

2 **SSB 6428** - H AMD TO HS COMM AMD (H-5005.1/92) **0369 ADOPTED 03/06/92**
3 By Representatives Ebersole, Padden, Leonard, McLean, and Appelwick

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5 On page 16, beginning on line 10 of the amendment, strike all of
6 sections 15 and 16 and insert the following:

7 "NEW SECTION. **Sec. 15.** Sections 1 through 14 of this act shall
8 take effect July 1, 1992."

9 **"PART I - JUVENILE JUSTICE"**

10 "NEW SECTION. **Sec. 101.** The legislature reaffirms the dual
11 policies of the juvenile justice act of 1977 of punishment and
12 rehabilitation. However, the legislature finds that confusion exists
13 about the relative priority of the purposes enumerated in section 55,
14 chapter 291, Laws of 1977 ex. sess. and that simplification and
15 clarification is necessary to reduce that confusion. The legislature
16 finds that the policies of rehabilitation; accountability; and
17 flexibility in service delivery, sanctions, and placement options are
18 equally important in ensuring public safety. The purpose of section
19 102 of this act is to clarify that these goals are equally important."

20 "NEW SECTION. **Sec. 102.** A new section is added to chapter 13.40
21 RCW to read as follows:

22 The purpose of this chapter is to establish a juvenile justice
23 system that both punishes and rehabilitates juvenile offenders. The
24 legislature intends that juvenile offenders be held accountable for
25 their offenses, are justly punished, but are provided necessary

1 treatment, rehabilitation, and supervision. Active parental and
2 community involvement is vital to ensure swift response to youthful
3 offenders' needs. Flexibility in disposition, sanctions, placement,
4 and treatment alternatives within a structured discretionary framework
5 will enhance the system's ability to respond to individual offender's
6 needs while ensuring proportionality and fairness. Community safety
7 will be achieved by implementing the following equally important
8 purposes:

9 (1) Accountability and just punishment proportional to the offense,
10 juvenile's age, and offense history;

11 (2) Treatment, rehabilitation, and supervision through flexibility
12 in options for disposition, treatment, custody, programming, and active
13 parental and community involvement;

14 (3) Victim restitution; and

15 (4) Due process protection for juvenile offenders with a clear
16 policy to determine which types of offenders shall receive punishment,
17 treatment, or both, and to determine the jurisdictional limitations of
18 the court, institutions, and community services."

19 **"Sec. 103.** RCW 13.40.020 and 1990 1st ex.s. c 12 s 1 are each
20 amended to read as follows:

21 For the purposes of this chapter:

22 (1) "Serious offender" means a person fifteen years of age or older
23 who has committed an offense which if committed by an adult would be:

24 (a) A class A felony, or an attempt to commit a class A felony;

25 (b) Manslaughter in the first degree; or

26 (c) Assault in the second degree, extortion in the first degree,
27 child molestation in the second degree, kidnapping in the second
28 degree, robbery in the second degree, residential burglary, or burglary
29 in the second degree, where such offenses include the infliction of

1 bodily harm upon another or where during the commission of or immediate
2 withdrawal from such an offense the perpetrator is armed with a deadly
3 weapon or firearm as defined in RCW 9A.04.110;

4 (2) "Community service" means compulsory service, without
5 compensation, performed for the benefit of the community by the
6 offender as punishment for committing an offense. Community service
7 may be performed through public or private organizations or through
8 work crews;

9 (3) "Community supervision" means an order of disposition by the
10 court of an adjudicated youth not committed to the department. A
11 community supervision order for a single offense may be for a period of
12 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
13 one year for other offenses ~~((and))~~. Community supervision is an
14 individualized program comprised of one or more of the following:

15 (a) Community-based sanctions;

16 (b) Community-based rehabilitation;

17 (c) Monitoring and reporting requirements;

18 (4) Community-based sanctions may include one or more of the
19 following:

20 (a) A fine, not to exceed one hundred dollars;

21 (b) Community service not to exceed one hundred fifty hours of
22 service;

23 ~~((e))~~ (5) "Community-based rehabilitation" means one or more of
24 the following: Attendance of information classes;

25 ~~((d) Counseling; or~~

26 ~~(e) Such other services to the extent funds are available for such~~
27 services,)) counseling, outpatient substance abuse treatment programs,
28 outpatient mental health programs, anger management classes, or other
29 services; attendance at school or other educational programs
30 appropriate for the juvenile as determined by the school district; or

1 placement in foster care that is not used as a pretrial,
2 postadjudication, or postdisposition detention facility. Placement in
3 community-based rehabilitation programs is subject to available funds;

4 (6) "Monitoring and reporting requirements" means one or more of
5 the following: Curfews; requirements to remain at home, school, work,
6 or court-ordered treatment programs during specified hours;
7 restrictions from leaving or entering specified geographical areas;
8 requirements to report to the probation officer as directed and to
9 remain under the probation officer's supervision; home monitoring by
10 electronic or staff monitoring; and other conditions((7)) or
11 limitations as the court may require which may not include confinement;

12 ((4)) (7) "Confinement" means ((physical custody by the
13 department of social and health services in a facility operated by or
14 pursuant to a contract with the state, or physical custody in a
15 facility operated by or pursuant to a contract with any county))
16 incarceration in a detention facility following: Arrest pending a
17 detention hearing under RCW 13.40.050; entry of an order of detention
18 entered pursuant to RCW 13.40.050; commitment to a county detention
19 facility, the department, or an inpatient drug and alcohol treatment
20 facility following imposition of option D of RCW 13.40.0357;
21 modification of a disposition for violation of the disposition; or
22 modification of parole for violation of parole. The county may operate
23 or contract with vendors to operate county detention facilities. The
24 department may operate or contract to operate detention facilities for
25 juveniles committed to the department. Confinement of less than
26 thirty-one days imposed as part of a disposition or modification order
27 may be served consecutively or intermittently, in the discretion of the
28 court;

29 ((5)) (8) "Court", when used without further qualification, means
30 the juvenile court judge(s) or commissioner(s);

1 (~~(6)~~) (9) "Criminal history" includes all criminal complaints
2 against the respondent for which, prior to the commission of a current
3 offense:

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

8 (b) The criminal complaint was diverted by a prosecutor pursuant to
9 the provisions of this chapter on agreement of the respondent and after
10 an advisement to the respondent that the criminal complaint would be
11 considered as part of the respondent's criminal history;

12 (~~(7)~~) (10) "Department" means the department of social and health
13 services;

14 (~~(8)~~) (11) "Detention facility" means a facility for the physical
15 confinement of a juvenile alleged to have committed an offense or an
16 adjudicated offender subject to a disposition or modification order.
17 Detention facilities may be secure, semisecure, or nonsecure, and may
18 include group homes and foster homes. Detention foster homes and group
19 homes may not be used for placement of juveniles who are ordered into
20 rehabilitation placements pursuant to a community supervision
21 disposition. "Secure detention" means lockup or staff-secure
22 facilities. "Nonsecure detention" means residential placement in the
23 community in a physically nonrestrictive environment under the
24 supervision of the county probation department or department of social
25 and health services;

26 (12) "Home monitoring" means placement of the juvenile in the
27 custody of the juvenile's parent, guardian, or custodian in a
28 physically nonrestrictive environment under the supervision of the
29 county probation department or the department of social and health
30 services with electronic or staff monitoring;

1 (13) "Diversion unit" means any probation counselor who enters into
2 a diversion agreement with an alleged youthful offender, or any other
3 person or entity with whom the juvenile court administrator has
4 contracted to arrange and supervise such agreements pursuant to RCW
5 (~~(13.04.040, as now or hereafter amended,~~) 13.40.080, or any person or
6 entity specially funded by the legislature to arrange and supervise
7 diversion agreements in accordance with the requirements of this
8 chapter;

9 (~~(9)~~) (14) "Institution" means a juvenile facility established
10 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

11 (~~(10)~~) (15) "Juvenile," "youth," and "child" mean any individual
12 who is under the chronological age of eighteen years and who has not
13 been previously transferred to adult court;

14 (~~(11)~~) (16) "Juvenile offender" means any juvenile who has been
15 found by the juvenile court to have committed an offense, including a
16 person eighteen years of age or older over whom jurisdiction has been
17 extended under RCW 13.40.300;

18 (~~(12)~~) (17) "Manifest injustice" means a disposition that would
19 either impose an excessive penalty on the juvenile or would impose a
20 serious, and clear danger to society in light of the purposes of this
21 chapter;

22 (~~(13)~~) (18) "Middle offender" means a person who has committed an
23 offense and who is neither a minor or first offender nor a serious
24 offender;

25 (~~(14)~~) (19) "Minor or first offender" means a person sixteen
26 years of age or younger whose current offense(s) and criminal history
27 fall entirely within one of the following categories:

- 28 (a) Four misdemeanors;
- 29 (b) Two misdemeanors and one gross misdemeanor;
- 30 (c) One misdemeanor and two gross misdemeanors;

1 (d) Three gross misdemeanors;

2 (e) One class C felony except manslaughter in the second degree and
3 one misdemeanor or gross misdemeanor;

4 (f) One class B felony except: Any felony which constitutes an
5 attempt to commit a class A felony; manslaughter in the first degree;
6 assault in the second degree; extortion in the first degree; indecent
7 liberties; kidnapping in the second degree; robbery in the second
8 degree; burglary in the second degree; residential burglary; vehicular
9 homicide; or arson in the second degree.

10 For purposes of this definition, current violations shall be
11 counted as misdemeanors;

12 (~~(15)~~) (20) "Offense" means an act designated a violation or a
13 crime if committed by an adult under the law of this state, under any
14 ordinance of any city or county of this state, under any federal law,
15 or under the law of another state if the act occurred in that state;

16 (~~(16)~~) (21) "Respondent" means a juvenile who is alleged or
17 proven to have committed an offense;

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

28 (~~(18)~~) (23) "Secretary" means the secretary of the department of
29 social and health services;

1 (~~(19)~~) (24) "Services" mean services which provide alternatives
2 to incarceration for those juveniles who have pleaded or been
3 adjudicated guilty of an offense or have signed a diversion agreement
4 pursuant to this chapter;

5 (~~(20)~~) (25) "Sex offense" means an offense defined as a sex
6 offense in RCW 9.94A.030;

7 (~~(21)~~) (26) "Sexual motivation" means that one of the purposes
8 for which the respondent committed the offense was for the purpose of
9 his or her sexual gratification;

10 (~~(22)~~) (27) "Foster care" means temporary physical care in a
11 foster family home or group care facility as defined in RCW 74.15.020
12 and licensed by the department, or other legally authorized care;

13 (~~(23)~~) (28) "Violation" means an act or omission, which if
14 committed by an adult, must be proven beyond a reasonable doubt, and is
15 punishable by sanctions which do not include incarceration."

16 **"Sec. 104.** RCW 13.40.027 and 1989 c 407 s 2 are each amended to
17 read as follows:

18 (1) It is the responsibility of the commission to: (a) (i)
19 Evaluate the effectiveness of existing disposition standards and
20 related statutes in implementing policies set forth in (~~RCW~~
21 ~~13.40.010~~) section 102 of this act generally and (ii) specifically
22 review the guidelines relating to the confinement of minor and first
23 offenders as well as the use of diversion; (b) solicit the comments and
24 suggestions of the juvenile justice community concerning disposition
25 standards; and (c) make recommendations to the legislature regarding
26 revisions or modifications of the disposition standards in accordance
27 with RCW 13.40.030.

28 (2) It is the responsibility of the department to: (a) Provide the
29 commission with available data concerning the implementation of the

1	A	Possession of Incendiary Device	
2		(9.40.120)	B+
3		Assault and Other Crimes	
4		Involving Physical Harm	
5	A	Assault 1 (9A.36.011)	B+
6	B+	Assault 2 (9A.36.021)	C+
7	C+	Assault 3 (9A.36.031)	D+
8	D+	Assault 4 (9A.36.041)	E
9	D+	Reckless Endangerment	
10		(9A.36.050)	E
11	C+	Promoting Suicide Attempt	
12		(9A.36.060)	D+
13	D+	Coercion (9A.36.070)	E
14	C+	Custodial Assault (9A.36.100)	D+
15		Burglary and Trespass	
16	B+	Burglary 1 (9A.52.020)	C+
17	B	Burglary 2 (9A.52.030)	C
18	D	Burglary Tools (Possession of)	
19		(9A.52.060)	E
20	D	Criminal Trespass 1 (9A.52.070)	E
21	E	Criminal Trespass 2 (9A.52.080)	E
22	D	Vehicle Prowling (9A.52.100)	E
23		Drugs	
24	E	Possession/Consumption of Alcohol	
25		(66.44.270)	E
26	C	Illegally Obtaining Legend Drug	

1		(69.41.020)	D
2	C+	Sale, Delivery, Possession of Legend	
3		Drug with Intent to Sell	
4		(69.41.030)	D+
5	E	Possession of Legend Drug	
6		(69.41.030)	E
7	B+	Violation of Uniform Controlled	
8		Substances Act - Narcotic Sale	
9		(69.50.401(a)(1)(i))	B+
10	C	Violation of Uniform Controlled	
11		Substances Act - Nonnarcotic Sale	
12		(69.50.401(a)(1)(ii))	C
13	E	Possession of Marihuana <40 grams	
14		(69.50.401(e))	E
15	C	Fraudulently Obtaining Controlled	
16		Substance (69.50.403)	C
17	C+	Sale of Controlled Substance	
18		for Profit (69.50.410)	C+
19	E	((Glue Sniffing (9.47A.050))	E
20		<u>Unlawful Inhalation (9.47A.020)</u>	
21	B	Violation of Uniform Controlled	
22		Substances Act - Narcotic	
23		Counterfeit Substances	
24		(69.50.401(b)(1)(i))	B
25	C	Violation of Uniform Controlled	
26		Substances Act - Nonnarcotic	
27		Counterfeit Substances	
28		(69.50.401(b)(1) (ii), (iii), (iv))	C
29	C	Violation of Uniform Controlled	
30		Substances Act - Possession of a	

1		Controlled Substance	
2		(69.50.401(d))	C
3	C	Violation of Uniform Controlled	
4		Substances Act - Possession of a	
5		Controlled Substance	
6		(69.50.401(c))	C
7		Firearms and Weapons	
8	((C+	Committing Crime when Armed	
9		(9.41.025)	D+))
10	E	Carrying Loaded Pistol Without	
11		Permit (9.41.050)	E
12	E	Use of Firearms by Minor (<14)	
13		(9.41.240)	E
14	D+	Possession of Dangerous Weapon	
15		(9.41.250)	E
16	D	Intimidating Another Person by use	
17		of Weapon (9.41.270)	E
18		Homicide	
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		Kidnapping	
25	A	Kidnap 1 (9A.40.020)	B+
26	B+	Kidnap 2 (9A.40.030)	C+
27	C+	Unlawful Imprisonment	

1		(9A.40.040)	D+
2	((D	Custodial Interference	
3		(9A.40.050)	E))
4		Obstructing Governmental Operation	
5	E	Obstructing a Public Servant	
6		(9A.76.020)	E
7	E	Resisting Arrest (9A.76.040)	E
8	B	Introducing Contraband 1	
9		(9A.76.140)	C
10	C	Introducing Contraband 2	
11		(9A.76.150)	D
12	E	Introducing Contraband 3	
13		(9A.76.160)	E
14	B+	Intimidating a Public Servant	
15		(9A.76.180)	C+
16	B+	Intimidating a Witness	
17		(9A.72.110)	C+
18	((E	Criminal Contempt	
19		(9.23.010)	E))
20		Public Disturbance	
21	C+	Riot with Weapon (9A.84.010)	D+
22	D+	Riot Without Weapon	
23		(9A.84.010)	E
24	E	Failure to Disperse (9A.84.020)	E
25	E	Disorderly Conduct (9A.84.030)	E
26		Sex Crimes	
27	A	Rape 1 (9A.44.040)	B+

1	A-	Rape 2 (9A.44.050)	B+
2	C+	Rape 3 (9A.44.060)	D+
3	A-	Rape of a Child 1 (9A.44.073)	B+
4	B	Rape of a Child 2 (9A.44.076)	C+
5	B	Incest 1 (9A.64.020(1))	C
6	C	Incest 2 (9A.64.020(2))	D
7	D+	((Public Indecency)) <u>Indecent Exposure</u>	
8		(Victim <14) (9A.88.010)	E
9	E	((Public Indecency)) <u>Indecent Exposure</u>	
10		(Victim 14 or over) (9A.88.010)	E
11	B+	Promoting Prostitution 1	
12		(9A.88.070)	C+
13	C+	Promoting Prostitution 2	
14		(9A.88.080)	D+
15	E	O & A (Prostitution) (9A.88.030)	E
16	B+	Indecent Liberties (9A.44.100)	C+
17	B+	Child Molestation 1 (9A.44.083)	C+
18	C+	Child Molestation 2 (9A.44.086)	C
19		Theft, Robbery, Extortion, and Forgery	
20	B	Theft 1 (9A.56.030)	C
21	C	Theft 2 (9A.56.040)	D
22	D	Theft 3 (9A.56.050)	E
23	B	Theft of Livestock (9A.56.080)	C
24	C	Forgery (((9A.56.020))) <u>(9A.60.020)</u>	D
25	A	Robbery 1 (9A.56.200)	B+
26	B+	Robbery 2 (9A.56.210)	C+
27	B+	Extortion 1 (9A.56.120)	C+
28	C+	Extortion 2 (9A.56.130)	D+
29	B	Possession of Stolen Property 1	

1		(9A.56.150)	C
2	C	Possession of Stolen Property 2	
3		(9A.56.160)	D
4	D	Possession of Stolen Property 3	
5		(9A.56.170)	E
6	C	Taking Motor Vehicle Without	
7		Owner's Permission (9A.56.070)	D
8		Motor Vehicle Related Crimes	
9	E	Driving Without a License	
10		(46.20.021)	E
11	C	Hit and Run - Injury	
12		(46.52.020(4))	D
13	D	Hit and Run-Attended	
14		(46.52.020(5))	E
15	E	Hit and Run-Unattended	
16		(46.52.010)	E
17	C	Vehicular Assault (46.61.522)	D
18	C	Attempting to Elude Pursuing	
19		Police Vehicle (46.61.024)	D
20	E	Reckless Driving (46.61.500)	E
21	D	Driving While Under the Influence	
22		(46.61.515)	E
23	B+	Negligent Homicide by Motor	
24		Vehicle (46.61.520)	C+
25	D	Vehicle Prowling (9A.52.100)	E
26	C	Taking Motor Vehicle Without	
27		Owner's Permission (9A.56.070)	D

28 **Other**

1	B	Bomb Threat (9.61.160)	C
2	C	Escape 1 (9A.76.110)	C
3	C	Escape 2 (9A.76.120)	C
4	D	Escape 3 (9A.76.130)	E
5	C	Failure to Appear in Court	
6		(10.19.130)	D
7	E	Tampering with Fire Alarm	
8		Apparatus (9.40.100)	E
9	E	Obscene, Harassing, Etc.,	
10		Phone Calls (9.61.230)	E
11	A	Other Offense Equivalent to an	
12		Adult Class A Felony	B+
13	B	Other Offense Equivalent to an	
14		Adult Class B Felony	C
15	C	Other Offense Equivalent to an	
16		Adult Class C Felony	D
17	D	Other Offense Equivalent to an	
18		Adult Gross Misdemeanor	E
19	E	Other Offense Equivalent to an	
20		Adult Misdemeanor	E
21	V	Violation of Order of Restitution,	
22		Community Supervision, or	
23		Confinement ² (13.40.200)	V

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

26 1st escape or attempted escape during 12-month period - 4 weeks
27 confinement

1 2nd escape or attempted escape during 12-month period - 8 weeks
2 confinement

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

5 if the court finds that a respondent has violated terms of an order,
6 it may impose a penalty of up to 30 days of confinement.

7 **SCHEDULE B**

8 **PRIOR OFFENSE INCREASE FACTOR**

9 For use with all CURRENT OFFENSES occurring on or after July 1,
10 1989.

11 **TIME SPAN**

12	OFFENSE	0-12	13-24	25 Months
13	CATEGORY	Months	Months	or More
14			
15	A+	.9	.9	.9
16	A	.9	.8	.6
17	A-	.9	.8	.5
18	B+	.9	.7	.4
19	B	.9	.6	.3
20	C+	.6	.3	.2
21	C	.5	.2	.2
22	D+	.3	.2	.1
23	D	.2	.1	.1

1 JUVENILE SENTENCING STANDARDS

2 SCHEDULE D-1

3 This schedule may only be used for minor/first offenders. After the
4 determination is made that a youth is a minor/first offender, the court
5 has the discretion to select sentencing option A, B, or C. In
6 addition, the court may select option D. A disposition order for a
7 minor/first offender may not include an order of confinement except
8 pursuant to option D.

9 The court shall not order option D if the court imposes a manifest
10 injustice under option C and commits the juvenile to the department of
11 social and health services.

12 MINOR/FIRST OFFENDER

13 OPTION A

14 STANDARD RANGE

15 Community

16 Community

Service

17 Points

Supervision

Hours

Fine

18 1-9	((0-3)) <u>0-12</u> months	and/or 0-8	and/or 0-\$10
19 10-19	((0-3)) <u>0-12</u> months	and/or 0-8	and/or 0-\$10
20 20-29	((0-3)) <u>0-12</u> months	and/or 0-16	and/or 0-\$10
21 30-39	((0-3)) <u>0-12</u> months	and/or 8-24	and/or 0-\$25
22 40-49	((3-6)) <u>0-12</u> months	and/or 16-32	and/or 0-\$25
23 50-59	((3-6)) <u>0-12</u> months	and/or 24-40	and/or 0-\$25
24 60-69	((6-9)) <u>0-12</u> months	and/or 32-48	and/or 0-\$50
25 70-79	((6-9)) <u>0-12</u> months	and/or 40-55	and/or 0-\$50

1 80-89 ((9-12)) 0-12 months and/or 48-64 and/or 10-\$100
2 90-109 ((9-12)) 0-12 months and/or 56-72 and/or 10-\$100

3 OR

4 **OPTION B**

5 **STATUTORY OPTION**

6 0-12 Months Community Supervision

7 0-150 Hours Community Service

8 0-100 Fine

9 A term of community supervision with a maximum of 150 hours, \$100.00
10 fine, and 12 months supervision.

11 OR

12 **OPTION C**

13 **MANIFEST INJUSTICE**

14 When a term of community supervision would effectuate a manifest
15 injustice, another disposition may be imposed. When a judge imposes a
16 sentence of confinement exceeding 30 days, the court shall sentence the
17 juvenile to a maximum term and the provisions of RCW ((13.40.030(5)))
18 13.40.030(2), as now or hereafter amended, shall be used to determine
19 the range.

20 **AND**

21 **OPTION D**

22 **SUBSTANCE ABUSE TREATMENT**

1 In addition to any disposition entered under option A, B, or C,
2 following adjudication for an offense, but prior to disposition, the
3 court may order the child to be evaluated for a substance abuse problem
4 to determine whether inpatient or outpatient treatment for substance
5 abuse is necessary. If the court finds that the child suffers from a
6 substance abuse problem the court may order the child to participate in
7 an outpatient treatment program as a condition of community
8 supervision. If the evaluation recommends that the child be placed in
9 treatment for a substance abuse problem, the court may order inpatient
10 treatment if the commitment criteria are met for involuntary commitment
11 of minors to inpatient drug and alcohol treatment pursuant to RCW
12 70.96A.140. The maximum period of time the court may order the
13 offender into inpatient treatment is ninety days as a term of the
14 disposition order for the offense. Placement in inpatient treatment or
15 participation in outpatient treatment is subject to available funds.

16 Nothing in option D prevents the court from referring the juvenile
17 to inpatient or outpatient treatment services that the juvenile may
18 obtain on a voluntary basis. In addition, if the juvenile agrees to
19 enter into inpatient or outpatient treatment on a voluntary basis, the
20 court may include the agreement as part of the court's order on
21 disposition. Failure to enter into treatment pursuant to the terms of
22 the agreement entered in the disposition shall not be grounds to impose
23 sanctions for a violation of the disposition under RCW 13.40.200 but
24 shall be grounds for the court to modify the disposition order and, if
25 appropriate, order the juvenile into treatment on an involuntary basis
26 pursuant to the commitment provisions of option D.

JUVENILE SENTENCING STANDARDS

SCHEDULE D-2

This schedule may only be used for middle offenders. After the determination is made that a youth is a middle offender, the court has the discretion to select sentencing option A, B, or C.

MIDDLE OFFENDER

OPTION A

STANDARD RANGE

Community

Points	Community Supervision	Service Hours	Fine	Confinement Days	Confinement Weeks
1-9	((0-3)) <u>0-12</u> months	and/or 0-8	and/or 0-\$10	and/or 0	
10-19	((0-3)) <u>0-12</u> months	and/or 0-8	and/or 0-\$10	and/or 0	
20-29	((0-3)) <u>0-12</u> months	and/or 0-16	and/or 0-\$10	and/or 0	
30-39	((0-3)) <u>0-12</u> months	and/or 8-24	and/or 0-\$25	and/or ((2-4))	<u>0-10</u>
40-49	((3-6)) <u>0-12</u> months	and/or 16-32	and/or 0-\$25	and/or ((2-4))	<u>0-10</u>
50-59	((3-6)) <u>0-12</u> months	and/or 24-40	and/or 0-\$25	and/or ((5-10))	<u>0-10</u>
60-69	((6-9)) <u>0-12</u> months	and/or 32-48	and/or 0-\$50	and/or ((5-10))	<u>10-20</u>
70-79	((6-9)) <u>0-12</u> months	and/or 40-56	and/or 0-\$50	and/or 10-20	

1	80-89	((9-12))	<u>0-12</u> months and/or	48-64	and/or	0-\$100	and/or
2							10-20
3	90-109	((9-12))	<u>0-12</u> months and/or	56-72	and/or	0-\$100	and/or
4						((15-30))	<u>20-30</u>
5	110-129						8-12
6	130-149						13-16
7	150-199						21-28
8	200-249						30-40
9	250-299						52-65
10	300-374						80-100
11	375+						103-129

12 Middle offenders with more than 110 points do not have to be committed.
13 They may be assigned community supervision under option B.
14 All A+ offenses 180-224 weeks

15 OR

16

17 **OPTION B**

18 **STATUTORY OPTION**

19 0-12 Months Community Supervision

20 0-150 Hours Community Service

21 0-100 Fine

22 The court may impose a determinate disposition of community supervision
23 and/or up to 30 days confinement; in which case, if confinement has
24 been imposed, the court shall state either aggravating or mitigating
25 factors as set forth in RCW 13.40.150, as now or hereafter amended.

1 OR

2
3 **OPTION C**

4 **MANIFEST INJUSTICE**

5 If the court determines that a disposition under A or B would
6 effectuate a manifest injustice, the court shall sentence the juvenile
7 to a maximum term and the provisions of RCW (~~(13.40.030(5))~~)
8 13.40.030(2), as now or hereafter amended, shall be used to determine
9 range.

10 **AND**

11 **OPTION D**

12 **SUBSTANCE ABUSE TREATMENT**

13 In addition to any disposition entered under option A, B, or C,
14 following adjudication for an offense, but prior to disposition, the
15 court may order the child to be evaluated for a substance abuse problem
16 to determine whether inpatient or outpatient treatment for substance
17 abuse is necessary. If the court finds that the child suffers from a
18 substance abuse problem the court may order the child to participate in
19 an outpatient treatment program as a condition of community
20 supervision. If the evaluation recommends that the child be placed in
21 treatment for a substance abuse problem, the court may order inpatient
22 treatment if the commitment criteria are met for involuntary commitment
23 of minors to inpatient drug and alcohol treatment pursuant to RCW
24 70.96A.140. The maximum period of time the court may order the
25 offender into inpatient treatment is ninety days as a term of the
26 disposition order for the offense. Placement in inpatient treatment or
27 participation in outpatient treatment is subject to available funds.

1 The court shall not order option D if the court commits the
2 juvenile to the department of social and health services under an
3 option A standard range commitment for middle offenders or under an
4 option C manifest injustice. The court may order option D if the court
5 imposes option B on a juvenile who may be committed to the department
6 under the standard range.

7 Nothing in option D prevents the court from referring the juvenile
8 to inpatient or outpatient treatment services that the juvenile may
9 obtain on a voluntary basis. In addition, if the juvenile agrees to
10 enter into inpatient or outpatient treatment on a voluntary basis, the
11 court may include the agreement as part of the court's order on
12 disposition. Failure to enter into treatment pursuant to the terms of
13 the agreement entered in the disposition shall not be grounds to impose
14 sanctions for a violation of the disposition under RCW 13.40.200 but
15 shall be grounds for the court to modify the disposition order and, if
16 appropriate, order the juvenile into treatment on an involuntary basis
17 pursuant to the commitment provisions of option D.

18 **JUVENILE SENTENCING STANDARDS**

19 **SCHEDULE D-3**

20 This schedule may only be used for serious offenders. After the
21 determination is made that a youth is a serious offender, the court has
22 the discretion to select sentencing option A or B.

1 SCHEDULE E

2 DEADLY WEAPON DISPOSITION ENHANCEMENT

3 The following additional times shall be added to the determinate
4 disposition under option A, B, or C in schedule D for middle and
5 serious offenders if the court enters a finding that the offender or an
6 accomplice was armed with a deadly weapon as defined in RCW 9.94A.125:

7 (1) 26 weeks if the offender is adjudicated for the commission of
8 Rape 1 (RCW 9A.44.040), Robbery 1 (RCW 9A.56.200), or Kidnapping 1 (RCW
9 9A.40.020);

10 (2) 16 weeks if the offender is adjudicated for the commission of
11 Burglary 1 (RCW 9A.52.020);

12 (3) 12 weeks if the offender is adjudicated for the commission of
13 Assault 2 (RCW 9A.36.020 or 9A.36.021), Escape 1 (RCW 9A.76.110),
14 Kidnapping 2 (RCW 9A.40.030), Burglary 2 of a building other than a
15 dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or
16 any drug offense."

17 **"Sec. 106.** RCW 13.40.038 and 1986 c 288 s 7 are each amended to
18 read as follows:

19 It is the policy of this state that all county juvenile detention
20 facilities provide a humane, safe, and rehabilitative environment and
21 that unadjudicated youth remain in the community whenever possible,
22 consistent with public safety and the provisions of chapter 13.40 RCW.

23 The counties shall develop and implement detention intake standards
24 and risk assessment standards to determine whether detention is
25 warranted and if so whether the juvenile should be placed in secure or
26 nonsecure detention to implement the goals of this section. Inability
27 to pay for a less restrictive detention placement shall not be a basis
28 for denying a respondent a less restrictive placement in the community.

1 The detention and risk assessment standards shall be developed and
2 implemented no later than December 31, 1992."

3 "Sec. 107. RCW 13.40.050 and 1979 c 155 s 58 are each amended to
4 read as follows:

5 (1) When a juvenile taken into custody is held in detention:

6 (a) An information, a community supervision modification or
7 termination of diversion petition, or a parole modification petition
8 shall be filed within seventy-two hours, Saturdays, Sundays, and
9 holidays excluded, or the juvenile shall be released; and

10 (b) A detention hearing, a community supervision modification or
11 termination of diversion petition, or a parole modification petition
12 shall be held within seventy-two hours, Saturdays, Sundays, and
13 holidays excluded, from the time of filing the information or petition,
14 to determine whether continued detention is necessary under RCW
15 13.40.040.

16 (2) Upon filing an information, a community supervision
17 modification, or termination of diversion petition as required under
18 subsection (1)(a) of this section, the clerk of the court shall issue
19 a summons directed to the parent, guardian, or custodian, and such
20 other persons as appears to the court to be proper or necessary parties
21 to the proceedings, requiring them to appear personally before the
22 court at the time fixed for the hearing required under subsection
23 (1)(b) of this section. The summons shall include notice of the
24 ((detention)) hearing, stating the time, place, and purpose of the
25 hearing, and stating the right to counsel((, shall be given to the
26 parent, guardian, or custodian if such person can be found and)). Such
27 notice shall also be given to the juvenile ((if over twelve years of
28 age)) held in detention. When the custodian is summoned, the parent or
29 guardian or both shall also be served with a summons.

1 (3) At the commencement of the detention hearing, the court shall
2 advise the parties of their rights under this chapter and shall appoint
3 counsel as specified in this chapter.

4 (4) The court shall, based upon the allegations in the information,
5 determine whether the case is properly before it or whether the case
6 should be treated as a diversion case under RCW 13.40.080. If the case
7 is not properly before the court the juvenile shall be ordered
8 released.

9 (5) Notwithstanding a determination that the case is properly
10 before the court and that probable cause exists, a juvenile shall at
11 the detention hearing be ordered released on the juvenile's personal
12 recognizance pending further hearing unless the court finds detention
13 is necessary under RCW 13.40.040 as now or hereafter amended.

14 (6) If detention is not necessary under RCW 13.40.040, as now or
15 hereafter amended, the court shall impose the most appropriate of the
16 following conditions or, if necessary, any combination of the following
17 conditions:

18 (a) Place the juvenile in the custody of a designated person
19 agreeing to supervise such juvenile;

20 (b) Place restrictions on the travel of the juvenile during the
21 period of release;

22 (c) Require the juvenile to report regularly to and remain under
23 the supervision of the juvenile court;

24 (d) Impose any condition other than detention deemed reasonably
25 necessary to assure appearance as required; ((or))

26 (e) Place the juvenile under home monitoring; or

27 (f) Require that the juvenile return to detention during specified
28 hours.

29 (7) If the parent, guardian, or custodian of the juvenile in
30 detention is available, the court shall consult with them prior to a

1 determination to further detain or release the juvenile or treat the
2 case as a diversion case under RCW 13.40.080."

3 "Sec. 108. RCW 13.40.070 and 1989 c 407 s 9 are each amended to
4 read as follows:

5 (1) Complaints referred to the juvenile court alleging the
6 commission of an offense shall be referred directly to the prosecutor.
7 The prosecutor, upon receipt of a complaint, shall screen the complaint
8 to determine whether:

9 (a) The alleged facts bring the case within the jurisdiction of the
10 court; and

11 (b) On a basis of available evidence there is probable cause to
12 believe that the juvenile did commit the offense.

13 (2) If the identical alleged acts constitute an offense under both
14 the law of this state and an ordinance of any city or county of this
15 state, state law shall govern the prosecutor's screening and charging
16 decision for both filed and diverted cases.

17 (3) If the requirements of subsections (1) (a) and (b) of this
18 section are met, the prosecutor shall either file an information in
19 juvenile court or divert the case, as set forth in subsections (5),
20 (6), and (7) of this section. If the prosecutor finds that the
21 requirements of subsection (1) (a) and (b) of this section are not met,
22 the prosecutor shall maintain a record, for one year, of such decision
23 and the reasons therefor. In lieu of filing an information or
24 diverting an offense a prosecutor may file a motion to modify community
25 supervision where such offense constitutes a violation of community
26 supervision.

27 (4) An information shall be a plain, concise, and definite written
28 statement of the essential facts constituting the offense charged. It

1 shall be signed by the prosecuting attorney and conform to chapter
2 10.37 RCW.

3 (5) Where a case is legally sufficient, the prosecutor shall file
4 an information with the juvenile court if:

5 (a) An alleged offender is accused of a class A felony, a class B
6 felony, an attempt to commit a class B felony, (~~assault in the third~~
7 ~~degree, rape in the third degree~~) a class C felony listed in RCW
8 9.94A.440(2) as a crime against persons, or any other offense listed in
9 RCW 13.40.020(1) (b) or (c); or

10 (b) An alleged offender is accused of a felony and has a criminal
11 history of at least one class A or class B felony, or two class C
12 felonies, or at least two gross misdemeanors, or at least two
13 misdemeanors and one additional misdemeanor or gross misdemeanor, or at
14 least one class C felony and one misdemeanor or gross misdemeanor; or

15 (c) An alleged offender has previously been committed to the
16 department; or

17 (d) An alleged offender has been referred by a diversion unit for
18 prosecution or desires prosecution instead of diversion; or

19 ~~((d))~~ (e) An alleged offender has three or more diversions on the
20 alleged offender's criminal history (~~within eighteen months of the~~
21 ~~current alleged offense~~)).

22 (6) Where a case is legally sufficient the prosecutor shall divert
23 the case if the alleged offense is a misdemeanor or gross misdemeanor
24 or violation and the alleged offense(s) in combination with the alleged
25 offender's criminal history do not exceed two offenses or violations
26 and do not include any felonies: PROVIDED, That if the alleged
27 offender is charged with a related offense that must or may be filed
28 under subsections (5) and (7) of this section, a case under this
29 subsection may also be filed.

1 (7) Where a case is legally sufficient and falls into neither
2 subsection (5) nor (6) of this section, it may be filed or diverted.
3 In deciding whether to file or divert an offense under this section the
4 prosecutor shall be guided only by the length, seriousness, and recency
5 of the alleged offender's criminal history and the circumstances
6 surrounding the commission of the alleged offense.

7 (8) Whenever a juvenile is placed in custody or, where not placed
8 in custody, referred to a diversionary interview, the parent or legal
9 guardian of the juvenile shall be notified as soon as possible
10 concerning the allegation made against the juvenile and the current
11 status of the juvenile. Where a case involves victims of crimes
12 against persons or victims whose property has not been recovered at the
13 time a juvenile is referred to a diversionary unit, the victim shall be
14 notified of the referral and informed how to contact the unit.

15 (9) The responsibilities of the prosecutor under subsections (1)
16 through (8) of this section may be performed by a juvenile court
17 probation counselor for any complaint referred to the court alleging
18 the commission of an offense which would not be a felony if committed
19 by an adult, if the prosecutor has given sufficient written notice to
20 the juvenile court that the prosecutor will not review such complaints.

21 (10) The prosecutor, juvenile court probation counselor, or
22 diversion unit may, in exercising their authority under this section or
23 RCW 13.40.080, refer juveniles to mediation or victim offender
24 reconciliation programs. Mediation and victim offender reconciliation
25 programs shall be voluntary for victims."

26 "**Sec. 109.** RCW 13.40.080 and 1985 c 73 s 2 are each amended to
27 read as follows:

28 (1) A diversion agreement shall be a contract between a juvenile
29 accused of an offense and a diversionary unit whereby the juvenile

1 agrees to fulfill certain conditions in lieu of prosecution. Such
2 agreements may be entered into only after the prosecutor, or probation
3 counselor pursuant to this chapter, has determined that probable cause
4 exists to believe that a crime has been committed and that the juvenile
5 committed it. Such agreements shall be entered into as expeditiously
6 as possible.

7 (2) A diversion agreement shall be limited to:

8 (a) Community service not to exceed one hundred fifty hours, not to
9 be performed during school hours if the juvenile is attending school;

10 (b) Restitution limited to the amount of actual loss incurred by
11 the victim, and to an amount the juvenile has the means or potential
12 means to pay;

13 (c) Attendance at up to (~~two~~) ten hours of counseling and/or up
14 to (~~ten~~) twenty hours of educational or informational sessions at a
15 community agency: PROVIDED, That the state shall not be liable for
16 costs resulting from the diversionary unit exercising the option to
17 permit diversion agreements to mandate attendance at up to (~~two~~) ten
18 hours of counseling and/or up to (~~ten~~) twenty hours of educational or
19 informational sessions; and

20 (d) A fine, not to exceed one hundred dollars. In determining the
21 amount of the fine, the diversion unit shall consider only the
22 juvenile's financial resources and whether the juvenile has the means
23 to pay the fine. The diversion unit shall not consider the financial
24 resources of the juvenile's parents, guardian, or custodian in
25 determining the fine to be imposed.

26 (3) In assessing periods of community service to be performed and
27 restitution to be paid by a juvenile who has entered into a diversion
28 agreement, the court officer to whom this task is assigned shall
29 consult with victims who have contacted the diversionary unit and, to
30 the extent possible, involve members of the community. Such members of

1 the community shall meet with the juvenile and advise the court officer
2 as to the terms of the diversion agreement and shall supervise the
3 juvenile in carrying out its terms.

4 (4) A diversion agreement may not exceed a period of six months
5 (~~((for a misdemeanor or gross misdemeanor or one year for a felony))~~) and
6 may include a period extending beyond the eighteenth birthday of the
7 divertee. Any restitution assessed during its term may not exceed an
8 amount which the juvenile could be reasonably expected to pay during
9 this period. If additional time is necessary for the juvenile to
10 complete restitution to the victim, the time period limitations of this
11 subsection may be extended by an additional six months.

12 (5) The juvenile shall retain the right to be referred to the court
13 at any time prior to the signing of the diversion agreement.

14 (6) Divertees and potential divertees shall be afforded due process
15 in all contacts with a diversionary unit regardless of whether the
16 juveniles are accepted for diversion or whether the diversion program
17 is successfully completed. Such due process shall include, but not be
18 limited to, the following:

19 (a) A written diversion agreement shall be executed stating all
20 conditions in clearly understandable language;

21 (b) Violation of the terms of the agreement shall be the only
22 grounds for termination;

23 (c) No divertee may be terminated from a diversion program without
24 being given a court hearing, which hearing shall be preceded by:

25 (i) Written notice of alleged violations of the conditions of the
26 diversion program; and

27 (ii) Disclosure of all evidence to be offered against the divertee;

28 (d) The hearing shall be conducted by the juvenile court and shall
29 include:

30 (i) Opportunity to be heard in person and to present evidence;

1 (ii) The right to confront and cross-examine all adverse witnesses;
2 (iii) A written statement by the court as to the evidence relied on
3 and the reasons for termination, should that be the decision; and

4 (iv) Demonstration by evidence that the diverttee has substantially
5 violated the terms of his or her diversion agreement.

6 (e) The prosecutor may file an information on the offense for which
7 the diverttee was diverted:

8 (i) In juvenile court if the diverttee is under eighteen years of
9 age; or

10 (ii) In superior court or the appropriate court of limited
11 jurisdiction if the diverttee is eighteen years of age or older.

12 (7) The diversion unit shall, subject to available funds, be
13 responsible for providing interpreters when juveniles need interpreters
14 to effectively communicate during diversion unit hearings or
15 negotiations.

16 (8) The diversion unit shall be responsible for advising a diverttee
17 of his or her rights as provided in this chapter.

18 ((+8)) (9) The diversion unit may refer a juvenile to treatment
19 programs or the department's family reconciliation services.

20 (10) The right to counsel shall inure prior to the initial
21 interview for purposes of advising the juvenile as to whether he or she
22 desires to participate in the diversion process or to appear in the
23 juvenile court. The juvenile may be represented by counsel at any
24 critical stage of the diversion process, including intake interviews
25 and termination hearings. The juvenile shall be fully advised at the
26 intake of his or her right to an attorney and of the relevant services
27 an attorney can provide. For the purpose of this section, intake
28 interviews mean all interviews regarding the diversion agreement
29 process.

1 The juvenile shall be advised that a diversion agreement shall
2 constitute a part of the juvenile's criminal history as defined by RCW
3 13.40.020(~~((+6))~~)(9) as now or hereafter amended. A signed
4 acknowledgment of such advisement shall be obtained from the juvenile,
5 and the document shall be maintained by the diversionary unit together
6 with the diversion agreement, and a copy of both documents shall be
7 delivered to the prosecutor if requested by the prosecutor. The
8 supreme court shall promulgate rules setting forth the content of such
9 advisement in simple language.

10 (~~((+9))~~) (11) When a juvenile enters into a diversion agreement, the
11 juvenile court may receive only the following information for
12 dispositional purposes:

- 13 (a) The fact that a charge or charges were made;
- 14 (b) The fact that a diversion agreement was entered into;
- 15 (c) The juvenile's obligations under such agreement;
- 16 (d) Whether the alleged offender performed his or her obligations
17 under such agreement; and
- 18 (e) The facts of the alleged offense.

19 (~~((+10))~~) (12) A diversionary unit may refuse to enter into a
20 diversion agreement with a juvenile. When a diversionary unit refuses
21 to enter a diversion agreement with a juvenile, it shall immediately
22 refer such juvenile to the court for action and shall forward to the
23 court the criminal complaint and a detailed statement of its reasons
24 for refusing to enter into a diversion agreement. The diversionary
25 unit shall also immediately refer the case to the prosecuting attorney
26 for action if such juvenile violates the terms of the diversion
27 agreement.

28 (~~((+11))~~) (13) A diversionary unit may, in instances where it
29 determines that the act or omission of an act for which a juvenile has
30 been referred to it involved no victim, or where it determines that the

1 juvenile referred to it has no prior criminal history and is alleged to
2 have committed an illegal act involving no threat of or instance of
3 actual physical harm and involving not more than fifty dollars in
4 property loss or damage and that there is no loss outstanding to the
5 person or firm suffering such damage or loss, counsel and release or
6 release such a juvenile without entering into a diversion agreement(~~(+
7 PROVIDED, That)~~). A diversion unit's authority to counsel and release
8 a juvenile under this subsection shall include the authority to refer
9 the juvenile to local treatment programs or the department's family
10 reconciliation services. Any juvenile (~~so handled~~) released under
11 this subsection shall be advised that the act or omission of any act
12 for which he or she had been referred shall constitute a part of the
13 juvenile's criminal history as defined by RCW 13.40.020(~~(+6)~~)(9) as
14 now or hereafter amended. A signed acknowledgment of such advisement
15 shall be obtained from the juvenile, and the document shall be
16 maintained by the unit, and a copy of the document shall be delivered
17 to the prosecutor if requested by the prosecutor. The supreme court
18 shall promulgate rules setting forth the content of such advisement in
19 simple language(~~(+ PROVIDED FURTHER, That)~~). A juvenile determined to
20 be eligible by a diversionary unit for (~~such~~) release as provided in
21 this subsection shall retain the same right to counsel and right to
22 have his or her case referred to the court for formal action as any
23 other juvenile referred to the unit.

24 (~~(+12)~~) (14) A diversion unit may supervise the fulfillment of a
25 diversion agreement entered into before the juvenile's eighteenth
26 birthday and which includes a period extending beyond the diverttee's
27 eighteenth birthday.

28 (~~(+13)~~) (15) If a fine required by a diversion agreement cannot
29 reasonably be paid due to a change of circumstance, the diversion
30 agreement may be modified at the request of the diverttee and with the

1 concurrence of the diversion unit to convert an unpaid fine into
2 community service. The modification of the diversion agreement shall
3 be in writing and signed by the divertee and the diversion unit. The
4 number of hours of community service in lieu of a monetary penalty
5 shall be converted at the rate of the prevailing state minimum wage per
6 hour.

7 ~~((14))~~ (16) Fines imposed under this section shall be collected
8 and paid into the county general fund in accordance with procedures
9 established by the juvenile court administrator under RCW 13.04.040 and
10 may be used only for juvenile services. In the expenditure of funds
11 for juvenile services, there shall be a maintenance of effort whereby
12 counties exhaust existing resources before using amounts collected
13 under this section."

14 **"Sec. 110.** RCW 13.40.100 and 1979 c 155 s 62 are each amended to
15 read as follows:

16 (1) Upon the filing of an information the alleged offender shall be
17 notified by summons, warrant, or other method approved by the court of
18 the next required court appearance.

19 (2) ~~((If notice is by summons,))~~ The clerk of the court shall also
20 issue a summons directed to ~~((the juvenile, if the juvenile is twelve~~
21 ~~or more years of age, and another to))~~ the parents, guardian, or
22 custodian, and such other persons as appear to the court to be proper
23 or necessary parties to the proceedings, requiring them to appear
24 personally before the court at the time fixed to hear the petition.
25 Where the custodian is summoned, the parent or guardian or both shall
26 also be served with a summons.

27 (3) A copy of the information shall be attached to each summons.

28 (4) The summons shall advise the parties of the right to counsel.

1 (5) The judge may endorse upon the summons an order directing the
2 parents, guardian, or custodian having the custody or control of the
3 juvenile to bring the juvenile to the hearing.

4 (6) If it appears from affidavit or sworn statement presented to
5 the judge that there is probable cause for the issuance of a warrant of
6 arrest or that the juvenile needs to be taken into custody pursuant to
7 RCW 13.34.050, as now or hereafter amended, the judge may endorse upon
8 the summons an order that an officer serving the summons shall at once
9 take the juvenile into custody and take the juvenile to the place of
10 detention or shelter designated by the court.

11 (7) Service of summons may be made under the direction of the court
12 by any law enforcement officer or probation counselor.

13 (8) If the person summoned as herein provided fails without
14 reasonable cause to appear and abide the order of the court, the person
15 may be proceeded against as for contempt of court.

16 (9) When the clerk issues a summons to the parents, the clerk shall
17 also serve with the summons a letter from the court directed to the
18 parents. The letter shall encourage the parents to appear and
19 participate in the juvenile court proceedings. The letter shall notify
20 the parents that the parents: (a) Have a right to be advised of future
21 court dates involving the juvenile if the parents appear at the next
22 hearing; (b) have a right to give a statement to the court regarding
23 the disposition to be imposed if the offender is found to have
24 committed the offense; and (c) may obtain referrals for appropriate
25 services from the court if the parent appears at the hearings. The
26 letter shall notify the parent who is the assigned probation officer,
27 if any, and if no probation officer is assigned, the letter shall
28 provide a telephone number for the parent to use to call for
29 information about hearings involving their child. If the child is in
30 a detention facility, the letter shall provide the telephone number of

1 the detention facility. The letter shall advise the parents that the
2 court may hold the parent in contempt for failure to appear at the next
3 hearing specified in the summons but that the court may excuse the
4 parent's attendance for a reasonable cause. The letter shall also
5 advise the parents that the court may refer the child and family to
6 other agencies for appropriate services such as counseling, appropriate
7 classes, the department's family reconciliation services, or to
8 investigating agencies such as community mental health or drug and
9 alcohol specialists or the attorney general for child protective
10 services investigations.

11 The office of the administrator for the courts may develop a form
12 letter for the court clerk's use.

13 Subject to available funds and time constraints, the court clerk
14 shall make a reasonable effort to determine if the juvenile is a
15 dependant of the state of Washington, in which case, the juvenile court
16 may waive all or part of the requirement to send the letter to the
17 parents. If the juvenile is the subject of a dependency provision, the
18 court may waive all or a portion of the requirement to send a letter,
19 but the court clerk shall advise the department of social and health
20 services of the pending matter."

21 **"Sec. 111.** RCW 13.40.130 and 1981 c 299 s 10 are each amended to
22 read as follows:

23 (1) The respondent shall be advised of the allegations in the
24 information and shall be required to plead guilty or not guilty to the
25 allegation(s). The state or the respondent may make preliminary
26 motions up to the time of the plea.

27 (2) If the respondent pleads guilty, the court may proceed with
28 disposition or may continue the case for a dispositional hearing. If
29 the respondent denies guilt, an adjudicatory hearing date shall be set.

1 (3) At the adjudicatory hearing it shall be the burden of the
2 prosecution to prove the allegations of the information beyond a
3 reasonable doubt.

4 (4) The court shall record its findings of fact and shall enter its
5 decision upon the record. Such findings shall set forth the evidence
6 relied upon by the court in reaching its decision.

7 (5) If the respondent is found not guilty he or she shall be
8 released from detention.

9 (6) If the respondent is found guilty the court may immediately
10 proceed to disposition or may continue the case for a dispositional
11 hearing. Notice of the time and place of the continued hearing may be
12 given in open court. If notice is not given in open court to a party,
13 the party shall be notified by mail of the time and place of the
14 continued hearing.

15 (7) The court following an adjudicatory hearing may request that a
16 predisposition study be prepared to aid the court in its evaluation of
17 the matters relevant to disposition of the case.

18 (8) The disposition hearing shall be held within fourteen days
19 after the adjudicatory hearing or plea of guilty unless good cause is
20 shown for further delay, or within twenty-one days if the juvenile is
21 not held in a detention facility, unless good cause is shown for
22 further delay.

23 (9) In sentencing an offender, the court shall use the disposition
24 standards in effect on the date of the offense.

25 (10) The court may require the probation officer conducting the
26 predisposition study ordered under subsection (7) of this section, to
27 investigate whether the juvenile's parents require services to address
28 family problems or substance abuse problems that may be adversely
29 impacting the juvenile and may be contributing to the juvenile's
30 involvement with delinquency. If the court orders the investigation,

1 the probation officer shall, within available funds, conduct an
2 investigation and make a recommendation to the court regarding referral
3 to services or to other investigatory agencies."

4 "Sec. 112. RCW 13.40.150 and 1990 c 3 s 605 are each amended to
5 read as follows:

6 (1) In disposition hearings all relevant and material evidence,
7 including oral and written reports, may be received by the court and
8 may be relied upon to the extent of its probative value, even though
9 such evidence may not be admissible in a hearing on the information.
10 The youth or the youth's counsel and the prosecuting attorney shall be
11 afforded an opportunity to examine and controvert written reports so
12 received and to cross-examine individuals making reports when such
13 individuals are reasonably available, but sources of confidential
14 information need not be disclosed. The prosecutor and counsel for the
15 juvenile may submit recommendations for disposition.

16 (2) For purposes of disposition:

17 (a) Violations which are current offenses count as misdemeanors;

18 (b) Violations may not count as part of the offender's criminal
19 history;

20 (c) In no event may a disposition for a violation include
21 confinement.

22 (3) Before entering a dispositional order as to a respondent found
23 to have committed an offense, the court shall hold a disposition
24 hearing, at which the court shall:

25 (a) Consider the facts supporting the allegations of criminal
26 conduct by the respondent;

27 (b) Consider information and arguments offered by parties and their
28 counsel;

29 (c) Consider any predisposition reports;

1 (d) Consult with the respondent's parent, guardian, or custodian on
2 the appropriateness of dispositional options under consideration and
3 afford the respondent and the respondent's parent, guardian, or
4 custodian an opportunity to speak in the respondent's behalf;

5 (e) Allow the victim or a representative of the victim and an
6 investigative law enforcement officer to speak;

7 (f) Determine the amount of restitution owing to the victim, if
8 any;

9 (g) Determine whether the respondent is a serious offender, a
10 middle offender, or a minor or first offender;

11 (h) Consider whether or not any of the following mitigating factors
12 exist:

13 (i) The respondent's conduct neither caused nor threatened serious
14 bodily injury or the respondent did not contemplate that his or her
15 conduct would cause or threaten serious bodily injury;

16 (ii) The respondent acted under strong and immediate provocation;

17 (iii) The respondent was suffering from a mental or physical
18 condition that significantly reduced his or her culpability for the
19 offense though failing to establish a defense;

20 (iv) Prior to his or her detection, the respondent compensated or
21 made a good faith attempt to compensate the victim for the injury or
22 loss sustained; and

23 (v) There has been at least one year between the respondent's
24 current offense and any prior criminal offense;

25 (i) Consider whether or not any of the following aggravating
26 factors exist:

27 (i) In the commission of the offense, or in flight therefrom, the
28 respondent inflicted or attempted to inflict serious bodily injury to
29 another;

1 (ii) The offense was committed in an especially heinous, cruel, or
2 depraved manner;

3 (iii) The victim or victims were particularly vulnerable;

4 (iv) The respondent has a recent criminal history or has failed to
5 comply with conditions of a recent dispositional order or diversion
6 agreement;

7 (v) The current offense included a finding of sexual motivation
8 pursuant to RCW 9.94A.127;

9 (vi) The respondent was the leader of a criminal enterprise
10 involving several persons; and

11 (vii) There are other complaints which have resulted in diversion
12 or a finding or plea of guilty but which are not included as criminal
13 history.

14 (4) The following factors may not be considered in determining the
15 punishment to be imposed:

16 (a) The sex of the respondent;

17 (b) The race or color of the respondent or the respondent's family;

18 (c) The creed or religion of the respondent or the respondent's
19 family;

20 (d) The economic or social class of the respondent or the
21 respondent's family; and

22 (e) Factors indicating that the respondent may be or is a dependent
23 child within the meaning of this chapter.

24 (5) A court may not commit a juvenile to a state institution solely
25 because of the lack of facilities, including treatment facilities,
26 existing in the community."

27 "NEW SECTION. Sec. 113. A new section is added to chapter 13.40
28 RCW to read as follows:

1 At the disposition hearing, the court shall consider any
2 recommendations in the presentence report regarding referrals of the
3 parents to services or agencies designed to address any family problems
4 or any parental substance abuse problems that may be adversely
5 impacting the juvenile and may be contributing to the juvenile's
6 involvement with delinquency. The parents may respond to the
7 recommendations at the disposition hearing. If the court determines
8 that referral to other services or to another investigatory agency is
9 appropriate the court shall enter findings of fact in the disposition
10 order. The court shall make or cause appropriate referrals to be made.
11 The referral of the parents to services or to other agencies shall not
12 be a condition of the juvenile's disposition for the offense. A
13 finding by the court that the parent's family problems or substance
14 abuse problems may be adversely impacting the juvenile or may be
15 contributing to the juvenile's involvement with delinquency shall not
16 be a mitigating factor in setting the disposition.

17 The purpose of this section is solely to provide the court express
18 authority to refer parents to services and other investigatory
19 agencies. Nothing in this section shall be construed to require
20 addition of new facilities, expansion of programs, or expenditure of
21 funds beyond existing resources nor does it affect the department of
22 social and health services', the counties', and private vendors'
23 authority to determine the uses of those existing programs and
24 facilities."

25 **"Sec. 114.** RCW 13.40.200 and 1986 c 288 s 5 are each amended to
26 read as follows:

27 (1) When a respondent fails to comply with an order of restitution,
28 community supervision, penalty assessments, or confinement of less than

1 thirty days, the court upon motion of the prosecutor or its own motion,
2 may modify the order after a hearing on the violation.

3 (2) The hearing shall afford the respondent the same due process of
4 law as would be afforded an adult probationer. The court may issue a
5 summons or a warrant to compel the respondent's appearance. The state
6 shall have the burden of proving by a preponderance of the evidence the
7 fact of the violation. The respondent shall have the burden of showing
8 that the violation was not a wilful refusal to comply with the terms of
9 the order. If a respondent has failed to pay a fine, penalty
10 assessments, or restitution or to perform community service hours, as
11 required by the court, it shall be the respondent's burden to show that
12 he or she did not have the means and could not reasonably have acquired
13 the means to pay the fine, penalty assessments, or restitution or
14 perform community service.

15 (3) (a) If the court finds that a respondent has wilfully violated
16 the terms of an order pursuant to subsections (1) and (2) of this
17 section, it may impose a penalty of up to thirty days' confinement.
18 Penalties for multiple violations occurring prior to the hearing shall
19 not be aggregated to exceed thirty days' confinement. Regardless of
20 the number of times a respondent is brought to court for violations of
21 the terms of a single disposition order, the combined total number of
22 days spent by the respondent in detention shall never exceed the
23 maximum term to which an adult could be sentenced for the underlying
24 offense.

25 (b) If the violation of the terms of the order under (a) of this
26 subsection is failure to pay fines, penalty assessments, complete
27 community service, or make restitution, the term of confinement imposed
28 under (a) of this subsection shall be assessed at a rate of one day of
29 confinement for each twenty-five dollars or eight hours owed.

1 (4) If a respondent has been ordered to pay a fine or monetary
2 penalty and due to a change of circumstance cannot reasonably comply
3 with the order, the court, upon motion of the respondent, may order
4 that the unpaid fine or monetary penalty be converted to community
5 service. The number of hours of community service in lieu of a
6 monetary penalty or fine shall be converted at the rate of the
7 prevailing state minimum wage per hour. The monetary penalties or
8 fines collected shall be deposited in the county general fund. A
9 failure to comply with an order under this subsection shall be deemed
10 a failure to comply with an order of community supervision and may be
11 proceeded against as provided in this section.

12 (5) Nothing in this section prohibits filing of escape charges if
13 the juvenile escapes from confinement except that no escape charges may
14 be filed if the juvenile leaves an inpatient treatment facility without
15 permission in violation of a court order pursuant to option D of RCW
16 13.40.0357. Failure to comply with an order pursuant to option D of
17 RCW 13.40.0357 shall be a basis for modification under this section."

18 "NEW SECTION. Sec. 115. A new section is added to chapter 13.40
19 RCW to read as follows:

20 The legislature finds that the purposes of this chapter are best
21 implemented by regionally based facilities.

22 Consistent with this finding, the department, in cooperation and
23 consultation with local communities and affected agencies, shall
24 develop a plan to reduce its reliance on large institutional facilities
25 for juvenile offenders committed to the department by redistributing a
26 portion of its institutional beds to secure regionally based
27 facilities. The department's plan shall: (1) Provide sufficient beds
28 to house all committed offenders at security levels commensurate with
29 the offender's risk to public safety; (2) redistribute to secure

1 regional facilities up to two hundred forty beds from the five existing
2 institutions for juvenile offenders between July 1, 1993, and June 30,
3 1997; (3) include a specific risk assessment tool for determining which
4 offenders may be placed in various security levels which will ensure
5 offenders posing the greatest risk are held in more secure settings
6 than offenders posing lesser risk; (4) include a siting plan and
7 schedule for the timely siting and development of smaller secure and
8 semisecure regional facilities to ensure the most effective
9 rehabilitation efforts; (5) include a specific plan ensuring offenders
10 will be housed in regional facilities close to their home communities
11 unless such placement is contrary to the best interests of the
12 offender, their family, or public safety; (6) include a cost analysis
13 of the construction and renovation, if any, and operation of the
14 facilities.

15 The department shall submit the plan no later than September 1,
16 1992, to the appropriate policy and fiscal committees of the house of
17 representatives and the senate. The department shall incorporate the
18 plan into the department's budget proposal for the 1993-95 biennium.
19 No reduction in secure beds shall occur until, and then only to the
20 extent that, regional secure beds are substituted on at least a one-to-
21 one ratio."

22 "NEW SECTION. Sec. 116. The department of social and health
23 services shall investigate mechanisms for increasing the use of federal
24 funds throughout the juvenile justice system. The department shall
25 identify ways to increase federal funding for these programs in concert
26 with the office of financial management, the counties, and juvenile
27 court administrators. The department shall report the results of its
28 investigation to the appropriate fiscal committees of the senate and
29 house of representatives by December 1, 1992."

1 **"Sec. 117.** RCW 2.56.030 and 1989 c 95 s 2 are each amended to read
2 as follows:

3 The administrator for the courts shall, under the supervision and
4 direction of the chief justice:

5 (1) Examine the administrative methods and systems employed in the
6 offices of the judges, clerks, stenographers, and employees of the
7 courts and make recommendations, through the chief justice, for the
8 improvement of the same;

9 (2) Examine the state of the dockets of the courts and determine
10 the need for assistance by any court;

11 (3) Make recommendations to the chief justice relating to the
12 assignment of judges where courts are in need of assistance and carry
13 out the direction of the chief justice as to the assignments of judges
14 to counties and districts where the courts are in need of assistance;

15 (4) Collect and compile statistical and other data and make reports
16 of the business transacted by the courts and transmit the same to the
17 chief justice to the end that proper action may be taken in respect
18 thereto;

19 (5) Prepare and submit budget estimates of state appropriations
20 necessary for the maintenance and operation of the judicial system and
21 make recommendations in respect thereto;

22 (6) Collect statistical and other data and make reports relating to
23 the expenditure of public moneys, state and local, for the maintenance
24 and operation of the judicial system and the offices connected
25 therewith;

26 (7) Obtain reports from clerks of courts in accordance with law or
27 rules adopted by the supreme court of this state on cases and other
28 judicial business in which action has been delayed beyond periods of
29 time specified by law or rules of court and make report thereof to
30 supreme court of this state;

1 (8) Act as secretary of the judicial conference referred to in RCW
2 2.56.060;

3 (9) Formulate and submit to the judicial council of this state
4 recommendations of policies for the improvement of the judicial system;

5 (10) Submit annually, as of February 1st, to the chief justice and
6 the judicial council, a report of the activities of the administrator's
7 office for the preceding calendar year;

8 (11) Administer programs and standards for the training and
9 education of judicial personnel;

10 (12) Examine the need for new superior court and district judge
11 positions under a weighted caseload analysis that takes into account
12 the time required to hear all the cases in a particular court and the
13 amount of time existing judges have available to hear cases in that
14 court. The results of the weighted caseload analysis shall be reviewed
15 by the board for judicial administration and the judicial council, both
16 of which shall make recommendations to the legislature by January 1,
17 1989. It is the intent of the legislature that weighted caseload
18 analysis become the basis for creating additional district court
19 positions, and recommendations should address that objective;

20 (13) Provide staff to the judicial retirement account plan under
21 chapter 2.14 RCW;

22 (14) Attend to such other matters as may be assigned by the supreme
23 court of this state;

24 (15) Develop a curriculum for a general understanding of child
25 development, placement, and treatment resources, as well as specific
26 legal skills and knowledge of relevant statutes including chapters
27 13.32A (~~and~~), 13.34, and 13.40 RCW, cases, court rules, interviewing
28 skills, and special needs of the abused or neglected child. This
29 curriculum shall be completed and made available to all juvenile court
30 judges, court personnel, and service providers by July 1, 1988. The

1 curriculum shall be updated yearly to reflect changes in statutes,
2 court rules, or case law;

3 (16) Develop a curriculum for a general understanding of hate or
4 bias crimes, as well as specific legal skills and knowledge of RCW
5 9A.36.080, relevant cases, court rules, and the special needs of
6 malicious harassment victims. This curriculum shall be completed and
7 made available to all superior court and court of appeals judges and to
8 all justices of the supreme court by July 1, 1989."

9 "Sec. 118. RCW 2.56.030 and 1992 c -- s 117 (section 117 of this
10 act) are each amended to read as follows:

11 The administrator for the courts shall, under the supervision and
12 direction of the chief justice:

13 (1) Examine the administrative methods and systems employed in the
14 offices of the judges, clerks, stenographers, and employees of the
15 courts and make recommendations, through the chief justice, for the
16 improvement of the same;

17 (2) Examine the state of the dockets of the courts and determine
18 the need for assistance by any court;

19 (3) Make recommendations to the chief justice relating to the
20 assignment of judges where courts are in need of assistance and carry
21 out the direction of the chief justice as to the assignments of judges
22 to counties and districts where the courts are in need of assistance;

23 (4) Collect and compile statistical and other data and make reports
24 of the business transacted by the courts and transmit the same to the
25 chief justice to the end that proper action may be taken in respect
26 thereto;

27 (5) Prepare and submit budget estimates of state appropriations
28 necessary for the maintenance and operation of the judicial system and
29 make recommendations in respect thereto;

1 (6) Collect statistical and other data and make reports relating to
2 the expenditure of public moneys, state and local, for the maintenance
3 and operation of the judicial system and the offices connected
4 therewith;

5 (7) Obtain reports from clerks of courts in accordance with law or
6 rules adopted by the supreme court of this state on cases and other
7 judicial business in which action has been delayed beyond periods of
8 time specified by law or rules of court and make report thereof to
9 supreme court of this state;

10 (8) Act as secretary of the judicial conference referred to in RCW
11 2.56.060;

12 (9) Formulate and submit to the judicial council of this state
13 recommendations of policies for the improvement of the judicial system;

14 (10) Submit annually, as of February 1st, to the chief justice and
15 the judicial council, a report of the activities of the administrator's
16 office for the preceding calendar year;

17 (11) Administer programs and standards for the training and
18 education of judicial personnel;

19 (12) Examine the need for new superior court and district judge
20 positions under a weighted caseload analysis that takes into account
21 the time required to hear all the cases in a particular court and the
22 amount of time existing judges have available to hear cases in that
23 court. The results of the weighted caseload analysis shall be reviewed
24 by the board for judicial administration and the judicial council, both
25 of which shall make recommendations to the legislature by January 1,
26 1989. It is the intent of the legislature that weighted caseload
27 analysis become the basis for creating additional district court
28 positions, and recommendations should address that objective;

29 (13) Provide staff to the judicial retirement account plan under
30 chapter 2.14 RCW;

1 (14) Attend to such other matters as may be assigned by the supreme
2 court of this state;

3 (15) Develop a curriculum for a general understanding of child
4 development, placement, and treatment resources, as well as specific
5 legal skills and knowledge of relevant statutes including chapters
6 13.32A, 13.34, and 13.40 RCW, cases, court rules, interviewing skills,
7 and special needs of the abused or neglected child. This curriculum
8 shall be completed and made available to all juvenile court judges,
9 court personnel, and service providers by July 1, 1988. The curriculum
10 shall be updated yearly to reflect changes in statutes, court rules, or
11 case law;

12 (16) Develop a curriculum for a general understanding of hate or
13 bias crimes, as well as specific legal skills and knowledge of RCW
14 9A.36.080, relevant cases, court rules, and the special needs of
15 malicious harassment victims. This curriculum shall be completed and
16 made available to all superior court and court of appeals judges and to
17 all justices of the supreme court by July 1, 1989;

18 (17) Collect data as may be necessary to monitor any disparity in
19 processing or disposing of cases involving juvenile offenders due to
20 economic or racial factors that may result from implementation of
21 chapter ..., Laws of 1992 (this act). Beginning December 1, 1993, the
22 office of the administrator for the courts shall report annually to the
23 legislature on economic or racial disproportionality in the rates of
24 arrest, detention, trial, treatment, and disposition in the state's
25 juvenile justice system. The report shall cover the preceding calendar
26 year. The annual report shall identify the causes of the
27 disproportionality and shall specifically point out any economic or
28 racial disproportionality resulting from implementation of chapter ...,
29 Laws of 1992 (this act)."

1 **"Sec. 119.** RCW 9.41.010 and 1983 c 232 s 1 are each amended to
2 read as follows:

3 (1) "Short firearm" or "pistol" as used in this chapter means any
4 firearm with a barrel less than twelve inches in length.

5 (2) "Crime of violence" as used in this chapter means:

6 (a) Any of the following felonies, as now existing or hereafter
7 amended: Any felony defined under any law as a class A felony or an
8 attempt to commit a class A felony, criminal solicitation of or
9 criminal conspiracy to commit a class A felony, manslaughter in the
10 first degree, manslaughter in the second degree, indecent liberties if
11 committed by forcible compulsion, rape in the second degree, kidnapping
12 in the second degree, arson in the second degree, assault in the second
13 degree, extortion in the first degree, burglary in the second degree,
14 and robbery in the second degree;

15 (b) Any conviction or adjudication for a felony offense in effect
16 at any time prior to July 1, 1976, which is comparable to a felony
17 classified as a crime of violence in subsection (2)(a) of this section;
18 and

19 (c) Any federal or out-of-state conviction or adjudication for an
20 offense comparable to a felony classified as a crime of violence under
21 subsection (2) (a) or (b) of this section.

22 (3) "Firearm" as used in this chapter means a weapon or device from
23 which a projectile may be fired by an explosive such as gunpowder.

24 (4) "Commercial seller" as used in this chapter means a person who
25 has a federal firearms license."

26 **"Sec. 120.** RCW 9.41.040 and 1983 c 232 s 2 are each amended to
27 read as follows:

28 (1) (~~(A person)~~) An adult or juvenile is guilty of the crime of
29 unlawful possession of a short firearm or pistol, if, having previously

1 been convicted or, as a juvenile, adjudicated in this state or
2 elsewhere of a crime of violence or of a felony in which a firearm was
3 used or displayed, the person owns or has in his possession any short
4 firearm or pistol.

5 (2) Unlawful possession of a short firearm or pistol shall be
6 punished as a class C felony under chapter 9A.20 RCW.

7 (3) As used in this section, a person has been "convicted or
8 adjudicated" at such time as a plea of guilty has been accepted or a
9 verdict of guilty has been filed, notwithstanding the pendency of any
10 future proceedings including but not limited to sentencing or
11 disposition, post-trial or post-factfinding motions, and appeals. A
12 person shall not be precluded from possession under this section if the
13 conviction or adjudication has been the subject of a pardon, annulment,
14 certificate of rehabilitation, or other equivalent procedure based on
15 a finding of the rehabilitation of the person convicted or adjudicated
16 or the conviction or disposition has been the subject of a pardon,
17 annulment, or other equivalent procedure based on a finding of
18 innocence.

19 (4) Except as provided in subsection (5) of this section, a person
20 is guilty of the crime of unlawful possession of a short firearm or
21 pistol if, after having been convicted or adjudicated of any felony
22 violation of the uniform controlled substances act, chapter 69.50 RCW,
23 or equivalent statutes of another jurisdiction, or after any period of
24 confinement under RCW 71.05.320 or an equivalent statute of another
25 jurisdiction, or following a record of commitment pursuant to chapter
26 10.77 RCW or equivalent statutes of another jurisdiction, he owns or
27 has in his possession or under his control any short firearm or pistol.

28 (5) Notwithstanding subsection (1) of this section, a person
29 convicted of an offense other than murder, manslaughter, robbery, rape,
30 indecent liberties, arson, assault, kidnapping, extortion, burglary, or

1 violations with respect to controlled substances under RCW 69.50.401(a)
2 and 69.50.410, who received a probationary sentence under RCW 9.95.200,
3 and who received a dismissal of the charge under RCW 9.95.240, shall
4 not be precluded from ownership, possession, or control of a firearm as
5 a result of the conviction."

6 "Sec. 121. RCW 9.41.280 and 1989 c 219 s 1 are each amended to
7 read as follows:

8 (1) It is unlawful for an elementary or secondary school student
9 under the age of twenty-one knowingly to carry onto public or private
10 elementary or secondary school premises:

11 (a) Any firearm; or

12 (b) Any dangerous weapon as defined in RCW 9.41.250; or

13 (c) Any device commonly known as "nun-chu-ka sticks", consisting of
14 two or more lengths of wood, metal, plastic, or similar substance
15 connected with wire, rope, or other means; or

16 (d) Any device, commonly known as "throwing stars", which are
17 multi-pointed, metal objects designed to embed upon impact from any
18 aspect; or

19 (e) Any air gun, including any air pistol or air rifle, designed to
20 propel a BB, pellet, or other projectile by the discharge of compressed
21 air, carbon dioxide, or other gas.

22 (2) Any such student violating subsection (1) (b) through (e) of
23 this section is guilty of a gross misdemeanor. Any student violating
24 subsection (1)(a) of this section is guilty of a class C felony.

25 Any violation of subsection (1) of this section constitutes grounds
26 for expulsion.

27 (3) Subsection (1) of this section does not apply to:

28 (a) Any student of a private military academy; or

1 (b) Any student engaged in military activities, sponsored by the
2 federal or state governments while engaged in official duties; or

3 (c) Any student who is attending a convention or firearms safety
4 course authorized by school authorities in which the firearms of
5 collectors or instructors are handled or displayed; or

6 (d) Any student who possesses nun-chu-ka sticks, throwing stars, or
7 other dangerous weapons to be used in martial arts classes conducted on
8 the school premises; ((or))

9 (e) Any student while the student is participating in a firearms or
10 air gun competition approved by the school or school district;

11 (f) Any student who has permission of the school authorities to
12 bring the firearm to school for participation in school classes such as
13 a woodworking class; or

14 (g) Any student who keeps a hunting rifle or shotgun in a vehicle
15 the student drives to the school premises if the student keeps the
16 vehicle locked while unattended and does not remove the firearm from
17 the vehicle while on the school premises without permission of the
18 school authorities."

19 "Sec. 122. RCW 13.04.011 and 1979 c 155 s 1 are each amended to
20 read as follows:

21 For purposes of this title:

22 (1) Except as specifically provided in RCW 13.40.020 and chapter
23 13.24 RCW, as now or hereafter amended, "juvenile," "youth," and
24 "child" mean any individual who is under the chronological age of
25 eighteen years;

26 (2) "Juvenile offender" and "juvenile offense" have the meaning
27 ascribed in RCW ((13.40.010 through 13.40.240)) 13.40.020;

28 (3) "Court" when used without further qualification means the
29 juvenile court judge(s) or commissioner(s);

1 (4) "Parent" or "parents," except as used in chapter 13.34 RCW, as
2 now or hereafter amended, means that parent or parents who have the
3 right of legal custody of the child. "Parent" or "parents" as used in
4 chapter 13.34 RCW, means the biological or adoptive parents of a child
5 unless the legal rights of that person have been terminated by judicial
6 proceedings;

7 (5) "Custodian" means that person who has the legal right to
8 custody of the child."

9 "NEW SECTION. Sec. 123. A new section is added to chapter 28A.600
10 RCW to read as follows:

11 School districts may participate in the exchange of information
12 with law enforcement and juvenile court officials to the extent
13 permitted by federal law. When directed by court order or pursuant to
14 any lawfully issued subpoena, a school district shall make student
15 records and information available to law enforcement officials,
16 probation officers, court personnel, and others legally entitled to the
17 information. Parents and students shall be notified by the school
18 district of all such orders or subpoenas in advance of compliance with
19 them."

20 "NEW SECTION. Sec. 124. RCW 13.40.010 and 1977 ex.s. c 291 s 55
21 are each repealed."

22 **"PART II - FAMILIES AT RISK"**

23 "NEW SECTION. Sec. 201. A new section is added to chapter 28A.225
24 RCW to read as follows:

25 Each school within a school district shall inform the students and
26 the parents of the students enrolled in the school about the compulsory

1 education requirements under this chapter. The school shall distribute
2 the information at least annually."

3 "Sec. 202. RCW 28A.225.020 and 1986 c 132 s 2 are each amended to
4 read as follows:

5 If a juvenile required to attend school under the laws of the state
6 of Washington fails to attend school without valid justification
7 (~~((recurrently or for an extended period of time))~~), the juvenile's
8 school(~~(, where appropriate,)~~) shall:

9 (1) Inform the juvenile's custodial parent, parents or guardian by
10 a notice in writing in English and, if different, in the primary
11 language of the custodial parent, parents or guardian and by other
12 means reasonably necessary to achieve notice of the fact that the
13 juvenile has failed to attend school without valid justification
14 (~~((recurrently or for an extended period of time))~~) after one unexcused
15 absence;

16 (2) Schedule a conference or conferences with the custodial parent,
17 parents or guardian and juvenile at a time and place reasonably
18 convenient for all persons included for the purpose of analyzing the
19 causes of the juvenile's absences; and

20 (3) Take steps to eliminate or reduce the juvenile's absences.
21 These steps shall include, where appropriate, adjusting the juvenile's
22 school program or school or course assignment, providing more
23 individualized or remedial instruction, preparing the juvenile for
24 employment with specific vocational courses or work experience, or
25 both, and assisting the parent or student to obtain supplementary
26 services that might eliminate or ameliorate the cause or causes for the
27 absence from school."

1 **"Sec. 203.** RCW 28A.225.090 and 1990 c 33 s 226 are each amended to
2 read as follows:

3 Any person violating any of the provisions of either RCW
4 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five
5 dollars for each day of unexcused absence from school. However, a
6 child found to be in violation of RCW 28A.225.010 shall be required to
7 attend school and shall not be fined. If the child fails to comply
8 with the court order to attend school, the court may order the child be
9 punished by detention or may impose alternatives to detention such as
10 community service hours or participation in dropout prevention programs
11 or referral to a community truancy board, if available. Failure by a
12 child to comply with an order issued under this section shall not be
13 punishable by detention for a period greater than that permitted
14 pursuant to a contempt proceeding against a child under chapter 13.32A
15 RCW. It shall be a defense for a parent charged with violating RCW
16 28A.225.010 to show that he or she exercised reasonable diligence in
17 attempting to cause a child in his or her custody to attend school or
18 that the juvenile's school did not perform its duties as required in
19 RCW 28A.225.020. Any fine imposed pursuant to this section may be
20 suspended upon the condition that a parent charged with violating RCW
21 28A.225.010 shall participate with the school and the juvenile in a
22 supervised plan for the juvenile's attendance at school or upon
23 condition that the parent attend a conference or conferences scheduled
24 by a school for the purpose of analyzing the causes of a child's
25 absence.

26 Attendance officers shall make complaint for violation of the
27 provisions of RCW 28A.225.010 through 28A.225.140 to a judge of the
28 superior or district court."

1 **"Sec. 204.** RCW 28A.225.150 and 1990 c 33 s 232 are each amended to
2 read as follows:

3 The school district attendance officer shall report biannually to
4 the educational service district superintendent, in the instance of
5 petitions filed alleging a violation by a child under RCW 28A.225.030:

6 (1) The number of petitions filed by a school district or by a
7 parent;

8 (2) The frequency of each action taken under RCW 28A.225.020 prior
9 to the filing of such petition;

10 (3) When deemed appropriate under RCW 28A.225.020, the frequency of
11 delivery of supplemental services; and

12 (4) Disposition of cases filed with the juvenile court, including
13 the frequency of contempt orders issued to enforce a court's order
14 under RCW 28A.225.090.

15 The educational service district superintendent shall compile such
16 information and report annually to the superintendent of public
17 instruction. The superintendent of public instruction shall compile
18 such information and report to the committees of the house of
19 representatives and the senate by ~~((January 1, 1988))~~ September 1 of
20 each year."

21 **"Sec. 205.** RCW 13.32A.130 and 1990 c 276 s 8 are each amended to
22 read as follows:

23 A child admitted to a crisis residential center under this chapter
24 who is not returned to the home of his or her parent or who is not
25 placed in an alternative residential placement under an agreement
26 between the parent and child, shall, except as provided for by RCW
27 13.32A.140 and 13.32A.160(2), reside in such placement under the rules
28 and regulations established for the center for a period not to exceed
29 ~~((seventy two hours, excluding Saturdays, Sundays, and holidays,))~~ five

1 consecutive days from the time of intake, except as otherwise provided
2 by this chapter. Crisis residential center staff shall make a
3 concerted effort to achieve a reconciliation of the family. If a
4 reconciliation and voluntary return of the child has not been achieved
5 within forty-eight hours(~~(, excluding Saturdays, Sundays and~~
6 ~~holidays,~~)) from the time of intake, and if the person in charge of the
7 center does not consider it likely that reconciliation will be achieved
8 within the (~~seventy-two hour~~) five-day period, then the person in
9 charge shall inform the parent and child of (1) the availability of
10 counseling services; (2) the right to file a petition for an
11 alternative residential placement, the right of a parent to file an at-
12 risk youth petition, and the right of the parent and child to obtain
13 assistance in filing the petition; and (3) the right to request a
14 review of any alternative residential placement: PROVIDED, That at no
15 time shall information regarding a parent's or child's rights be
16 withheld if requested: PROVIDED FURTHER, That the department shall
17 develop and distribute to all law enforcement agencies and to each
18 crisis residential center administrator a written statement delineating
19 such services and rights. Every officer taking a child into custody
20 shall provide the child and his or her parent(s) or responsible adult
21 with whom the child is placed with a copy of such statement. In
22 addition, the administrator of the facility or his or her designee
23 shall provide every resident and parent with a copy of such statement."

24 "Sec. 206. RCW 13.32A.140 and 1990 c 276 s 9 are each amended to
25 read as follows:

26 The department shall file a petition to approve an alternative
27 residential placement on behalf of a child under any of the following
28 sets of circumstances:

1 (1) The child has been admitted to a crisis residential center or
2 has been placed with a responsible person other than his or her parent,
3 and:

4 (a) The parent has been notified that the child was so admitted or
5 placed;

6 (b) (~~Seventy two hours, including Saturdays, Sundays, and~~
7 ~~holidays,~~) Five consecutive days have passed since such notification;

8 (c) No agreement between the parent and the child as to where the
9 child shall live has been reached;

10 (d) No petition requesting approval of an alternative residential
11 placement has been filed by either the child or parent or legal
12 custodian;

13 (e) The parent has not filed an at-risk youth petition; and

14 (f) The child has no suitable place to live other than the home of
15 his or her parent.

16 (2) The child has been admitted to a crisis residential center and:

17 (a) (~~Seventy two hours, including Saturdays, Sundays, and~~
18 ~~holidays,~~) Five consecutive days have passed since such placement;

19 (b) The staff, after searching with due diligence, have been unable
20 to contact the parent of such child; and

21 (c) The child has no suitable place to live other than the home of
22 his or her parent.

23 (3) An agreement between parent and child made pursuant to RCW
24 13.32A.090(2)(e) or pursuant to RCW 13.32A.120(1) is no longer
25 acceptable to parent or child, and:

26 (a) The party to whom the arrangement is no longer acceptable has
27 so notified the department;

28 (b) (~~Seventy two hours, including Saturdays, Sundays, and~~
29 ~~holidays,~~) Five consecutive days have passed since such notification;

1 (c) No new agreement between parent and child as to where the child
2 shall live has been reached;

3 (d) No petition requesting approval of an alternative residential
4 placement has been filed by either the child or the parent;

5 (e) The parent has not filed an at-risk youth petition; and

6 (f) The child has no suitable place to live other than the home of
7 his or her parent.

8 Under the circumstances of subsections (1), (2), or (3) of this
9 section, the child shall remain in a licensed child care facility,
10 including but not limited to a crisis residential center, or in any
11 other suitable residence to be determined by the department until an
12 alternative residential placement petition filed by the department on
13 behalf of the child is reviewed by the juvenile court and is resolved
14 by such court. The department may authorize emergency medical or
15 dental care for a child placed under this section. The state, when the
16 department files a petition for alternative residential placement under
17 this section, shall be represented as provided for in RCW 13.04.093."

18 "**Sec. 207.** RCW 13.32A.150 and 1990 c 276 s 10 are each amended to
19 read as follows:

20 (1) Except as otherwise provided in this section the juvenile court
21 shall not accept the filing of an alternative residential placement
22 petition by the child or the parents or the filing of an at-risk youth
23 petition by the parent, unless verification is provided that a family
24 assessment has been completed by the department. The family assessment
25 shall be aimed at family reconciliation and avoidance of the out-of-
26 home placement of the child. If the department is unable to complete
27 an assessment within two working days following a request for
28 assessment the child or the parents may proceed under subsection (2) of

1 this section or the parent may proceed under subsection (3) of this
2 section.

3 (2) A child or a child's parent may file with the juvenile court a
4 petition to approve an alternative residential placement for the child
5 outside the parent's home. The department shall, when requested,
6 assist either a parent or child in the filing of the petition. The
7 petition shall only ask that the placement of a child outside the home
8 of his or her parent be approved. The filing of a petition to approve
9 such placement is not dependent upon the court's having obtained any
10 prior jurisdiction over the child or his or her parent, and confers
11 upon the court a special jurisdiction to approve or disapprove an
12 alternative residential placement.

13 (3) A child's parent may file with the juvenile court a petition in
14 the interest of a child alleged to be an at-risk youth. The department
15 shall, when requested, assist the parent in filing the petition. The
16 petition shall be filed in the county where the petitioning parent
17 resides. The petition shall set forth the name, age, and residence of
18 the child and the names and residence of the child's parents and shall
19 allege that:

20 (a) The child is an at-risk youth as defined in this chapter;

21 (b) The petitioning parent has the right to legal custody of the
22 child;

23 (c) Court intervention and supervision are necessary to assist the
24 parent to maintain the care, custody, and control of the child; and

25 (d) Alternatives to court intervention have been attempted or there
26 is good cause why such alternatives have not been attempted.

27 The petition shall set forth facts that support the allegations in
28 this subsection and shall generally request relief available under this
29 chapter. The petition need not specify any proposed disposition
30 following adjudication of the petition. The filing of an at-risk youth

1 petition is not dependent upon the court's having obtained any prior
2 jurisdiction over the child or his or her parent and confers upon the
3 court the special jurisdiction to assist the parent in maintaining
4 parental authority and responsibility for the child. An at-risk youth
5 petition may not be filed if the court has approved an alternative
6 residential placement petition regarding the child or if the child is
7 the subject of a proceeding under chapter 13.34 RCW. A petition may be
8 accepted for filing only if alternatives to court intervention have
9 been attempted (~~or if there is good cause why they were not~~
10 ~~attempted~~). Juvenile court personnel may screen all at-risk youth
11 petitions and may refuse to allow the filing of any petition that lacks
12 merit, fails to comply with the requirements of this section, or fails
13 to allege sufficient facts in support of allegations in the petition."

14 "NEW SECTION. Sec. 208. To the extent possible, the department
15 of social and health services shall transfer children who are
16 inappropriately housed in crisis residential centers to residential and
17 treatment services designed to meet their specific, unique needs by
18 June 30, 1993.

19 The department shall prepare a budget request for the 1993-95
20 biennium that ensures all children inappropriately housed in crisis
21 residential centers are transferred to appropriate residential and
22 treatment services. The budget request shall be included in the
23 governor's proposed expenditure plan for the 1993-95 biennium."

24 "NEW SECTION. Sec. 209. A new section is added to chapter 13.32A
25 RCW to read as follows:

26 The department of social and health services shall not
27 administratively split-code staff responsible for family reconciliation

1 services between separate and distinct functions, except in remote
2 rural offices where to do otherwise proves impractical."

3 "NEW SECTION. Sec. 210. A new section is added to chapter 13.32A
4 RCW to read as follows:

5 All placements into crisis residential centers shall be approved by
6 and coordinated through the family reconciliation services supervisor.
7 The department of social and health services shall establish uniform
8 procedures for the use of crisis residential centers, which shall be
9 adhered to by all family reconciliation services supervisors. The
10 department shall ensure procedures established under this section will
11 facilitate and complement law enforcement officer's existing
12 responsibility to pick up and transport children to crisis residential
13 centers and other places authorized by law under this chapter."

14 "Sec. 211. RCW 74.13.032 and 1979 c 155 s 78 are each amended to
15 read as follows:

16 (1) The department shall establish, by contracts with private
17 vendors, (~~((not less than eight regional))~~) crisis residential centers,
18 which shall be structured group care facilities licensed under rules
19 adopted by the department. Each (~~((regional))~~) center shall have (~~((an~~
20 ~~average of at least four adult staff members and in no event less~~
21 ~~than))~~) three adult staff members to every (~~((eight))~~) nine children. The
22 staff shall be trained so that they may effectively counsel juveniles
23 admitted to the centers, provide treatment, supervision, and structure
24 to the juveniles, and carry out the responsibilities outlined in RCW
25 13.32A.090.

26 (2) The department shall, in addition to the (~~((regional))~~)
27 facilities established under subsection (1) of this section, establish
28 (~~((not less than thirty))~~) additional crisis residential centers pursuant

1 to contract with licensed (~~(private group care or)~~) specialized foster
2 home facilities. The staff at the facilities shall be trained so that
3 they may effectively counsel juveniles admitted to the centers, provide
4 treatment, supervision, and structure to the juveniles, and carry out
5 the responsibilities stated in RCW 13.32A.090. The responsibilities
6 stated in RCW 13.32A.090 may, in any of the centers, be carried out by
7 the department.

8 Crisis residential facilities shall be operated as semi-secure
9 facilities. A child placed in group care or specialized foster care
10 facilities designated as crisis residential centers under this section,
11 may be placed in a certified secure detention facility as authorized by
12 RCW 74.13.034."

13 "Sec. 212. RCW 74.13.033 and 1979 c 155 s 79 are each amended to
14 read as follows:

15 (1) If a resident of a center becomes by his or her behavior
16 disruptive to the facility's program, such resident may be immediately
17 removed to a separate area within the facility and counseled on an
18 individual basis until such time as the child regains his or her
19 composure. The department may set rules and regulations establishing
20 additional procedures for dealing with severely disruptive children on
21 the premises, which procedures are consistent with the federal juvenile
22 justice and delinquency prevention act of 1974 and regulations and
23 clarifying instructions promulgated thereunder. Nothing in this
24 section shall prohibit a center from referring any child who, as the
25 result of a mental or emotional disorder, or intoxication by alcohol or
26 other drugs, is suicidal, seriously assaultive or seriously destructive
27 toward others, or otherwise similarly evidences an immediate need for
28 emergency medical evaluation and possible care, (~~(to a community mental~~
29 ~~health center)~~) for evaluation pursuant to chapter 71.34 RCW

1 ((72.23.070)) or to a mental health professional pursuant to chapter
2 71.05 RCW whenever such action is deemed appropriate and consistent
3 with law.

4 (2) When the juvenile resides in this facility, all services deemed
5 necessary to the juvenile's reentry to normal family life shall be made
6 available to the juvenile as required by chapter 13.32A RCW. In
7 providing these services, the facility shall:

8 (a) Interview the juvenile as soon as possible;

9 (b) Contact the juvenile's parents and arrange for a counseling
10 interview with the juvenile and his or her parents as soon as possible;

11 (c) Conduct counseling interviews with the juvenile and his or her
12 parents, to the end that resolution of the child/parent conflict is
13 attained and the child is returned home as soon as possible; and

14 (d) Provide additional crisis counseling as needed, to the end that
15 placement of the child in the crisis residential center will be
16 required for the shortest time possible, but not to exceed ((~~seventy-~~
17 ~~two hours~~)) five consecutive days.

18 (3) A juvenile taking unauthorized leave from this residence may be
19 apprehended and returned to it by law enforcement officers or other
20 persons designated as having this authority as provided in RCW
21 13.32A.050. If returned to the facility after having taken
22 unauthorized leave for a period of more than twenty-four hours a
23 juvenile may be supervised by such a facility for a period, pursuant to
24 this chapter, which, unless where otherwise provided, may not exceed
25 ((~~seventy-two hours~~)) five consecutive days on the premises. Costs of
26 housing juveniles admitted to crisis residential centers shall be
27 assumed by the department for a period not to exceed ((~~seventy-two~~
28 ~~hours~~)) five consecutive days."

1 **"Sec. 213.** RCW 74.13.034 and 1991 c 364 s 5 are each amended to
2 read as follows:

3 (1) A child taken into custody and taken to a crisis residential
4 center established pursuant to RCW 74.13.032(2) may, if the center is
5 unable to provide appropriate treatment, supervision, and structure to
6 the child, be taken at department expense to another crisis residential
7 center ((~~or the nearest regional crisis residential center~~)).
8 Placement in both centers shall not exceed ((~~seventy-two hours~~)) five
9 consecutive days from the point of intake as provided in RCW
10 13.32A.130.

11 (2) A child taken into custody and taken to a crisis residential
12 center established by this chapter may be placed physically by the
13 department or the department's designee and, at departmental expense
14 and approval, in a secure juvenile detention facility operated by the
15 county in which the center is located for a maximum of ((~~forty-eight~~))
16 twenty-four hours, including Saturdays, Sundays, and holidays, if the
17 child has taken unauthorized leave from the center and the person in
18 charge of the center determines that the center cannot provide
19 supervision and structure adequate to ensure that the child will not
20 again take unauthorized leave. Juveniles placed in such a facility
21 pursuant to this section may not, to the extent possible, come in
22 contact with alleged or convicted juvenile or adult offenders.

23 (3) Any child placed in secure detention pursuant to this section
24 shall, during the period of confinement, be provided with appropriate
25 treatment by the department or the department's designee, which shall
26 include the services defined in RCW 74.13.033(2). If the child placed
27 in secure detention is not returned home or if an alternative living
28 arrangement agreeable to the parent and the child is not made within
29 twenty-four hours after the child's admission, the child shall be taken
30 at the department's expense to a crisis residential center. Placement

1 in the crisis residential center or centers plus placement in juvenile
2 detention shall not exceed (~~seventy-two hours~~) five consecutive days
3 from the point of intake as provided in RCW 13.32A.130.

4 (4) Juvenile detention facilities used pursuant to this section
5 shall first be certified by the department to ensure that juveniles
6 placed in the facility pursuant to this section are provided with
7 living conditions suitable to the well-being of the child. Where space
8 is available, juvenile courts, when certified by the department to do
9 so, shall provide secure placement for juveniles pursuant to this
10 section, at department expense.

11 (5) It is the intent of the legislature that by July 1, 1982,
12 crisis residential centers, supplemented by community mental health
13 programs and mental health professionals, will be able to respond
14 appropriately to children admitted to centers under this chapter and
15 will be able to respond to the needs of such children with appropriate
16 treatment, supervision, and structure."

17 "**Sec. 214.** RCW 74.13.035 and 1979 c 155 s 81 are each amended to
18 read as follows:

19 Crisis residential centers shall compile yearly records which shall
20 be transmitted to the department and which shall contain information
21 regarding population profiles of the children admitted to the centers
22 during each past calendar year. Such information shall include but
23 shall not be limited to the following:

- 24 (1) The number, age, and sex of children admitted to custody;
- 25 (2) Who brought the children to the center;
- 26 (3) Services provided to children admitted to the center;
- 27 (4) The circumstances which necessitated the children being brought
28 to the center;
- 29 (5) The ultimate disposition of cases;

1 (6) The number of children admitted to custody who ran away from
2 the center and their ultimate disposition, if any;

3 (7) Length of stay.

4 The department may require the provision of additional information and
5 may require each center to provide all such necessary information in a
6 uniform manner.

7 ~~((A center may, in addition to being licensed as such, also be
8 licensed as a family foster home or group care facility and may house
9 on the premises juveniles assigned for foster or group care.))~~"

10 "NEW SECTION. Sec. 215. Sections 205, 206, 211, 213, and 214 of
11 this act shall take effect July 1, 1993."

12 **"PART III - INVOLUNTARY COMMITMENT AND TREATMENT"**

13 "**Sec. 301.** RCW 74.04.055 and 1991 c 126 s 2 are each amended to
14 read as follows:

15 In furtherance of the policy of this state to cooperate with the
16 federal government in the programs included in this title the secretary
17 shall issue such rules and regulations as may become necessary to
18 entitle this state to participate in federal grants-in-aid, goods,
19 commodities and services unless the same be expressly prohibited by
20 this title. The secretary shall ensure that the department's services
21 and programs are designed and implemented to maximize the allocation of
22 federal funds to the state.

23 Any section or provision of this title which may be susceptible to
24 more than one construction shall be interpreted in favor of the
25 construction most likely to satisfy federal laws entitling this state
26 to receive federal matching or other funds for the various programs of
27 public assistance. If any part of this chapter is found to be in

1 conflict with federal requirements which are a prescribed condition to
2 the receipts of federal funds to the state, the conflicting part of
3 this chapter is hereby inoperative solely to the extent of the conflict
4 with respect to the agencies directly affected, and such finding or
5 determination shall not affect the operation of the remainder of this
6 chapter."

7 "Sec. 302. RCW 71.34.010 and 1985 c 354 s 1 are each amended to
8 read as follows:

9 It is the purpose of this (~~legislation~~) chapter to ensure that
10 minors in need of mental health care and treatment receive an
11 appropriate continuum of culturally relevant care and treatment, ((and
12 to enable treatment decisions to be made in response to clinical needs
13 and in accordance with sound professional judgment while also
14 recognizing parents' rights to participate in treatment decisions for
15 their minor children, and to protect minors against needless
16 hospitalization and deprivations of liberty)) from prevention and early
17 intervention to involuntary treatment. To facilitate the continuum of
18 care and treatment to minors in out-of-home placements, all divisions
19 of the department that provide mental health services to minors shall
20 jointly plan and deliver those services.

21 It is also the purpose of this chapter to protect the rights of
22 minors against needless hospitalization and deprivations of liberty and
23 to enable treatment decisions to be made in response to clinical needs
24 in accordance with sound professional judgment. The mental health care
25 and treatment providers shall encourage the use of voluntary services
26 and, whenever clinically appropriate, the providers shall offer less
27 restrictive alternatives to inpatient treatment. Additionally, all
28 mental health care and treatment providers shall ensure that minors'
29 parents are given an opportunity to participate in the treatment

1 decisions for their children. The mental health care and treatment
2 providers shall, to the extent possible, offer services that involve
3 minors' parents or family."

4 "Sec. 303. RCW 71.34.020 and 1985 c 354 s 2 are each amended to
5 read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Child psychiatrist" means a person having a license as a
9 physician and surgeon in this state, who has had graduate training in
10 child psychiatry in a program approved by the American Medical
11 Association or the American Osteopathic Association, and who is board
12 eligible or board certified in child psychiatry.

13 (2) "Children's mental health specialist" means:

14 (a) A mental health professional who has completed a minimum of one
15 hundred actual hours, not quarter or semester hours, of specialized
16 training devoted to the study of child development and the treatment of
17 children; and

18 (b) A mental health professional who has the equivalent of one year
19 of full-time experience in the treatment of children under the
20 supervision of a children's mental health specialist.

21 (3) "Commitment" means a determination by a judge or court
22 commissioner, made after a commitment hearing, that the minor is in
23 need of inpatient diagnosis, evaluation, or treatment or that the minor
24 is in need of less restrictive alternative treatment.

25 (4) "County-designated mental health professional" means a mental
26 health professional designated by one or more counties to perform the
27 functions of a county-designated mental health professional described
28 in this chapter.

1 (5) "Department" means the department of social and health
2 services.

3 (6) "Evaluation and treatment facility" means a public or private
4 facility or unit that is certified by the department to provide
5 emergency, inpatient, residential, or outpatient mental health
6 evaluation and treatment services for minors. A physically separate
7 and separately-operated portion of a state hospital may be designated
8 as an evaluation and treatment facility for minors. A facility which
9 is part of or operated by the department or federal agency does not
10 require certification. No correctional institution or facility,
11 juvenile court detention facility, or jail may be an evaluation and
12 treatment facility within the meaning of this chapter.

13 (7) "Evaluation and treatment program" means the total system of
14 services and facilities coordinated and approved by a county or
15 combination of counties for the evaluation and treatment of minors
16 under this chapter.

17 (8) "Gravely disabled minor" means a minor who, as a result of a
18 mental disorder, is in danger of serious physical harm resulting from
19 a failure to provide for his or her essential human needs of health or
20 safety, or manifests severe deterioration in routine functioning
21 evidenced by repeated and escalating loss of cognitive or volitional
22 control over his or her actions and is not receiving such care as is
23 essential for his or her health or safety.

24 (9) "Inpatient treatment" means twenty-four-hour-per-day mental
25 health care provided within a general hospital, psychiatric hospital,
26 or residential treatment facility certified by the department as an
27 evaluation and treatment facility for minors.

28 (10) "Less restrictive alternative" or "less restrictive setting"
29 means outpatient treatment provided to a minor who is not residing in
30 a facility providing inpatient treatment as defined in this chapter.

1 (11) "Likelihood of serious harm" means either: (a) A substantial
2 risk that physical harm will be inflicted by an individual upon his or
3 her own person, as evidenced by threats or attempts to commit suicide
4 or inflict physical harm on oneself; (b) a substantial risk that
5 physical harm will be inflicted by an individual upon another, as
6 evidenced by behavior which has caused such harm or which places
7 another person or persons in reasonable fear of sustaining such harm;
8 or (c) a substantial risk that physical harm will be inflicted by an
9 individual upon the property of others, as evidenced by behavior which
10 has caused substantial loss or damage to the property of others. In
11 assessing risk of harm, the frame of reference shall include all
12 relevant history and shall not be limited to the minor's behavior when
13 assessed by a mental health professional.

14 (12) "Mental disorder" means any organic, mental, or emotional
15 impairment that has substantial adverse effects on an individual's
16 cognitive or volitional functions. The presence of alcohol abuse, drug
17 abuse, juvenile criminal history, antisocial behavior, or mental
18 retardation alone is insufficient to justify a finding of "mental
19 disorder" within the meaning of this section. A mental disorder shall
20 include any illness, impairment, or disorder identified as such by the
21 American psychiatric association by and through its published
22 Diagnostic and Statistical Manual as now in existence or hereafter
23 revised.

24 (13) "Mental health professional" means a psychiatrist,
25 psychologist, psychiatric nurse, or social worker, and such other
26 mental health professionals as may be defined by rules adopted by the
27 secretary under this chapter.

28 (14) "Minor" means any person under the age of eighteen years.

1 (15) "Outpatient treatment" means any of the nonresidential
2 services mandated under chapter 71.24 RCW and provided by licensed
3 services providers as identified by RCW 71.24.025(3).

4 (16) "Parent" means:

5 (a) A biological or adoptive parent who has legal custody of the
6 child, including either parent if custody is shared under a joint
7 custody agreement; or

8 (b) A person or agency judicially appointed as legal guardian or
9 custodian of the child.

10 (17) "Professional person in charge" means a physician or other
11 mental health professional empowered by an evaluation and treatment
12 facility with authority to make admission and discharge decisions on
13 behalf of that facility.

14 (18) "Psychiatric nurse" means a registered nurse who has a
15 bachelor's degree from an accredited college or university, and who has
16 had, in addition, at least two years' experience in the direct
17 treatment of mentally ill or emotionally disturbed persons, such
18 experience gained under the supervision of a mental health
19 professional. "Psychiatric nurse" shall also mean any other registered
20 nurse who has three years of such experience.

21 (19) "Psychiatrist" means a person having a license as a physician
22 in this state who has completed residency training in psychiatry in a
23 program approved by the American Medical Association or the American
24 Osteopathic Association, and is board eligible or board certified in
25 psychiatry.

26 (20) "Psychologist" means a person licensed as a psychologist under
27 chapter 18.83 RCW.

28 (21) "Responsible other" means the minor, the minor's parent or
29 estate, or any other person legally responsible for support of the
30 minor.

1 (22) "Secretary" means the secretary of the department or
2 secretary's designee.

3 (23) "Start of initial detention" means the time of arrival of the
4 minor at the first evaluation and treatment facility offering inpatient
5 treatment if the minor is being involuntarily detained at the time.
6 With regard to voluntary patients, "start of initial detention" means
7 the time at which the minor gives notice of intent to leave under the
8 provisions of this chapter."

9 "NEW SECTION. Sec. 304. A new section is added to chapter 71.34
10 RCW to read as follows:

11 For the purpose of encouraging the expansion of existing evaluation
12 and treatment facilities and the creation of new facilities, the
13 department shall endeavor to redirect federal Title XIX funds which are
14 expended on out-of-state placements to fund placements within the
15 state."

16 "NEW SECTION. Sec. 305. A new section is added to chapter 71.34
17 RCW to read as follows:

18 The department shall ensure that the provisions of this chapter are
19 applied by the counties in a consistent and uniform manner. The
20 department shall also ensure that the county-designated mental health
21 professionals are specifically trained in adolescent mental health
22 issues, the mental health civil commitment laws, and the criteria for
23 civil commitment."

24 "NEW SECTION. Sec. 306. A new section is added to chapter 71.34
25 RCW to read as follows:

26 Whenever a county-designated mental health professional makes a
27 determination under RCW 71.34.050 that a minor, thirteen years or

1 older, does not meet the criteria for an involuntary detention at an
2 evaluation and treatment facility, the county-designated mental health
3 professional shall:

4 (1) Provide written notice to the minor's parent of the parent's
5 right to file petitions and obtain services available under chapter
6 13.32A RCW;

7 (2) Provide written notice to the minor's parent of the parent's
8 right to file a petition, as provided in section 307 of this act, to
9 seek a review of the decision not to detain the minor at an evaluation
10 and treatment facility;

11 (3) Provide a written evaluation to the minor's parent detailing
12 the county-designated mental health professional's reasons for not
13 detaining the minor at an evaluation and treatment facility. The
14 evaluation shall include the specific facts investigated, the
15 credibility of the person or persons providing the information, and the
16 criteria for an involuntary detention; and

17 (4) Refer the minor and the parents to other available services."

18 "NEW SECTION. Sec. 307. A new section is added to chapter 71.34
19 RCW to read as follows:

20 (1) Whenever a county-designated mental health professional makes
21 a determination under RCW 71.34.050 that a minor, thirteen years of age
22 or older, does not meet the criteria for an involuntary admission at an
23 evaluation and treatment facility, the minor's parent may file a
24 petition in the superior court seeking a review of the county-
25 designated mental health professional's decision not to detain the
26 minor.

27 (2) The following documents shall be filed with the petition:

28 (a) An affidavit of the parent which states the reasons why the
29 parent disagrees with the evaluation conducted by the county-designated

1 mental health professional and includes the specific facts alleged
2 which indicate the need for the minor's detention;

3 (b) Any other relevant affidavits signed by persons with knowledge
4 of the specific facts alleged that indicate the need for the minor's
5 detention at an evaluation and treatment facility; and

6 (c) The county-designated mental health professional's written
7 evaluation provided under section 306(3) of this act.

8 (3) If after reviewing the petition, affidavits, and supporting
9 documentation, the court finds that the minor, as a result of a mental
10 disorder, presents a likelihood of serious harm or is gravely disabled,
11 the court shall issue a warrant for the detention of the minor at an
12 evaluation and treatment facility. The warrant shall be served with a
13 statement of the minor's rights as delineated in RCW 71.34.050(3),
14 which includes the immediate right to an attorney.

15 (4) All other provisions contained in this chapter relating to the
16 detention, evaluation, and treatment shall apply."

17 "NEW SECTION. Sec. 308. A new section is added to chapter 70.96A
18 RCW to read as follows:

19 The department shall ensure that the provisions of this chapter are
20 applied by the counties in a consistent and uniform manner. The
21 department shall also ensure that the county-designated chemical
22 dependency specialists are specifically trained in adolescent chemical
23 dependency issues, the chemical dependency commitment laws, and the
24 criteria for commitment."

25 "NEW SECTION. Sec. 309. A new section is added to chapter 70.96A
26 RCW to read as follows:

27 Whenever a county-designated chemical dependency specialist makes
28 a determination under RCW 70.96A.140 that a minor does not meet the

1 criteria for a commitment to a chemical dependency program, the county-
2 designated chemical dependency specialist shall:

3 (1) Provide written notice to the minor's parent of the parent's
4 right to file petitions and obtain services available under chapter
5 13.32A RCW;

6 (2) Provide written notice to the minor's parent of the parent's
7 right to file a petition, as provided in section 310 of this act, to
8 seek a review of the decision not to commit the minor to a chemical
9 dependency program;

10 (3) Provide a written evaluation to the minor's parent detailing
11 the county-designated chemical dependency specialist's reasons for not
12 committing the minor in a chemical dependency program. The evaluation
13 shall include the specific facts investigated, the credibility of the
14 person or persons providing the information, and the criteria for a
15 commitment to a chemical dependency treatment program; and

16 (4) Refer the minor and the parents to other available services."

17 "NEW SECTION. Sec. 310. A new section is added to chapter 70.96A
18 RCW to read as follows:

19 (1) Whenever a county-designated chemical dependency specialist
20 makes a determination under RCW 70.96A.140 that a minor does not meet
21 the criteria for a commitment to a chemical dependency treatment
22 program, the minor's parent may file a petition in the superior court
23 seeking a review of the county-designated chemical dependency
24 specialist's decision not to commit the minor.

25 (2) The following documents shall be filed with the petition:

26 (a) An affidavit of the parent which states the reasons why the
27 parent disagrees with the evaluation conducted by the county-designated
28 chemical dependency specialist and includes the specific facts alleged
29 that indicate the need for the minor's commitment;

1 (b) Any other relevant affidavits signed by persons with knowledge
2 of the specific facts alleged that indicate the need for the minor's
3 commitment in a chemical dependency treatment program; and

4 (c) The county-designated chemical dependency specialist's written
5 evaluation provided under section 309(3) of this act.

6 (3) If after reviewing the petition, affidavits, and supporting
7 documentation, the court finds by a preponderance of the evidence that
8 the minor meets the criteria for commitment as set forth in RCW
9 70.96A.140(1), the court shall fix a date for a hearing as provided in
10 RCW 70.96A.140(2). The petition and order for a hearing shall be
11 served on the minor and on the county-designated chemical dependency
12 specialist who wrote the evaluation that was filed with the court.

13 (4) All other provisions contained in this chapter relating to the
14 hearing and commitment shall apply."

15 "NEW SECTION. Sec. 311. The department of social and health
16 services shall conduct a planning study of the children in its care to
17 determine the appropriate level of residential and treatment services
18 required by these children. The study shall be based on a
19 statistically valid sample of all children in the department's care.
20 The study shall also estimate the treatment needs of youth who have
21 been evaluated for a mental disorder but were not involuntarily
22 detained pursuant to chapter 71.34 RCW.

23 In conducting the study, the department shall utilize all existing
24 studies to the extent possible. The department shall report the
25 results of the study to the appropriate standing committees of the
26 legislature by September 15, 1992. The department shall use the study
27 results for designing future programs, treatment models, and for
28 determining the reallocation of funds within the department. The
29 department shall submit recommendations to the appropriate standing

1 committees of the legislature on the necessary reallocation of funds,
2 as indicated by the assessment results, by January 1, 1993."

3 **"PART IV - MISCELLANEOUS"**

4 **"Sec. 401.** 1991 c 234 s 1 (uncodified) is amended to read as
5 follows:

6 A juvenile issues task force is created to review the operation of
7 the 1977 Juvenile Justice Act, the Family Reconciliation Act, the 1990
8 "at-risk" youth legislation, and to study related issues. The task
9 force is charged with issuing a report and making recommendations to
10 the legislature by December 15, (~~(1991)~~) 1992.

11 The task force shall consist of the following members:

12 (1) Three co-chairs, one from the state senate appointed by the
13 president of the senate; one from the state house of representatives
14 appointed by the speaker of the house of representatives; and one
15 appointed by the governor from among the members of the task force
16 named in subsection (3) of this section.

17 (2) Eight legislators in addition to the two legislative cochairs
18 selected under subsection (1) of this section, two each from the
19 majority and minority caucuses of the senate and two each from the
20 majority and minority caucuses of the house of representatives.

21 (3) The governor shall appoint the following members of the task
22 force:

23 (a) (~~(Three)~~) Two superior court judges;

24 (b) (~~(Two)~~) One prosecuting attorney(~~(s)~~);

25 (c) (~~(Two)~~) One juvenile public defender(~~(s)~~);

26 (d) The secretary of social and health services or the secretary's
27 designee;

28 (e) (~~(Two)~~) One juvenile court administrator(~~(s)~~);

1 (f) One police chief or county sheriff;
2 (g) ~~((One child psychologist;~~
3 ~~(h) One child psychiatrist;~~
4 ~~(i))~~ Two directors of ((a)) youth service organizations;
5 ~~((j))~~ (h) One person from the Washington council on crime and
6 delinquency;
7 ~~((k))~~ (i) One person from a parents' organization;
8 ~~((l) One person from a crisis residential center;~~
9 ~~(m))~~ (j) One juvenile court caseworker;
10 ~~((n) One representative of the executive branch;~~
11 ~~(o) One))~~ (k) Two members of the mental health treatment community;
12 ((and
13 ~~(p))~~ (l) One member from the substance abuse treatment community;
14 (m) One member from the education system; and
15 (n) One member from local government.

16 The department of social and health services shall fund the task
17 force in an amount sufficient to meet its mission. The task force
18 shall be staffed, to the extent possible, by staff available from the
19 membership of the task force.

20 The governor shall ensure that the racial diversity of the task
21 force membership appointed by the governor reflects the racial
22 diversity of juveniles served under the Family Reconciliation Act, the
23 1977 Juvenile Justice Act, and the 1990 "at-risk" youth legislation.

24 The task force shall develop a statutory community-based planning,
25 allocation, and service system for children and families, including at-
26 risk youth, runaways, and families in conflict, and submit it to the
27 appropriate legislative committees no later than December 1, 1992. The
28 task force shall: (i) Identify which state agencies, programs, and
29 services should be included in the system; (ii) identify the various
30 youth populations to be served by the system; and (iii) determine how

1 to coordinate this system with existing community-based planning and
2 coordination requirements, including, but not limited to, chapter 326,
3 Laws of 1991, and chapter 13.06 RCW."

4 "Sec. 402. 1991 c 234 s 2 (uncodified) is amended to read as
5 follows:

6 The department of social and health services, in cooperation with
7 the commission on African American affairs, shall contract for an
8 independent study of racial disproportionality in the juvenile justice
9 system. The study shall identify key decision points in the juvenile
10 justice system where race and/or ethnicity-based disproportionality
11 exists in the treatment and incarceration of juvenile offenders. The
12 study shall identify the causes of disproportionality, and propose new
13 policies and procedures to address disproportionality.

14 (~~The department shall submit the study's preliminary findings and~~
15 ~~recommendations to the juvenile justice task force established under~~
16 ~~section 1 of this act by September 13, 1991.~~) The final report shall
17 be submitted to the appropriate committees of the legislature by
18 December (~~(1, 1991)~~) 15, 1992.

19 The juvenile justice task force shall utilize the information on
20 disproportionality in developing its report and recommendations to the
21 legislature required under section ((1)) 401 of this act. (~~If by June~~
22 ~~30, 1991, the omnibus operating budget appropriations act for the 1991-~~
23 ~~93 biennium does not provide specific funding for this section,~~
24 ~~referencing this section by bill number and section, this section is~~
25 ~~null and void.))"~~

26 "NEW SECTION. Sec. 403. Part headings as used in this act do not
27 constitute any part of the law."

1 "NEW SECTION. **Sec. 404.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected."

5 "NEW SECTION. **Sec. 405.** The purpose of this act is solely to
6 provide authority for the counties and the department of social and
7 health services to provide services within existing funds and current
8 programs and facilities unless otherwise specifically funded by June
9 30, 1992, by reference to this bill and section number, in the
10 supplemental omnibus appropriations act for the 1992. Nothing in this
11 act shall be construed to require the addition of new facilities nor
12 affect the department of social and health services' nor county
13 authority for the uses of existing programs and funding."

14 "NEW SECTION. **Sec. 406.** Sections 103, 105, 107, 111, 118, 305,
15 306, 307, 308, 309, and 310 of this act shall take effect July 1, 1993.

16 The department of social and health services, the department of
17 community development, and the office of the administrator for the
18 courts, shall prepare a budget request for the 1993-95 biennium to
19 implement sections 103, 105, 107, 111, 118, 305, 306, 307, 308, 309,
20 and 310 of this act. The budget request shall be included in the
21 governor's expenditure plan for the 1993-95 biennium."

22 **SSB 6428** - H AMD TO HS COMM AMD (H-5005.1/92)

23 By Representatives Ebersole, Padden, Leonard, McLean, and Appelwick

24

25 On page 16, beginning on line 20 of the title amendment, after
26 "insert" strike the remainder of the title amendment and insert
27 "amending RCW 28A.300.040, 43.63A.065, 43.70.020, 13.40.020, 13.40.027,

1 13.40.0357, 13.40.038, 13.40.050, 13.40.070, 13.40.080, 13.40.100,
2 13.40.130, 13.40.150, 13.40.200, 2.56.030, 2.56.030, 9.41.010,
3 9.41.040, 9.41.280, 13.04.011, 28A.225.020, 28A.225.090, 28A.225.150,
4 13.32A.130, 13.32A.140, 13.32A.150, 74.13.032, 74.13.033, 74.13.034,
5 74.13.035, 74.04.055, 71.34.010, and 71.34.020; amending 1991 c 234 s
6 1 (uncodified); amending 1991 c 234 s 2 (uncodified); adding new
7 sections to chapter 74.14A RCW; adding a new section to chapter 43.20A
8 RCW; adding a new section to chapter 50.08 RCW; adding a new chapter to
9 Title 70 RCW; adding new sections to chapter 13.40 RCW; adding a new
10 section to chapter 28A.600 RCW; adding a new section to chapter 28A.225
11 RCW; adding new sections to chapter 13.32A RCW; adding new sections to
12 chapter 71.34 RCW; adding new sections to chapter 70.96A RCW; creating
13 new sections; repealing RCW 13.40.010; prescribing penalties; and
14 providing effective dates."