.030)	C
19	C	Theft 2 (9A.56.040)	D
20	D	Theft 3 (9A.56.050)	E
21	B	Theft of Livestock 1 and 2 (9A.56.080 and	
22		9A.56.083)	C
23	C	Forgery (9A.60.020)	D
24	A	Robbery 1 (9A.56.200) committed at age	
25		15 or under	B+
26	A++	Robbery 1 (9A.56.200) committed at age	
27		16 or 17	A+
28	B+	Robbery 2 (9A.56.210)	C+
29	B+	Extortion 1 (9A.56.120)	C+
30	C+	Extortion 2 (9A.56.130)	D+
31	C	Identity Theft 1 (9.35.020(2))	D
32	D	Identity Theft 2 (9.35.020(3))	E
33	D	Improperly Obtaining Financial	
34		Information (9.35.010)	E
35	B	Possession of a Stolen Vehicle (9A.56.068)	C

1	B	Possession of Stolen Property 1	
2		(9A.56.150)	C
3	C	Possession of Stolen Property 2	
4		(9A.56.160)	D
5	D	Possession of Stolen Property 3	
6		(9A.56.170)	E
7	B	Taking Motor Vehicle Without Permission 1	
8		(9A.56.070)	C
9	C	Taking Motor Vehicle Without Permission 2	
10		(9A.56.075)	D
11	B	Theft of a Motor Vehicle (9A.56.065)	C
12		Motor Vehicle Related Crimes	
13	E	Driving Without a License (46.20.005)	E
14	B+	Hit and Run - Death (46.52.020(4)(a))	C+
15	C	Hit and Run - Injury (46.52.020(4)(b))	D
16	D	Hit and Run-Attended (46.52.020(5))	E
17	E	Hit and Run-Unattended (46.52.010)	E
18	C	Vehicular Assault (46.61.522)	D
19	C	Attempting to Elude Pursuing Police	
20		Vehicle (46.61.024)	D
21	E	Reckless Driving (46.61.500)	E
22	D	Driving While Under the Influence	
23		(46.61.502 and 46.61.504)	E
24	B+	Felony Driving While Under the Influence	
25		(46.61.502(6))	B
26	B+	Felony Physical Control of a Vehicle While	
27		Under the Influence (46.61.504(6))	B
28		Other	
29	B	Animal Cruelty 1 (16.52.205)	C
30	B	Bomb Threat (9.61.160)	C
31	C	Escape 1 ¹ (9A.76.110)	C
32	C	Escape 2 ¹ (9A.76.120)	C
33	D	Escape 3 (9A.76.130)	E
34	E	Obscene, Harassing, Etc., Phone Calls	
35		(9.61.230)	E

1	A	Other Offense Equivalent to an Adult Class	
2		A Felony	B+
3	B	Other Offense Equivalent to an Adult Class	
4		B Felony	C
5	C	Other Offense Equivalent to an Adult Class	
6		C Felony	D
7	D	Other Offense Equivalent to an Adult Gross	
8		Misdemeanor	E
9	E	Other Offense Equivalent to an Adult	
10		Misdemeanor	E
11	V	Violation of Order of Restitution,	
12		Community Supervision, or Confinement	
13		(13.40.200) ²	V

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

16 1st escape or attempted escape during 12-month period - 28 days
17 confinement

18 2nd escape or attempted escape during 12-month period - 8 weeks
19 confinement

20 3rd and subsequent escape or attempted escape during 12-month
21 period - 12 weeks confinement

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

24 **JUVENILE SENTENCING STANDARDS**

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

27 **OPTION A**

28 **JUVENILE OFFENDER SENTENCING GRID**

29 **STANDARD RANGE**

30	A++	129 to 260 weeks for all category A++ offenses				
31	A+	180 weeks to age 21 for all category A+ offenses				
32	A	103-129 weeks for all category A offenses				
33	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
34	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks

1	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
2	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
3	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
4		C	LS	LS	LS	LS	15-36 weeks
5		D+	LS	LS	LS	LS	LS
6		D	LS	LS	LS	LS	LS
7		E	LS	LS	LS	LS	LS
8	PRIOR		0	1	2	3	4 or more
9	ADJUDICATIONS						

10 NOTE: References in the grid to days or weeks mean periods of
11 confinement. "LS" means "local sanctions" as defined in RCW
12 13.40.020.

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

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

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

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

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

29 **OR**

30 **OPTION B**

31 **SUSPENDED DISPOSITION ALTERNATIVE**

32 (1) If the offender is subject to a standard range disposition
33 involving confinement by the department, the court may impose the
34 standard range and suspend the disposition on condition that the
35 offender comply with one or more local sanctions and any educational
36 or treatment requirement. The treatment programs provided to the

1 offender must be either research-based best practice programs as
2 identified by the Washington state institute for public policy or the
3 joint legislative audit and review committee, or for chemical
4 dependency treatment programs or services, they must be evidence-
5 based or research-based best practice programs. For the purposes of
6 this subsection:

7 (a) "Evidence-based" means a program or practice that has had
8 multiple site random controlled trials across heterogeneous
9 populations demonstrating that the program or practice is effective
10 for the population; and

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

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

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

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

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

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

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

26 (iii) Assault in the second degree (RCW 9A.36.021), extortion in
27 the first degree (RCW 9A.56.120), kidnapping in the second degree
28 (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular
29 homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or
30 manslaughter 2 (RCW 9A.32.070); or

31 (iv) Violation of the uniform controlled substances act (RCW
32 69.50.401(2) (a) and (b)), when the offense includes infliction of
33 bodily harm upon another or when during the commission or immediate
34 withdrawal from the offense the respondent was armed with a deadly
35 weapon;

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

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

40 (e) Has a prior option B disposition.

1 OR

2 OPTION C

3 CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE

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

8 OR

9 OPTION D

10 MANIFEST INJUSTICE

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

14 **Sec. 5.** RCW 13.40.193 and 2018 c 162 s 5, 2018 c 22 s 7, and
15 2018 c 7 s 9 are each reenacted and amended to read as follows:

16 (1) If a respondent is found to have been in possession of a
17 firearm in violation of RCW 9.41.040(2)(a)(~~(iv)~~) (v), the court
18 shall impose a ((minimum)) disposition that includes a minimum of ten
19 days of confinement and six months of community supervision. If the
20 offender's standard range of disposition for the offense as indicated
21 in RCW 13.40.0357 is more than thirty days of confinement, the court
22 shall commit the offender to the department for the standard range
23 disposition, and the six months of community supervision shall not be
24 ordered. The offender shall not be released until the offender has
25 served a minimum of ten days in confinement. The minimums under this
26 subsection shall not apply to dispositions under RCW 13.40.127.

27 (2)(a) If a respondent is found to have been in possession of a
28 firearm in violation of RCW 9.41.040, the disposition must include a
29 requirement that the respondent participate in a qualifying program
30 as described in (b) of this subsection, when available, unless the
31 court makes a written finding based on the outcome of the juvenile
32 court risk assessment that participation in a qualifying program
33 would not be appropriate.

34 (b) For purposes of this section, "qualifying program" means an
35 aggression replacement training program, a functional family therapy
36 program, or another program applicable to the juvenile firearm
37 offender population that has been identified as evidence-based or

1 research-based and cost-beneficial in the current list prepared at
2 the direction of the legislature by the Washington state institute
3 for public policy.

4 (3) If the court finds that the respondent or an accomplice was
5 armed with a firearm, the court shall determine the standard range
6 disposition for the offense pursuant to RCW 13.40.160. If the
7 offender or an accomplice was armed with a firearm when the offender
8 committed any felony other than possession of a machine gun or bump-
9 fire stock, possession of a stolen firearm, drive-by shooting, theft
10 of a firearm, unlawful possession of a firearm in the first and
11 second degree, or use of a machine gun or bump-fire stock in a
12 felony, the following periods of total confinement must be added to
13 the sentence: (a) Except for (b) of this subsection, for a class A
14 felony, six months; for a class B felony, four months; and for a
15 class C felony, two months; (b) for any violent offense as defined in
16 RCW 9.94A.030, committed by a respondent who is sixteen or seventeen
17 years old at the time of the offense, a period of twelve months. The
18 additional time shall be imposed regardless of the offense's juvenile
19 disposition offense category as designated in RCW 13.40.0357.

20 (4) (a) If the court finds that the respondent who is sixteen or
21 seventeen years old and committed the offense of robbery in the first
22 degree, drive-by shooting, rape of a child in the first degree,
23 burglary in the first degree, or any violent offense as defined in
24 RCW 9.94A.030 and was armed with a firearm, and the court finds that
25 the respondent's participation was related to membership in a
26 criminal street gang or advancing the benefit, aggrandizement, gain,
27 profit, or other advantage for a criminal street gang, a period of
28 three months total confinement must be added to the sentence. The
29 additional time must be imposed regardless of the offense's juvenile
30 disposition offense category as designated in RCW 13.40.0357 and must
31 be served consecutively with any other sentencing enhancement.

32 (b) For the purposes of this section, "criminal street gang"
33 means any ongoing organization, association, or group of three or
34 more persons, whether formal or informal, having a common name or
35 common identifying sign or symbol, having as one of its primary
36 activities the commission of criminal acts, and whose members or
37 associates individually or collectively engage in or have engaged in
38 a pattern of criminal street gang activity. This definition does not
39 apply to employees engaged in concerted activities for their mutual

1 aid and protection, or to the activities of labor and bona fide
2 nonprofit organizations or their members or agents.

3 (5) When a disposition under this section would effectuate a
4 manifest injustice, the court may impose another disposition. When a
5 judge finds a manifest injustice and imposes a disposition of
6 confinement exceeding thirty days, the court shall commit the
7 juvenile to a maximum term, and the provisions of RCW 13.40.030(2)
8 shall be used to determine the range. When a judge finds a manifest
9 injustice and imposes a disposition of confinement less than thirty
10 days, the disposition shall be comprised of confinement or community
11 supervision or both.

12 (6) Any term of confinement ordered pursuant to this section
13 shall run consecutively to any term of confinement imposed in the
14 same disposition for other offenses.

15 **Sec. 6.** RCW 13.40.210 and 2017 3rd sp.s. c 6 s 609 are each
16 amended to read as follows:

17 (1) The secretary shall set a release date for each juvenile
18 committed to its custody. The release date shall be within the
19 prescribed range to which a juvenile has been committed under RCW
20 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320
21 concerning offenders the department determines are eligible for the
22 juvenile offender basic training camp program. Such dates shall be
23 determined prior to the expiration of sixty percent of a juvenile's
24 minimum term of confinement included within the prescribed range to
25 which the juvenile has been committed. The secretary shall release
26 any juvenile committed to the custody of the department within four
27 calendar days prior to the juvenile's release date or on the release
28 date set under this chapter. Days spent in the custody of the
29 department shall be tolled by any period of time during which a
30 juvenile has absented himself or herself from the department's
31 supervision without the prior approval of the secretary or the
32 secretary's designee.

33 (2) The secretary shall monitor the average daily population of
34 the state's juvenile residential facilities. When the secretary
35 concludes that in-residence population of residential facilities
36 exceeds one hundred five percent of the rated bed capacity specified
37 in statute, or in absence of such specification, as specified by the
38 department in rule, the secretary may recommend reductions to the
39 governor. On certification by the governor that the recommended

1 reductions are necessary, the secretary has authority to
2 administratively release a sufficient number of offenders to reduce
3 in-residence population to one hundred percent of rated bed capacity.
4 The secretary shall release those offenders who have served the
5 greatest proportion of their sentence. However, the secretary may
6 deny release in a particular case at the request of an offender, or
7 if the secretary finds that there is no responsible custodian, as
8 determined by the department, to whom to release the offender, or if
9 the release of the offender would pose a clear danger to society. The
10 department shall notify the committing court of the release at the
11 time of release if any such early releases have occurred as a result
12 of excessive in-residence population. In no event shall an offender
13 adjudicated of a violent offense be granted release under the
14 provisions of this subsection.

15 (3) (a) Following the release of any juvenile under subsection (1)
16 of this section, the secretary may require the juvenile to comply
17 with a program of parole to be administered by the department in his
18 or her community which shall last no longer than eighteen months,
19 except that in the case of a juvenile sentenced for rape in the first
20 or second degree, rape of a child in the first or second degree,
21 child molestation in the first degree, or indecent liberties with
22 forcible compulsion, the period of parole shall be twenty-four months
23 and, in the discretion of the secretary, may be up to thirty-six
24 months when the secretary finds that an additional period of parole
25 is necessary and appropriate in the interests of public safety or to
26 meet the ongoing needs of the juvenile. A parole program is mandatory
27 for offenders released under subsection (2) of this section and for
28 offenders who receive a juvenile residential commitment sentence for
29 theft of a motor vehicle, possession of a stolen motor vehicle,
30 unlawful possession of a firearm in violation of RCW
31 9.41.040(2)(a)(v), or taking a motor vehicle without permission 1. A
32 juvenile adjudicated for unlawful possession of a firearm, possession
33 of a stolen firearm, theft of a firearm, or drive-by shooting may
34 participate in aggression replacement training, functional family
35 therapy, or functional family parole aftercare if the juvenile meets
36 eligibility requirements for these services. The decision to place an
37 offender in an evidence-based parole program shall be based on an
38 assessment by the department of the offender's risk for reoffending
39 upon release and an assessment of the ongoing treatment needs of the
40 juvenile. The department shall prioritize available parole resources

1 to provide supervision and services to offenders at moderate to high
2 risk for reoffending.

3 (b) The secretary shall, for the period of parole, facilitate the
4 juvenile's reintegration into his or her community and to further
5 this goal shall require the juvenile to refrain from possessing a
6 firearm or using a deadly weapon and refrain from committing new
7 offenses and may require the juvenile to: (i) Undergo available
8 medical, psychiatric, drug and alcohol, sex offender, mental health,
9 and other offense-related treatment services; (ii) report as directed
10 to a parole officer and/or designee; (iii) pursue a course of study,
11 vocational training, or employment; (iv) notify the parole officer of
12 the current address where he or she resides; (v) be present at a
13 particular address during specified hours; (vi) remain within
14 prescribed geographical boundaries; (vii) submit to electronic
15 monitoring; (viii) refrain from using illegal drugs and alcohol, and
16 submit to random urinalysis when requested by the assigned parole
17 officer; (ix) refrain from contact with specific individuals or a
18 specified class of individuals; (x) meet other conditions determined
19 by the parole officer to further enhance the juvenile's reintegration
20 into the community; (xi) pay any court-ordered fines or restitution;
21 and (xii) perform community restitution. Community restitution for
22 the purpose of this section means compulsory service, without
23 compensation, performed for the benefit of the community by the
24 offender. Community restitution may be performed through public or
25 private organizations or through work crews.

26 (c) The secretary may further require up to twenty-five percent
27 of the highest risk juvenile offenders who are placed on parole to
28 participate in an intensive supervision program. Offenders
29 participating in an intensive supervision program shall be required
30 to comply with all terms and conditions listed in (b) of this
31 subsection and shall also be required to comply with the following
32 additional terms and conditions: (i) Obey all laws and refrain from
33 any conduct that threatens public safety; (ii) report at least once a
34 week to an assigned community case manager; and (iii) meet all other
35 requirements imposed by the community case manager related to
36 participating in the intensive supervision program. As a part of the
37 intensive supervision program, the secretary may require day
38 reporting.

39 (d) After termination of the parole period, the juvenile shall be
40 discharged from the department's supervision.

1 (4) (a) The department may also modify parole for violation
2 thereof. If, after affording a juvenile all of the due process rights
3 to which he or she would be entitled if the juvenile were an adult,
4 the secretary finds that a juvenile has violated a condition of his
5 or her parole, the secretary shall order one of the following which
6 is reasonably likely to effectuate the purpose of the parole and to
7 protect the public: (i) Continued supervision under the same
8 conditions previously imposed; (ii) intensified supervision with
9 increased reporting requirements; (iii) additional conditions of
10 supervision authorized by this chapter; (iv) except as provided in
11 (a)(v) and (vi) of this subsection, imposition of a period of
12 confinement not to exceed thirty days in a facility operated by or
13 pursuant to a contract with the state of Washington or any city or
14 county for a portion of each day or for a certain number of days each
15 week with the balance of the days or weeks spent under supervision;
16 (v) the secretary may order any of the conditions or may return the
17 offender to confinement for the remainder of the sentence range if
18 the offense for which the offender was sentenced is rape in the first
19 or second degree, rape of a child in the first or second degree,
20 child molestation in the first degree, indecent liberties with
21 forcible compulsion, or a sex offense that is also a serious violent
22 offense as defined by RCW 9.94A.030; and (vi) the secretary may order
23 any of the conditions or may return the offender to confinement for
24 the remainder of the sentence range if the youth has completed the
25 basic training camp program as described in RCW 13.40.320.

26 (b) The secretary may modify parole and order any of the
27 conditions or may return the offender to confinement for up to
28 twenty-four weeks if the offender was sentenced for a sex offense as
29 defined under RCW 9A.44.128 and is known to have violated the terms
30 of parole. Confinement beyond thirty days is intended to only be used
31 for a small and limited number of sex offenders. It shall only be
32 used when other graduated sanctions or interventions have not been
33 effective or the behavior is so egregious it warrants the use of the
34 higher level intervention and the violation: (i) Is a known pattern
35 of behavior consistent with a previous sex offense that puts the
36 youth at high risk for reoffending sexually; (ii) consists of sexual
37 behavior that is determined to be predatory as defined in RCW
38 71.09.020; or (iii) requires a review under chapter 71.09 RCW, due to
39 a recent overt act. The total number of days of confinement for
40 violations of parole conditions during the parole period shall not

1 exceed the number of days provided by the maximum sentence imposed by
2 the disposition for the underlying offense pursuant to RCW
3 13.40.0357. The department shall not aggregate multiple parole
4 violations that occur prior to the parole revocation hearing and
5 impose consecutive twenty-four week periods of confinement for each
6 parole violation. The department is authorized to engage in rule
7 making pursuant to chapter 34.05 RCW, to implement this subsection,
8 including narrowly defining the behaviors that could lead to this
9 higher level intervention.

10 (c) If the department finds that any juvenile in a program of
11 parole has possessed a firearm or used a deadly weapon during the
12 program of parole, the department shall modify the parole under (a)
13 of this subsection and confine the juvenile for at least thirty days.
14 Confinement shall be in a facility operated by or pursuant to a
15 contract with the state or any county.

16 (5) A parole officer of the department of children, youth, and
17 families shall have the power to arrest a juvenile under his or her
18 supervision on the same grounds as a law enforcement officer would be
19 authorized to arrest the person.

20 (6) If so requested and approved under chapter 13.06 RCW, the
21 secretary shall permit a county or group of counties to perform
22 functions under subsections (3) through (5) of this section.

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