
HOUSE BILL 1853

State of Washington

54th Legislature

1995 Regular Session

By Representatives Smith, Padden, Campbell, Koster, Johnson, Blanton, Silver, Benton and Thompson

Read first time 02/13/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to juveniles; amending RCW 13.40.0357, 13.40.040,
2 13.40.050, 13.40.125, 13.40.160, and 13.40.200; reenacting and amending
3 RCW 13.40.020; adding a new section to chapter 13.40 RCW; and
4 prescribing penalties.

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

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

8 As provided in this chapter, the court may order a juvenile to post
9 a probation bond as defined in RCW 13.40.020 to enhance public safety,
10 increase the likelihood that a respondent will appear as required to
11 respond to charges, and increase compliance with community supervision
12 imposed under various alternative disposition options. The parents or
13 guardians of the juvenile may sign for a probation bond on behalf of
14 the juvenile. A parent or guardian who has signed for a probation bond
15 on behalf of a juvenile has the right to notify the probation officer,
16 prosecuting attorney, and court if the juvenile violates any of the
17 terms and conditions of the bond. A surety shall have the same
18 obligations and rights as provided sureties in adult criminal cases.
19 Rules of forfeiture and revocation of bonds issued in adult criminal

1 cases shall apply to forfeiture and revocation of probation bonds
2 issued under this chapter.

3 **Sec. 2.** RCW 13.40.020 and 1994 sp.s. c 7 s 520, 1994 c 271 s 803,
4 and 1994 c 261 s 18 are each reenacted and amended to read as follows:

5 For the purposes of this chapter:

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

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

9 (b) Manslaughter in the first degree; or

10 (c) Assault in the second degree, extortion in the first degree,
11 child molestation in the second degree, kidnapping in the second
12 degree, robbery in the second degree, residential burglary, or burglary
13 in the second degree, where such offenses include the infliction of
14 bodily harm upon another or where during the commission of or immediate
15 withdrawal from such an offense the perpetrator is armed with a deadly
16 weapon;

17 (2) "Community service" means compulsory service, without
18 compensation, performed for the benefit of the community by the
19 offender as punishment for committing an offense. Community service
20 may be performed through public or private organizations or through
21 work crews;

22 (3) "Community supervision" means an order of disposition by the
23 court of an adjudicated youth not committed to the department or an
24 order granting a deferred adjudication pursuant to RCW 13.40.125. A
25 community supervision order for a single offense may be for a period of
26 up to two years for a sex offense as defined by RCW 9.94A.030 and up to
27 one year for other offenses. As a mandatory condition of any term of
28 community supervision, the court shall order the juvenile to refrain
29 from committing new offenses. As a mandatory condition of community
30 supervision, the court shall order the juvenile to comply with the
31 mandatory school attendance provisions of chapter 28A.225 RCW and to
32 inform the school of the existence of this requirement. Community
33 supervision is an individualized program comprised of one or more of
34 the following:

35 (a) Community-based sanctions;

36 (b) Community-based rehabilitation;

37 (c) Monitoring and reporting requirements;

38 (d) Posting of a probation bond imposed pursuant to RCW 13.40.0357;

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

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

4 (b) Community service not to exceed one hundred fifty hours of
5 service;

6 (5) "Community-based rehabilitation" means one or more of the
7 following: Attendance of information classes; counseling, outpatient
8 substance abuse treatment programs, outpatient mental health programs,
9 anger management classes, education or outpatient treatment programs to
10 prevent animal cruelty, or other services; or attendance at school or
11 other educational programs appropriate for the juvenile as determined
12 by the school district. Placement in community-based rehabilitation
13 programs is subject to available funds;

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

22 (7) "Confinement" means physical custody by the department of
23 social and health services in a facility operated by or pursuant to a
24 contract with the state, or physical custody in a detention facility
25 operated by or pursuant to a contract with any county. The county may
26 operate or contract with vendors to operate county detention
27 facilities. The department may operate or contract to operate
28 detention facilities for juveniles committed to the department.
29 Pretrial confinement or confinement of less than thirty-one days
30 imposed as part of a disposition or modification order may be served
31 consecutively or intermittently, in the discretion of the court;

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

34 (9) "Criminal history" includes all criminal complaints against the
35 respondent for which, prior to the commission of a current offense:

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

1 (b) The criminal complaint was diverted by a prosecutor pursuant to
2 the provisions of this chapter on agreement of the respondent and after
3 an advisement to the respondent that the criminal complaint would be
4 considered as part of the respondent's criminal history. A
5 successfully completed deferred adjudication shall not be considered
6 part of the respondent's criminal history;

7 (10) "Department" means the department of social and health
8 services;

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

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

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

34 (14) "Juvenile," "youth," and "child" mean any individual who is
35 under the chronological age of eighteen years and who has not been
36 previously transferred to adult court pursuant to RCW 13.40.110 or who
37 is otherwise under adult court jurisdiction;

38 (15) "Juvenile offender" means any juvenile who has been found by
39 the juvenile court to have committed an offense, including a person

1 eighteen years of age or older over whom jurisdiction has been extended
2 under RCW 13.40.300;

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

6 (17) "Middle offender" means a person who has committed an offense
7 and who is neither a minor or first offender nor a serious offender;

8 (18) "Minor or first offender" means a person whose current
9 offense(s) and criminal history fall entirely within one of the
10 following categories:

11 (a) Four misdemeanors;

12 (b) Two misdemeanors and one gross misdemeanor;

13 (c) One misdemeanor and two gross misdemeanors; and

14 (d) Three gross misdemeanors.

15 For purposes of this definition, current violations shall be
16 counted as misdemeanors;

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

21 (20) "Respondent" means a juvenile who is alleged or proven to have
22 committed an offense;

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

33 (22) "Secretary" means the secretary of the department of social
34 and health services. "Assistant secretary" means the assistant
35 secretary for juvenile rehabilitation for the department;

36 (23) "Services" mean services which provide alternatives to
37 incarceration for those juveniles who have pleaded or been adjudicated
38 guilty of an offense or have signed a diversion agreement pursuant to
39 this chapter;

1 (24) "Sex offense" means an offense defined as a sex offense in RCW
2 9.94A.030;

3 (25) "Sexual motivation" means that one of the purposes for which
4 the respondent committed the offense was for the purpose of his or her
5 sexual gratification;

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

9 (27) "Violation" means an act or omission, which if committed by an
10 adult, must be proven beyond a reasonable doubt, and is punishable by
11 sanctions which do not include incarceration;

12 (28) "Violent offense" means a violent offense as defined in RCW
13 9.94A.030;

14 (29) "Probation bond" means a bond, posted with sufficient surety
15 by a surety justified and approved by the court, to secure compliance
16 with court-ordered community supervision or conditions of release
17 ordered pursuant to RCW 13.40.040 or 13.40.050;

18 (30) "Surety" means an entity qualified under state insurance laws,
19 licensed to write surety within the state, and justified and approved
20 by the superior court of the county having jurisdiction of the case.

21 **Sec. 3.** RCW 13.40.0357 and 1994 sp.s. c 7 s 522 are each amended
22 to read as follows:

23 **SCHEDULE A**

24 **DESCRIPTION AND OFFENSE CATEGORY**

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

30 **Arson and Malicious Mischief**

31	A	Arson 1 (9A.48.020)	B+
32	B	Arson 2 (9A.48.030)	C
33	C	Reckless Burning 1 (9A.48.040)	D
34	D	Reckless Burning 2 (9A.48.050)	E
35	B	Malicious Mischief 1 (9A.48.070)	C
36	C	Malicious Mischief 2 (9A.48.080)	D

1	D	Malicious Mischief 3 (<\$50 is	
2		E class) (9A.48.090)	E
3	E	Tampering with Fire Alarm	
4		Apparatus (9.40.100)	E
5	A	Possession of Incendiary Device	
6		(9.40.120)	B+
7		Assault and Other Crimes	
8		Involving Physical Harm	
9	A	Assault 1 (9A.36.011)	B+
10	B+	Assault 2 (9A.36.021)	C+
11	C+	Assault 3 (9A.36.031)	D+
12	D+	Assault 4 (9A.36.041)	E
13	D+	Reckless Endangerment	
14		(9A.36.050)	E
15	C+	Promoting Suicide Attempt	
16		(9A.36.060)	D+
17	D+	Coercion (9A.36.070)	E
18	C+	Custodial Assault (9A.36.100)	D+
19		Burglary and Trespass	
20	B+	Burglary 1 (9A.52.020)	C+
21	B	Burglary 2 (9A.52.030)	C
22	D	Burglary Tools (Possession of)	
23		(9A.52.060)	E
24	D	Criminal Trespass 1 (9A.52.070)	E
25	E	Criminal Trespass 2 (9A.52.080)	E
26	D	Vehicle Prowling (9A.52.100)	E
27		Drugs	
28	E	Possession/Consumption of Alcohol	
29		(66.44.270)	E
30	C	Illegally Obtaining Legend Drug	
31		(69.41.020)	D
32	C+	Sale, Delivery, Possession of Legend	
33		Drug with Intent to Sell	
34		(69.41.030)	D+
35	E	Possession of Legend Drug	
36		(69.41.030)	E

1	B+	Violation of Uniform Controlled	
2		Substances Act - Narcotic Sale	
3		(69.50.401(a)(1)(i))	B+
4	C	Violation of Uniform Controlled	
5		Substances Act - Nonnarcotic Sale	
6		(69.50.401(a)(1)(ii))	C
7	E	Possession of Marihuana <40 grams	
8		(69.50.401(e))	E
9	C	Fraudulently Obtaining Controlled	
10		Substance (69.50.403)	C
11	C+	Sale of Controlled Substance	
12		for Profit (69.50.410)	C+
13	E	Unlawful Inhalation (9.47A.020)	E
14	B	Violation of Uniform Controlled	
15		Substances Act - Narcotic	
16		Counterfeit Substances	
17		(69.50.401(b)(1)(i))	B
18	C	Violation of Uniform Controlled	
19		Substances Act - Nonnarcotic	
20		Counterfeit Substances	
21		(69.50.401(b)(1) (ii), (iii), (iv))	C
22	C	Violation of Uniform Controlled	
23		Substances Act - Possession of a	
24		Controlled Substance	
25		(69.50.401(d))	C
26	C	Violation of Uniform Controlled	
27		Substances Act - Possession of a	
28		Controlled Substance	
29		(69.50.401(c))	C
30		Firearms and Weapons	
31	E	Carrying Loaded Pistol Without	
32		Permit (9.41.050)	E
33	C	Possession of Firearms by	
34		Minor (<18) (9.41.040(1)(e))	C
35	D+	Possession of Dangerous Weapon	
36		(9.41.250)	E
37	D	Intimidating Another Person by use	
38		of Weapon (9.41.270)	E

1		Homicide	
2	A+	Murder 1 (9A.32.030)	A
3	A+	Murder 2 (9A.32.050)	B+
4	B+	Manslaughter 1 (9A.32.060)	C+
5	C+	Manslaughter 2 (9A.32.070)	D+
6	B+	Vehicular Homicide (46.61.520)	C+
7		Kidnapping	
8	A	Kidnap 1 (9A.40.020)	B+
9	B+	Kidnap 2 (9A.40.030)	C+
10	C+	Unlawful Imprisonment	
11		(9A.40.040)	D+
12		Obstructing Governmental Operation	
13	E	Obstructing a ((Public-Servant))	
14		<u>Law Enforcement Officer</u>	
15		(9A.76.020)	E
16	E	Resisting Arrest (9A.76.040)	E
17	B	Introducing Contraband 1	
18		(9A.76.140)	C
19	C	Introducing Contraband 2	
20		(9A.76.150)	D
21	E	Introducing Contraband 3	
22		(9A.76.160)	E
23	B+	Intimidating a Public Servant	
24		(9A.76.180)	C+
25	B+	Intimidating a Witness	
26		(9A.72.110)	C+
27		Public Disturbance	
28	C+	Riot with Weapon (9A.84.010)	D+
29	D+	Riot Without Weapon	
30		(9A.84.010)	E
31	E	Failure to Disperse (9A.84.020)	E
32	E	Disorderly Conduct (9A.84.030)	E
33		Sex Crimes	
34	A	Rape 1 (9A.44.040)	B+
35	A-	Rape 2 (9A.44.050)	B+
36	C+	Rape 3 (9A.44.060)	D+
37	A-	Rape of a Child 1 (9A.44.073)	B+

1	B	Rape of a Child 2 (9A.44.076)	C+
2	B	Incest 1 (9A.64.020(1))	C
3	C	Incest 2 (9A.64.020(2))	D
4	D+	Indecent Exposure	
5		(Victim <14) (9A.88.010)	E
6	E	Indecent Exposure	
7		(Victim 14 or over) (9A.88.010)	E
8	B+	Promoting Prostitution 1	
9		(9A.88.070)	C+
10	C+	Promoting Prostitution 2	
11		(9A.88.080)	D+
12	E	O & A (Prostitution) (9A.88.030)	E
13	B+	Indecent Liberties (9A.44.100)	C+
14	B+	Child Molestation 1 (9A.44.083)	C+
15	C+	Child Molestation 2 (9A.44.086)	C
16		Theft, Robbery, Extortion, and Forgery	
17	B	Theft 1 (9A.56.030)	C
18	C	Theft 2 (9A.56.040)	D
19	D	Theft 3 (9A.56.050)	E
20	B	Theft of Livestock (9A.56.080)	C
21	C	Forgery (9A.60.020)	D
22	A	Robbery 1 (9A.56.200)	B+
23	B+	Robbery 2 (9A.56.210)	C+
24	B+	Extortion 1 (9A.56.120)	C+
25	C+	Extortion 2 (9A.56.130)	D+
26	B	Possession of Stolen Property 1	
27		(9A.56.150)	C
28	C	Possession of Stolen Property 2	
29		(9A.56.160)	D
30	D	Possession of Stolen Property 3	
31		(9A.56.170)	E
32	C	Taking Motor Vehicle Without	
33		Owner's Permission (9A.56.070)	D
34		Motor Vehicle Related Crimes	
35	E	Driving Without a License	
36		(46.20.021)	E
37	C	Hit and Run - Injury	
38		(46.52.020(4))	D

1	D	Hit and Run-Attended	
2		(46.52.020(5))	E
3	E	Hit and Run-Unattended	
4		(46.52.010)	E
5	C	Vehicular Assault (46.61.522)	D
6	C	Attempting to Elude Pursuing	
7		Police Vehicle (46.61.024)	D
8	E	Reckless Driving (46.61.500)	E
9	D	Driving While Under the Influence	
10		(((46.61.515))) (46.61.502 and	
11		<u>46.61.504</u>)	E
12	D	Vehicle Prowling (9A.52.100)	E
13	C	Taking Motor Vehicle Without	
14		Owner's Permission (9A.56.070)	D
15		Other	
16	B	Bomb Threat (9.61.160)	C
17	C	Escape 1 (9A.76.110)	C
18	C	Escape 2 (9A.76.120)	C
19	D	Escape 3 (9A.76.130)	E
20	(C	Failure to Appear in Court	
21		(10.19.130) ----- D))	
22	E	Obscene, Harassing, Etc.,	
23		Phone Calls (9.61.230)	E
24	A	Other Offense Equivalent to an	
25		Adult Class A Felony	B+
26	B	Other Offense Equivalent to an	
27		Adult Class B Felony	C
28	C	Other Offense Equivalent to an	
29		Adult Class C Felony	D
30	D	Other Offense Equivalent to an	
31		Adult Gross Misdemeanor	E
32	E	Other Offense Equivalent to an	
33		Adult Misdemeanor	E
34	V	Violation of Order of Restitution,	
35		Community Supervision, or	
36		Confinement (13.40.200)	V

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

1 1st escape or attempted escape during 12-month period - 4 weeks
 2 confinement
 3 2nd escape or attempted escape during 12-month period - 8 weeks
 4 confinement
 5 3rd and subsequent escape or attempted escape during 12-month
 6 period - 12 weeks confinement

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

9 **SCHEDULE B**

10 **PRIOR OFFENSE INCREASE FACTOR**

11 For use with all CURRENT OFFENSES occurring on or after July 1,
 12 1989.

13 **TIME SPAN**

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

27 Prior history - Any offense in which a diversion agreement or counsel
 28 and release form was signed, or any offense which has been adjudicated
 29 by court to be correct prior to the commission of the current
 30 offense(s).

31 **SCHEDULE C**

32 **CURRENT OFFENSE POINTS**

33 For use with all CURRENT OFFENSES occurring on or after July 1,
 34 1989.

35 **AGE**

1	OFFENSE	12 &					
2	CATEGORY	Under	13	14	15	16	17
3						
4	A+	STANDARD RANGE 180-224 WEEKS					
5	A	250	300	350	375	375	375
6	A-	150	150	150	200	200	200
7	B+	110	110	120	130	140	150
8	B	45	45	50	50	57	57
9	C+	44	44	49	49	55	55
10	C	40	40	45	45	50	50
11	D+	16	18	20	22	24	26
12	D	14	16	18	20	22	24
13	E	4	4	4	6	8	10

14 **JUVENILE SENTENCING STANDARDS**
15 **SCHEDULE D-1**

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

19 **MINOR/FIRST OFFENDER**

20 **OPTION A**
21 **STANDARD RANGE**

22		Community	Community	Service	
23	Points	Supervision	Hours	Fine	
24				
25	1-9	0-3 months	and/or 0-8	and/or 0-\$10	
26	10-19	0-3 months	and/or 0-8	and/or 0-\$10	
27	20-29	0-3 months	and/or 0-16	and/or 0-\$10	
28	30-39	0-3 months	and/or 8-24	and/or 0-\$25	
29	40-49	3-6 months	and/or 16-32	and/or 0-\$25	
30	50-59	3-6 months	and/or 24-40	and/or 0-\$25	
31	60-69	6-9 months	and/or 32-48	and/or 0-\$50	
32	70-79	6-9 months	and/or 40-56	and/or 0-\$50	
33	80-89	9-12 months	and/or 48-64	and/or 10-\$100	
34	90-109	9-12 months	and/or 56-72	and/or 10-\$100	

36 **OR**

37 **OPTION B**
38 **STATUTORY OPTION**

39 0-12 Months Community Supervision
40 0-150 Hours Community Service

1 0-100 Fine

2 Posting of a Probation Bond

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

5 **OR**

6 **OPTION C**

7 **MANIFEST INJUSTICE**

8 When a term of community supervision would effectuate a manifest
9 injustice, another disposition may be imposed. When a judge imposes a
10 sentence of confinement exceeding 30 days, the court shall sentence the
11 juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall
12 be used to determine the range.

13 **JUVENILE SENTENCING STANDARDS**

14 **SCHEDULE D-2**

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

18 **MIDDLE OFFENDER**

19 **OPTION A**

20 **STANDARD RANGE**

Points	Community Service			Confinement	
	Supervision	Hours	Fine	Days	Weeks
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0	
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0	
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4	
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4	
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10	
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10	
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20	
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20	
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30	
110-129				8-12	
130-149				13-16	
150-199				21-28	
200-249				30-40	

1	250-299	52-65
2	300-374	80-100
3	375+	103-129

4 Middle offenders with ((~~more than~~)) 110 points or more do not have to
5 be committed. They may be assigned community supervision under option
6 B.

7 All A+ offenses 180-224 weeks

8 OR

9

10 OPTION B
11 STATUTORY OPTION

12 0-12 Months Community Supervision

13 0-150 Hours Community Service

14 0-100 Fine

15 Posting of a Probation Bond

16 If the offender has less than 110 points, the court may impose a
17 determinate disposition of community supervision and/or up to 30 days
18 confinement; in which case, if confinement has been imposed, the court
19 shall state either aggravating or mitigating factors as set forth in
20 RCW 13.40.150.

21 If the middle offender has 110 points or more, the court may impose
22 a disposition under option A and may suspend the disposition on the
23 condition that the offender serve up to thirty days of confinement and
24 follow all conditions of community supervision. If the offender fails
25 to comply with the terms of community supervision, the court may impose
26 sanctions pursuant to RCW 13.40.200 or may revoke the suspended
27 disposition and order execution of the disposition. If the court
28 imposes confinement for offenders with 110 points or more, the court
29 shall state either aggravating or mitigating factors set forth in RCW
30 13.40.150.

31 OR

32

33 OPTION C
34 MANIFEST INJUSTICE

35 If the court determines that a disposition under A or B would
36 effectuate a manifest injustice, the court shall sentence the juvenile

1 to a maximum term and the provisions of RCW 13.40.030(2) shall be used
2 to determine the range.

3 **JUVENILE SENTENCING STANDARDS**
4 **SCHEDULE D-3**

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

8 **SERIOUS OFFENDER**
9 **OPTION A**
10 **STANDARD RANGE**

11 Points Institution Time

12

13	0-129	8-12 weeks
14	130-149	13-16 weeks
15	150-199	21-28 weeks
16	200-249	30-40 weeks
17	250-299	52-65 weeks
18	300-374	80-100 weeks
19	375+	103-129 weeks
20	All A+ Offenses	180-224 weeks

21 **OR**

22
23 **OPTION B**
24 **MANIFEST INJUSTICE**

25 A disposition outside the standard range shall be determined and shall
26 be comprised of confinement or community supervision including posting
27 a probation bond or a combination thereof. When a judge finds a
28 manifest injustice and imposes a sentence of confinement exceeding 30
29 days, the court shall sentence the juvenile to a maximum term, and the
30 provisions of RCW 13.40.030(2) shall be used to determine the range.

31 **Sec. 4.** RCW 13.40.040 and 1979 c 155 s 57 are each amended to read
32 as follows:

33 (1) A juvenile may be taken into custody:

1 (a) Pursuant to a court order if a complaint is filed with the
2 court alleging, and the court finds probable cause to believe, that the
3 juvenile has committed an offense or has violated terms of a
4 disposition order or release order; or

5 (b) Without a court order, by a law enforcement officer if grounds
6 exist for the arrest of an adult in identical circumstances. Admission
7 to, and continued custody in, a court detention facility shall be
8 governed by subsection (2) of this section; or

9 (c) Pursuant to a court order that the juvenile be held as a
10 material witness; or

11 (d) Where the secretary or the secretary's designee has suspended
12 the parole of a juvenile offender.

13 (2) A juvenile may not be held in detention unless there is
14 probable cause to believe that:

15 (a) The juvenile has committed an offense or has violated the terms
16 of a disposition order; and

17 (i) The juvenile will likely fail to appear for further
18 proceedings; or

19 (ii) Detention is required to protect the juvenile from himself or
20 herself; or

21 (iii) The juvenile is a threat to community safety; or

22 (iv) The juvenile will intimidate witnesses or otherwise unlawfully
23 interfere with the administration of justice; or

24 (v) The juvenile has committed a crime while another case was
25 pending; or

26 (b) The juvenile is a fugitive from justice; or

27 (c) The juvenile's parole has been suspended or modified; or

28 (d) The juvenile is a material witness.

29 (3) Upon a finding that members of the community have threatened
30 the health of a juvenile taken into custody, at the juvenile's request
31 the court may order continued detention pending further order of the
32 court.

33 (4) A juvenile detained under this section may be released upon
34 posting a probation bond set by the court. The juvenile's parent or
35 guardian may sign for the probation bond. A court authorizing such a
36 release shall issue an order containing a statement of conditions
37 imposed upon the juvenile and shall set the date of his or her next
38 court appearance. The court shall advise the juvenile of any
39 conditions specified in the order and may at any time amend such an

1 order in order to impose additional or different conditions of release
2 upon the juvenile or to return the juvenile to custody for failing to
3 conform to the conditions imposed. In addition to requiring the
4 juvenile to appear at the next court date, the court may condition the
5 probation bond on the juvenile's compliance with conditions of release.
6 The juvenile's parent or guardian may notify the court that the
7 juvenile has failed to conform to the conditions of release or the
8 provisions in the probation bond. As provided in the terms of the
9 bond, the surety shall provide notice to the court of the offender's
10 noncompliance. Failure to appear on the date scheduled by the court
11 pursuant to this section shall constitute the crime of bail jumping.

12 **Sec. 5.** RCW 13.40.050 and 1992 c 205 s 106 are each amended to
13 read as follows:

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

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

19 (b) A detention hearing, a community supervision modification or
20 termination of diversion petition, or a parole modification petition
21 shall be held within seventy-two hours, Saturdays, Sundays, and
22 holidays excluded, from the time of filing the information or petition,
23 to determine whether continued detention is necessary under RCW
24 13.40.040.

25 (2) Notice of the detention hearing, stating the time, place, and
26 purpose of the hearing, and stating the right to counsel, shall be
27 given to the parent, guardian, or custodian if such person can be found
28 and shall also be given to the juvenile if over twelve years of age.

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

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

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

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

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

12 (b) Place restrictions on the travel of the juvenile during the
13 period of release;

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

16 (d) Impose any condition other than detention deemed reasonably
17 necessary to assure appearance as required; (~~or~~)

18 (e) Require that the juvenile return to detention during specified
19 hours; or

20 (f) Require the juvenile to post a probation bond set by the court
21 under terms and conditions as provided in RCW 13.40.040(4).

22 (7) If the parent, guardian, or custodian of the juvenile in
23 detention is available, the court shall consult with them prior to a
24 determination to further detain or release the juvenile or treat the
25 case as a diversion case under RCW 13.40.080.

26 **Sec. 6.** RCW 13.40.125 and 1994 1st sp.s. c 7 s 545 are each
27 amended to read as follows:

28 (1) Upon motion at least fourteen days before commencement of
29 trial, the juvenile court has the power, after consulting the
30 juvenile's custodial parent or parents or guardian and with the consent
31 of the juvenile, to continue the case for adjudication for a period not
32 to exceed one year from the date (~~of entry of the plea or finding of~~
33 ~~guilt~~) the motion is granted. The court may continue the case for an
34 additional one-year period for good cause.

35 (2) Any juvenile granted a deferral of adjudication under this
36 section shall be placed under community supervision. The court may
37 impose any conditions of supervision that it deems appropriate
38 including posting a probation bond. Payment of restitution, as

1 provided in RCW 13.40.190 shall also be a condition of community
2 supervision under this section.

3 (3) Upon full compliance with (~~such~~) conditions of supervision,
4 the court shall dismiss the case with prejudice.

5 (4) If the juvenile fails to comply with the terms of supervision,
6 the court shall enter an order of adjudication and proceed to
7 disposition. The juvenile's lack of compliance shall be determined by
8 the judge upon written motion by the prosecutor or the juvenile's
9 juvenile court community supervision counselor. A parent who signed
10 for a probation bond may notify the counselor if the juvenile fails to
11 comply with any court-ordered probation bond. A surety shall notify
12 the court of the juvenile's failure to comply with the probation bond.
13 The state shall bear the burden to prove by a preponderance of the
14 evidence that the juvenile has failed to comply with the terms of
15 community supervision.

16 (5) If the juvenile agrees to a deferral of adjudication, the
17 juvenile shall waive all rights:

18 (a) To a speedy trial and disposition;

19 (b) To call and confront witnesses; and

20 (c) To a hearing on the record. The adjudicatory hearing shall be
21 limited to a reading of the court's record.

22 (6) A juvenile is not eligible for a deferred adjudication if:

23 (a) The juvenile's current offense is a sex or violent offense;

24 (b) The juvenile's criminal history includes any felony;

25 (c) The juvenile has a prior deferred adjudication; or

26 (d) The juvenile has had more than two diversions.

27 **Sec. 7.** RCW 13.40.160 and 1994 sp.s. c 7 s 523 are each amended to
28 read as follows:

29 (1) When the respondent is found to be a serious offender, the
30 court shall commit the offender to the department for the standard
31 range of disposition for the offense, as indicated in option A of
32 schedule D-3, RCW 13.40.0357 except as provided in subsections (5) and
33 (6) of this section.

34 If the court concludes, and enters reasons for its conclusion, that
35 disposition within the standard range would effectuate a manifest
36 injustice the court shall impose a disposition outside the standard
37 range, as indicated in option B of schedule D-3, RCW 13.40.0357. The

1 court's finding of manifest injustice shall be supported by clear and
2 convincing evidence.

3 A disposition outside the standard range shall be determinate and
4 shall be comprised of confinement or community supervision, or a
5 combination thereof. When a judge finds a manifest injustice and
6 imposes a sentence of confinement exceeding thirty days, the court
7 shall sentence the juvenile to a maximum term, and the provisions of
8 RCW 13.40.030(2) shall be used to determine the range. A disposition
9 outside the standard range is appealable under RCW 13.40.230 by the
10 state or the respondent. A disposition within the standard range is
11 not appealable under RCW 13.40.230.

12 (2) Where the respondent is found to be a minor or first offender,
13 the court shall order that the respondent serve a term of community
14 supervision as indicated in option A or option B of schedule D-1, RCW
15 13.40.0357 except as provided in subsections (5) and (6) of this
16 section. If the court determines that a disposition of community
17 supervision would effectuate a manifest injustice the court may impose
18 another disposition under option C of schedule D-1, RCW 13.40.0357.
19 Except as provided in subsection (5) of this section, a disposition
20 other than a community supervision may be imposed only after the court
21 enters reasons upon which it bases its conclusions that imposition of
22 community supervision would effectuate a manifest injustice. When a
23 judge finds a manifest injustice and imposes a sentence of confinement
24 exceeding thirty days, the court shall sentence the juvenile to a
25 maximum term, and the provisions of RCW 13.40.030(2) shall be used to
26 determine the range. The court's finding of manifest injustice shall
27 be supported by clear and convincing evidence.

28 Except for disposition of community supervision or a disposition
29 imposed pursuant to subsection (5) of this section, a disposition may
30 be appealed as provided in RCW 13.40.230 by the state or the
31 respondent. A disposition of community supervision or a disposition
32 imposed pursuant to subsection (5) of this section may not be appealed
33 under RCW 13.40.230.

34 (3) Where a respondent is found to have committed an offense for
35 which the respondent declined to enter into a diversion agreement, the
36 court shall impose a term of community supervision limited to the
37 conditions allowed in a diversion agreement as provided in RCW
38 13.40.080(2).

39 (4) If a respondent is found to be a middle offender:

1 (a) The court shall impose a determinate disposition within the
2 standard range(s) for such offense, as indicated in option A of
3 schedule D-2, RCW 13.40.0357 except as provided in subsections (5) and
4 (6) of this section(~~(:— PROVIDED, That)~~). If the standard range
5 includes a term of confinement exceeding thirty days, commitment shall
6 be to the department for the standard range of confinement; or

7 (b) If the middle offender has less than 110 points, the court
8 shall impose a ((disposition under (a) of this subsection, which shall
9 be suspended, and shall impose a)) determinate disposition of community
10 supervision and/or up to thirty days confinement, as indicated in
11 option B of schedule D-2, RCW 13.40.0357 in which case, if confinement
12 has been imposed, the court shall state either aggravating or
13 mitigating factors as set forth in RCW 13.40.150. If the middle
14 offender has 110 points or more, the court may impose a disposition
15 under option A and may suspend the disposition on the condition that
16 the offender serve up to thirty days of confinement and follow all
17 conditions of community supervision. If the offender violates any
18 condition of the disposition including conditions of a probation bond,
19 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke
20 the suspension and order execution of the ((sentence)) disposition.
21 The court shall give credit for any confinement time previously served
22 if that confinement was for the offense for which the suspension is
23 being revoked.

24 (c) Only if the court concludes, and enters reasons for its
25 conclusions, that disposition as provided in subsection (4)(a) or (b)
26 of this section would effectuate a manifest injustice, the court shall
27 sentence the juvenile to a maximum term, and the provisions of RCW
28 13.40.030(2) shall be used to determine the range. The court's finding
29 of manifest injustice shall be supported by clear and convincing
30 evidence.

31 (d) A disposition pursuant to subsection (4)(c) of this section is
32 appealable under RCW 13.40.230 by the state or the respondent. A
33 disposition pursuant to subsection (4) (a) or (b) of this section is
34 not appealable under RCW 13.40.230.

35 (5) When a serious, middle, or minor first offender is found to
36 have committed a sex offense, other than a sex offense that is also a
37 serious violent offense as defined by RCW 9.94A.030, and has no history
38 of a prior sex offense, the court, on its own motion or the motion of

1 the state or the respondent, may order an examination to determine
2 whether the respondent is amenable to treatment.

3 The report of the examination shall include at a minimum the
4 following: The respondent's version of the facts and the official
5 version of the facts, the respondent's offense history, an assessment
6 of problems in addition to alleged deviant behaviors, the respondent's
7 social, educational, and employment situation, and other evaluation
8 measures used. The report shall set forth the sources of the
9 evaluator's information.

10 The examiner shall assess and report regarding the respondent's
11 amenability to treatment and relative risk to the community. A
12 proposed treatment plan shall be provided and shall include, at a
13 minimum:

14 (a)(i) Frequency and type of contact between the offender and
15 therapist;

16 (ii) Specific issues to be addressed in the treatment and
17 description of planned treatment modalities;

18 (iii) Monitoring plans, including any requirements regarding living
19 conditions, lifestyle requirements, and monitoring by family members,
20 legal guardians, or others;

21 (iv) Anticipated length of treatment; and

22 (v) Recommended crime-related prohibitions.

23 The court on its own motion may order, or on a motion by the state
24 shall order, a second examination regarding the offender's amenability
25 to treatment. The evaluator shall be selected by the party making the
26 motion. The defendant shall pay the cost of any second examination
27 ordered unless the court finds the defendant to be indigent in which
28 case the state shall pay the cost.

29 After receipt of reports of the examination, the court shall then
30 consider whether the offender and the community will benefit from use
31 of this special sex offender disposition alternative and consider the
32 victim's opinion whether the offender should receive a treatment
33 disposition under this section. If the court determines that this
34 special sex offender disposition alternative is appropriate, then the
35 court shall impose a determinate disposition within the standard range
36 for the offense, and the court may suspend the execution of the
37 disposition and place the offender on community supervision for up to
38 two years. As a condition of the suspended disposition, the court may
39 impose the conditions of community supervision and other conditions,

1 including up to thirty days of confinement and requirements that the
2 offender do any one or more of the following:

3 (b)(i) Devote time to a specific education, employment, or
4 occupation;

5 (ii) Undergo available outpatient sex offender treatment for up to
6 two years, or inpatient sex offender treatment not to exceed the
7 standard range of confinement for that offense. A community mental
8 health center may not be used for such treatment unless it has an
9 appropriate program designed for sex offender treatment. The
10 respondent shall not change sex offender treatment providers or
11 treatment conditions without first notifying the prosecutor, the
12 probation counselor, and the court, and shall not change providers
13 without court approval after a hearing if the prosecutor or probation
14 counselor object to the change;

15 (iii) Remain within prescribed geographical boundaries and notify
16 the court or the probation counselor prior to any change in the
17 offender's address, educational program, or employment;

18 (iv) Report to the prosecutor and the probation counselor prior to
19 any change in a sex offender treatment provider. This change shall
20 have prior approval by the court;

21 (v) Report as directed to the court and a probation counselor;

22 (vi) Pay all court-ordered legal financial obligations, perform
23 community service, or any combination thereof; ((or))

24 (vii) Make restitution to the victim for the cost of any counseling
25 reasonably related to the offense; or

26 (viii) Comply with the conditions of any court-ordered probation
27 bond.

28 The sex offender treatment provider shall submit quarterly reports
29 on the respondent's progress in treatment to the court and the parties.
30 The reports shall reference the treatment plan and include at a minimum
31 the following: Dates of attendance, respondent's compliance with
32 requirements, treatment activities, the respondent's relative progress
33 in treatment, and any other material specified by the court at the time
34 of the disposition.

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

37 Except as provided in this subsection (5), after July 1, 1991,
38 examinations and treatment ordered pursuant to this subsection shall
39 only be conducted by sex offender treatment providers certified by the

1 department of health pursuant to chapter 18.155 RCW. A sex offender
2 therapist who examines or treats a juvenile sex offender pursuant to
3 this subsection does not have to be certified by the department of
4 health pursuant to chapter 18.155 RCW if the court finds that: (A) The
5 offender has already moved to another state or plans to move to another
6 state for reasons other than circumventing the certification
7 requirements; (B) no certified providers are available for treatment
8 within a reasonable geographical distance of the offender's home; and
9 (C) the evaluation and treatment plan comply with this subsection (5)
10 and the rules adopted by the department of health.

11 If the offender violates any condition of the disposition or the
12 court finds that the respondent is failing to make satisfactory
13 progress in treatment, the court may revoke the suspension and order
14 execution of the disposition or the court may impose a penalty of up to
15 thirty days' confinement for violating conditions of the disposition.
16 The court may order both execution of the disposition and up to thirty
17 days' confinement for the violation of the conditions of the
18 disposition. The court shall give credit for any confinement time
19 previously served if that confinement was for the offense for which the
20 suspension is being revoked.

21 For purposes of this section, "victim" means any person who has
22 sustained emotional, psychological, physical, or financial injury to
23 person or property as a direct result of the crime charged. "Victim"
24 may also include a known parent or guardian of a victim who is a minor
25 child unless the parent or guardian is the perpetrator of the offense.

26 (6) RCW 13.40.193 shall govern the disposition of any juvenile
27 adjudicated of possessing a firearm in violation of RCW 9.41.040(1)(e)
28 or any crime in which a special finding is entered that the juvenile
29 was armed with a firearm.

30 (7) Whenever a juvenile offender is entitled to credit for time
31 spent in detention prior to a dispositional order, the dispositional
32 order shall specifically state the number of days of credit for time
33 served.

34 (8) Except as provided for in subsection (4)(b) or (5) of this
35 section or RCW 13.40.125, the court shall not suspend or defer the
36 imposition or the execution of the disposition.

37 (9) In no case shall the term of confinement imposed by the court
38 at disposition exceed that to which an adult could be subjected for the
39 same offense.

1 **Sec. 8.** RCW 13.40.200 and 1986 c 288 s 5 are each amended to read
2 as follows:

3 (1) When a respondent fails to comply with an order of restitution,
4 community supervision, penalty assessments, or confinement of less than
5 thirty days, the court upon motion of the prosecutor or its own motion,
6 may modify the order after a hearing on the violation.

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

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

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

34 (4) If a respondent has been ordered to pay a fine or monetary
35 penalty and due to a change of circumstance cannot reasonably comply
36 with the order, the court, upon motion of the respondent, may order
37 that the unpaid fine or monetary penalty be converted to community
38 service. The number of hours of community service in lieu of a
39 monetary penalty or fine shall be converted at the rate of the

1 prevailing state minimum wage per hour. The monetary penalties or
2 fines collected shall be deposited in the county general fund. A
3 failure to comply with an order under this subsection shall be deemed
4 a failure to comply with an order of community supervision and may be
5 proceeded against as provided in this section.

6 (5) When a respondent has willfully violated the terms of an order
7 pursuant to subsections (1) and (2) of this section or the terms of a
8 probation bond, the court may either modify the probation bond or
9 revoke the probation bond. If the court modifies the probation bond,
10 the court shall notify the surety of the modification within forty-
11 eight hours of the modification, excluding Saturdays, Sundays, and
12 legal holidays. If the court revokes the probation bond, the court
13 shall forfeit and revoke the bond in the same manner as bonds are
14 forfeited and revoked in adult criminal cases.

--- END ---