
HOUSE BILL 1847

State of Washington**54th Legislature****1995 Regular Session**

By Representatives Morris, Ebersole, Appelwick, Ogden, Sommers, Conway, Grant, Mastin, Scott, Chappell, Jacobsen, Brown, Wolfe, Poulsen, Dellwo, Regala, Rust, Hatfield, Tokuda, R. Fisher, Quall, Basich, Patterson, Thibaudeau, Dickerson, Costa, G. Fisher, Chopp, Kessler, Kremen and Sheldon

Read first time 02/10/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to the juvenile justice system; amending RCW
2 13.40.025, 13.40.027, 13.40.030, 13.40.080, 13.40.150, 13.40.160,
3 13.40.180, 13.40.185, 13.40.205, 13.40.210, 13.40.230, 13.40.320,
4 13.06.050, 13.04.030, 13.40.040, 13.40.050, 13.40.130, and 9A.04.050;
5 reenacting and amending RCW 13.40.020; adding a new section to chapter
6 13.40 RCW; creating new sections; repealing RCW 13.40.0354, 13.40.0357,
7 and 13.40.193; and prescribing penalties.

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

9 NEW SECTION. **Sec. 1.** The legislature finds that the juvenile
10 justice act of 1977, chapter 13.40 RCW, requires substantial revision.
11 The legislature reaffirms the goals of the act, including the dual
12 goals of punishment and rehabilitation of juvenile offenders. The
13 legislature finds, however, that the substantive provisions of the act
14 are too structured to achieve fully the act's goals.

15 The framework created by the act has diminishing relevance to
16 today's violent and chronic offenders. Juveniles are committing
17 increasingly violent crimes, and they are committing these violent
18 crimes at an increasingly younger age. Simultaneously, juveniles
19 habitually commit minor offenses. Dispositions prescribed by the act

1 are not long enough to permit substantial rehabilitation of violent
2 offenders, and minor offenders receive no meaningful intervention. The
3 fixed system established by the act restricts the judiciary's efforts
4 to tailor punishment and rehabilitation to the juvenile's individual
5 needs. Additionally, substantial delays occur before the juvenile
6 offender is held accountable for criminal acts.

7 Juvenile offenders must learn personal accountability and must
8 accept responsibility for their criminal behavior. To this end, the
9 juvenile system must provide a swift response, meaningful punishment,
10 and effective rehabilitation. Therefore, this act seeks to accomplish
11 the following goals: (1) Increasing the speed of the juvenile justice
12 system's response to juvenile offenders' criminal behavior; (2)
13 increasing the certainty of punishment and intervention; (3) increasing
14 judicial discretion and permitting judges to tailor dispositions to the
15 juvenile's offense; (4) expanding the range of disposition alternatives
16 to permit meaningful punishment and effective rehabilitation; (5)
17 increasing the likelihood that juveniles will comply with the terms of
18 their dispositions by creating compliance incentives and, if necessary,
19 placing the juveniles in supportive out-of-home placements; and (6)
20 reducing the complexity of the system.

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

23 For the purposes of this chapter:

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

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

28 ~~(b) Manslaughter in the first degree; or~~

29 ~~(c) Assault in the second degree, extortion in the first degree,~~
30 ~~child molestation in the second degree, kidnapping in the second~~
31 ~~degree, robbery in the second degree, residential burglary, or burglary~~
32 ~~in the second degree, where such offenses include the infliction of~~
33 ~~bodily harm upon another or where during the commission of or immediate~~
34 ~~withdrawal from such an offense the perpetrator is armed with a deadly~~
35 ~~weapon;~~

36 ~~(2))~~ "Community service" means compulsory service, without
37 compensation, performed for the benefit of the community by the
38 offender as punishment for committing an offense. Community service

1 may be performed through public or private organizations or through
2 work crews;

3 ~~((+3))~~ (2) "Community supervision" means an order of disposition
4 by the court of an adjudicated youth not committed to the department or
5 an order granting a deferred adjudication pursuant to RCW 13.40.125.
6 A community supervision order for a single offense may be for a period
7 of up to two years for a sex offense as defined by RCW 9.94A.030 and up
8 to one year for other offenses. As a mandatory condition of any term
9 of community supervision, the court shall order the juvenile to refrain
10 from committing new offenses. As a mandatory condition of community
11 supervision, the court shall order the juvenile to comply with the
12 mandatory school attendance provisions of chapter 28A.225 RCW and to
13 inform the school of the existence of this requirement. Community
14 supervision is an individualized program comprised of one or more of
15 the following:

- 16 (a) Community-based sanctions;
- 17 (b) Community-based rehabilitation;
- 18 (c) Monitoring and reporting requirements;

19 ~~((+4))~~ (3) Community-based sanctions may include one or more of
20 the following:

- 21 (a) A fine, not to exceed one hundred dollars;
- 22 (b) Community service not to exceed one hundred fifty hours of
23 service;

24 ~~((+5))~~ (4) "Community-based rehabilitation" means one or more of
25 the following: Attendance of information classes; counseling,
26 outpatient substance abuse treatment programs, outpatient mental health
27 programs, anger management classes, education or outpatient treatment
28 programs to prevent animal cruelty, or other services; or attendance at
29 school or other educational programs appropriate for the juvenile as
30 determined by the school district. Placement in community-based
31 rehabilitation programs is subject to available funds;

32 ~~((+6))~~ (5) "Monitoring and reporting requirements" means one or
33 more of the following: Curfews; requirements to remain at home,
34 school, work, or court-ordered treatment programs during specified
35 hours; restrictions from leaving or entering specified geographical
36 areas; requirements to report to the ~~((probation))~~ community
37 supervision officer as directed and to remain under the ~~((probation))~~
38 community supervision officer's supervision; and other conditions or
39 limitations as the court may require which may not include confinement;

1 ~~((+7))~~ (6) "Confinement" means physical custody by the department
2 of social and health services in a facility operated by or pursuant to
3 a contract with the state, or physical custody in a detention facility
4 operated by or pursuant to a contract with any county. The county may
5 operate or contract with vendors to operate county detention
6 facilities. The department may operate or contract to operate
7 detention facilities for juveniles committed to the department.
8 Pretrial confinement or confinement of less than thirty-one days
9 imposed as part of a disposition or modification order may be served
10 consecutively or intermittently, in the discretion of the court;

11 ~~((+8))~~ (7) "Court", when used without further qualification, means
12 the juvenile court judge(s) or commissioner(s);

13 ~~((+9))~~ (8) "Criminal history" includes all criminal complaints
14 against the respondent for which, prior to the commission of a current
15 offense:

16 (a) The allegations were found correct by a court ~~((—If a
17 respondent is convicted of two or more charges arising out of the same
18 course of conduct, only the highest charge from among these shall count
19 as an offense for the purposes of this chapter))~~; or

20 (b) The criminal complaint was diverted by a prosecutor pursuant to
21 the provisions of this chapter on agreement of the respondent and after
22 an advisement to the respondent that the criminal complaint would be
23 considered as part of the respondent's criminal history. A
24 successfully completed deferred adjudication shall not be considered
25 part of the respondent's criminal history;

26 ~~((+10))~~ (9) "Department" means the department of social and health
27 services;

28 ~~((+11))~~ (10) "Detention facility" means a county facility, paid
29 for by the county, for the physical confinement of a juvenile alleged
30 to have committed an offense or an adjudicated offender subject to a
31 disposition or modification order. "Detention facility" includes
32 county group homes, inpatient substance abuse programs, juvenile basic
33 training camps, and electronic monitoring;

34 ~~((+12))~~ (11) "Diversion unit" means any ~~((probation))~~ community
35 supervision counselor who enters into a diversion agreement with an
36 alleged youthful offender, or any other person, community
37 accountability board, or other entity except a law enforcement official
38 or entity, with whom the juvenile court administrator has contracted to
39 arrange and supervise such agreements pursuant to RCW 13.40.080, or any

1 person, community accountability board, or other entity specially
2 funded by the legislature to arrange and supervise diversion agreements
3 in accordance with the requirements of this chapter. For purposes of
4 this subsection, "community accountability board" means a board
5 comprised of members of the local community in which the juvenile
6 offender resides. The superior court shall appoint the members. The
7 boards shall consist of at least three and not more than seven members.
8 If possible, the board should include a variety of representatives from
9 the community, such as a law enforcement officer, teacher or school
10 administrator, high school student, parent, and business owner, and
11 should represent the cultural diversity of the local community;

12 ~~((13))~~ (12) "Institution" means a juvenile facility established
13 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

14 ~~((14))~~ (13) "Juvenile," "youth," and "child" mean any individual
15 who is under the chronological age of eighteen years and who has not
16 been previously transferred to adult court pursuant to RCW 13.40.110 or
17 who is otherwise under adult court jurisdiction;

18 ~~((15))~~ (14) "Juvenile offender" means any juvenile who has been
19 found by the juvenile court to have committed an offense, including a
20 person eighteen years of age or older over whom jurisdiction has been
21 extended under RCW 13.40.300;

22 ~~((16))~~ (15) "Manifest injustice" means a disposition that would
23 either impose an excessive penalty on the juvenile, would fail to
24 promote the juvenile's best rehabilitative interest, or would impose a
25 serious~~((7))~~ and clear danger to society in light of the purposes of
26 this chapter;

27 ~~((17))~~ "Middle offender" means a person who has committed an
28 offense and who is neither a minor or first offender nor a serious
29 offender;

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

- 33 (a) Four misdemeanors;
- 34 (b) Two misdemeanors and one gross misdemeanor;
- 35 (c) One misdemeanor and two gross misdemeanors; and
- 36 (d) Three gross misdemeanors.

37 For purposes of this definition, current violations shall be
38 counted as misdemeanors;

1 ~~(19))~~ (16) "Offense" means an act designated a violation or a
2 crime if committed by an adult under the law of this state, under any
3 ordinance of any city or county of this state, under any federal law,
4 or under the law of another state if the act occurred in that state;

5 ~~((20))~~ (17) "Respondent" means a juvenile who is alleged or
6 proven to have committed an offense;

7 ~~((21))~~ (18) "Restitution" means financial reimbursement by the
8 offender to the victim, and shall be limited to easily ascertainable
9 damages for injury to or loss of property, actual expenses incurred for
10 medical treatment for physical injury to persons, lost wages resulting
11 from physical injury, and costs of the victim's counseling reasonably
12 related to the offense if the offense is a sex offense. Restitution
13 shall not include reimbursement for damages for mental anguish, pain
14 and suffering, or other intangible losses. Nothing in this chapter
15 shall limit or replace civil remedies or defenses available to the
16 victim or offender;

17 ~~((22))~~ (19) "Secretary" means the secretary of the department of
18 social and health services. "Assistant secretary" means the assistant
19 secretary for juvenile rehabilitation for the department;

20 ~~((23))~~ (20) "Services" mean services which provide alternatives
21 to incarceration for those juveniles who have pleaded or been
22 adjudicated guilty of an offense or have signed a diversion agreement
23 pursuant to this chapter;

24 ~~((24))~~ (21) "Sex offense" means an offense defined as a sex
25 offense in RCW 9.94A.030;

26 ~~((25))~~ (22) "Sexual motivation" means that one of the purposes
27 for which the respondent committed the offense was for the purpose of
28 his or her sexual gratification;

29 ~~((26))~~ (23) "Foster care" means temporary physical care in a
30 foster family home or group care facility as defined in RCW 74.15.020
31 and licensed by the department, or other legally authorized care;

32 ~~((27))~~ (24) "Violation" means an act or omission, which if
33 committed by an adult, must be proven beyond a reasonable doubt, and is
34 punishable by sanctions which do not include incarceration;

35 ~~((28))~~ (25) "Violent offense" means a violent offense as defined
36 in RCW 9.94A.030;

37 (26) "Deadly weapon" means a deadly weapon as defined in RCW
38 9.94A.125;

1 (27) "Placement out of the home" means placement for twenty-four
2 hour foster care or group care or with a court-approved custodian.
3 Placement out of the home is subject to available funds and beds.

4 **Sec. 3.** RCW 13.40.025 and 1986 c 288 s 8 are each amended to read
5 as follows:

6 (1) There is established a juvenile disposition standards
7 commission to propose disposition standards to the legislature in
8 accordance with RCW 13.40.030 and perform the other responsibilities
9 set forth in this chapter.

10 (2) The commission shall be composed of the secretary or the
11 secretary's designee and the following ~~((nine))~~ members appointed by
12 the governor, subject to confirmation by the senate: (a) ~~((A))~~ Two
13 superior court judges; (b) ~~((a))~~ two prosecuting ~~((attorney))~~ or deputy
14 prosecuting attorneys; (c) a law enforcement officer; (d) an
15 administrator of juvenile court services; (e) ~~((a))~~ two public
16 defenders actively practicing in juvenile court; (f) a county
17 legislative official or county executive; and (g) three other persons
18 who have demonstrated significant interest in the adjudication and
19 disposition of juvenile offenders. Additionally, the speaker of the
20 house of representatives and the president of the senate shall each
21 appoint two nonvoting members to the commission, one from each of the
22 two largest caucuses in each house. In making the appointments, the
23 governor shall seek the recommendations of the association of superior
24 court judges in respect to the members who ~~((is a))~~ are superior court
25 judges; of Washington prosecutors in respect to the prosecuting
26 ~~((attorney))~~ or deputy prosecuting attorney members; of the Washington
27 association of sheriffs and police chiefs in respect to the member who
28 is a law enforcement officer; of juvenile court administrators in
29 respect to the member who is a juvenile court administrator; and of the
30 state bar association in respect to the public defender member; and of
31 the Washington association of counties in respect to the member who is
32 either a county legislative official or county executive.

33 (3) The ~~((secretary or the secretary's designee))~~ governor shall
34 ~~((serve as chairman))~~ designate the chair of the commission, who shall
35 be neither the secretary nor the secretary's designee.

36 (4) The secretary shall serve on the commission during the
37 secretary's tenure as secretary of the department. The term of the
38 remaining members of the commission shall be three years. The initial

1 terms shall be determined by lot conducted at the commission's first
2 meeting as follows: (a) Four members shall serve (~~((a two year))~~) one-
3 year terms; (~~(and)~~) (b) four members shall serve (~~((a three year))~~) two-
4 year term; and (c) six members shall serve three-year terms. In the
5 event of a vacancy, the appointing authority shall designate a new
6 member to complete the remainder of the unexpired term.

7 (5) Commission members shall be reimbursed for travel expenses as
8 provided in RCW 43.03.050 and 43.03.060. Members shall be compensated
9 in accordance with RCW 43.03.240.

10 (6) The commission shall meet at least once every three months.

11 **Sec. 4.** RCW 13.40.027 and 1993 c 415 s 9 are each amended to read
12 as follows:

13 (1) It is the responsibility of the commission to:

14 (a)(i) Evaluate the effectiveness of existing disposition standards
15 and related statutes in implementing policies set forth in RCW
16 13.40.010 generally(~~((7))~~);

17 (ii) (~~((specifically))~~) Review (~~((the guidelines relating to the~~
18 ~~confinement of minor and first offenders as well as))~~) the use of
19 diversion, (~~(and)~~) deferred adjudications, and suspended confinement or
20 commitment;

21 (iii) Review the application of current and proposed juvenile
22 sentencing standards and guidelines for potential adverse impacts on
23 the sentencing outcomes of racial and ethnic minority youth; and

24 (iv) Evaluate the effectiveness of existing disposition standards
25 in light of juvenile offenders' rehabilitative needs;

26 (b) Solicit the comments and suggestions of the juvenile justice
27 community, including juvenile justice advisory committees of local law
28 and justice councils, concerning disposition standards, effectiveness,
29 and proportionality; (~~(and)~~)

30 (c) Make recommendations to the legislature regarding revisions or
31 modifications of the disposition standards (~~((in accordance with RCW~~
32 ~~13.40.030))~~);

33 (d) Implement a comprehensive tracking program to analyze
34 recidivism among juvenile offenders, particularly among offenders who
35 receive alternatives such as diversion, deferred adjudication, and
36 suspended confinement or commitment. The commission shall include
37 information and statistics about juvenile recidivism in the
38 commission's annual report;

1 (e) If the commission identifies racial or other
2 disproportionalities at any stage of administration of juvenile
3 justice, identify the disproportionalities in the annual report and
4 make recommendations for corrective measures; and

5 (f) Review the instances in which the court enters a finding
6 pursuant to RCW 13.40.160(17) that the court has declined to exercise
7 a disposition option due to lack of funds, services, or bed space. The
8 commission shall document the number and circumstances of these
9 findings in its annual report.

10 The evaluations shall be submitted to the legislature on December
11 1 of each ~~((even-numbered))~~ year ~~((thereafter))~~.

12 (2)(a) If sufficient funds are not provided for (b) of this
13 subsection, it is the responsibility of the department to: ~~((a))~~ (i)
14 Provide the commission with available data concerning the
15 implementation of the disposition standards and related statutes and
16 their effect on the performance of the department's responsibilities
17 relating to juvenile offenders; ~~((b))~~ (ii) at the request of the
18 commission, provide technical and administrative assistance to the
19 commission in the performance of its responsibilities; and ~~((c))~~
20 (iii) provide the commission and legislature with recommendations for
21 modification of the disposition standards.

22 (b) If sufficient funds are provided for this subsection (2)(b),
23 the commission may use the staff, resources, and executive officer of
24 the sentencing guidelines commission. The office of financial
25 management may determine the number of additional staff needed to
26 supplement the staff of the sentencing guidelines commission in order
27 to provide the juvenile disposition standards commission with a
28 research staff of sufficient size and with sufficient resources to
29 accomplish its duties.

30 (3) The commission may request from the office of financial
31 management, the administrator for the courts, local law and justice
32 councils, and the department such data, information, and data
33 processing assistance as it may need to accomplish its duties, and the
34 services shall be provided without cost to the commission. The
35 department and other organizations or individuals shall provide the
36 commission and the legislature with recommendations for modification of
37 the disposition standards. The commission shall have rule-making
38 authority to develop a system for fulfilling its identified data needs.

1 (4) The commission shall conduct a study to determine the capacity
2 of rehabilitative facilities and programs that are or will be
3 available. While the commission need not consider the capacity in
4 arriving at its recommendations, the commission shall project whether
5 the implementation of its recommendations would result in exceeding the
6 capacity.

7 (5) The commission shall develop a system that will collect
8 information on the use of plea agreements in the juvenile justice
9 system. The information to be collected for each plea agreement shall
10 include the terms of the agreement, the reasons underlying the
11 agreement, the race of each juvenile and victim, the identification of
12 the prosecutor's office entering into the plea, and any other
13 information that will assist in evaluating current plea agreement
14 practices. The commission shall develop, distribute, and collect the
15 necessary forms to gather this information. The commission shall enter
16 the information in a computerized data base. The commission shall
17 summarize the information and include relevant statistics in the
18 commission's annual report.

19 (6) The commission shall adopt its own bylaws.

20 **Sec. 5.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read
21 as follows:

22 ~~((1)(a) The juvenile disposition standards commission shall~~
23 ~~recommend to the legislature no later than November 1st of each year~~
24 ~~disposition standards for all offenses. The standards shall establish,~~
25 ~~in accordance with the purposes of this chapter, ranges which may~~
26 ~~include terms of confinement and/or community supervision established~~
27 ~~on the basis of a youth's age, the instant offense, and the history and~~
28 ~~seriousness of previous offenses, but in no case may the period of~~
29 ~~confinement and supervision exceed that to which an adult may be~~
30 ~~subjected for the same offense(s). Standards recommended for offenders~~
31 ~~listed in RCW 13.40.020(1) shall include a range of confinement which~~
32 ~~may not be less than thirty days. No standard range may include a~~
33 ~~period of confinement which includes both more than thirty, and thirty~~
34 ~~or less, days. Disposition standards recommended by the commission~~
35 ~~shall provide that in all cases where a youth is sentenced to a term of~~
36 ~~confinement in excess of thirty days the department may impose an~~
37 ~~additional period of parole not to exceed eighteen months. Standards~~
38 ~~of confinement which may be proposed may relate only to the length of~~

1 the proposed terms and not to the nature of the security to be imposed.
2 In developing recommended disposition standards, the commission shall
3 consider the capacity of the state juvenile facilities and the
4 projected impact of the proposed standards on that capacity.

5 (b)) The secretary shall submit guidelines pertaining to the
6 nature of the security to be imposed on youth placed in his or her
7 custody based on the age, offense(s), and criminal history of the
8 juvenile offender. Such guidelines shall be submitted to the
9 appropriate committees of the legislature for its review no later than
10 November 1st of each year. At the same time the secretary shall submit
11 a report on security at juvenile facilities during the preceding year.
12 The report shall include the number of escapes from each juvenile
13 facility, the most serious offense for which each escapee had been
14 confined, the number and nature of offenses found to have been
15 committed by juveniles while on escape status, the number of authorized
16 leaves granted, the number of failures to comply with leave
17 requirements, the number and nature of offenses committed while on
18 leave, and the number and nature of offenses committed by juveniles
19 while in the community on minimum security status; to the extent this
20 information is available to the secretary. The department shall
21 include security status definitions in the security guidelines it
22 submits to the legislature pursuant to this section.

23 ((2) In developing recommendations for the permissible ranges of
24 confinement under this section the commission shall be subject to the
25 following limitations:

26 (a) Where the maximum term in the range is ninety days or less, the
27 minimum term in the range may be no less than fifty percent of the
28 maximum term in the range;

29 (b) Where the maximum term in the range is greater than ninety days
30 but not greater than one year, the minimum term in the range may be no
31 less than seventy five percent of the maximum term in the range; and

32 (c) Where the maximum term in the range is more than one year, the
33 minimum term in the range may be no less than eighty percent of the
34 maximum term in the range.))

35 **Sec. 6.** RCW 13.40.080 and 1994 sp.s. c 7 s 544 are each amended to
36 read as follows:

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

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

8 (2) A diversion agreement shall be limited to one or more of the
9 following:

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

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

15 (c) Attendance at up to ten hours of counseling and/or up to twenty
16 hours of educational or informational sessions at a community agency.
17 The educational or informational sessions may include sessions relating
18 to respect for self, others, and authority; victim awareness;
19 accountability; self-worth; responsibility; work ethics; good
20 citizenship; and life skills. For purposes of this section, "community
21 agency" may also mean a community-based nonprofit organization, if
22 approved by the diversion unit. The state shall not be liable for
23 costs resulting from the diversionary unit exercising the option to
24 permit diversion agreements to mandate attendance at up to ten hours of
25 counseling and/or up to twenty hours of educational or informational
26 sessions;

27 (d) A fine, not to exceed one hundred dollars. In determining the
28 amount of the fine, the diversion unit shall consider only the
29 juvenile's financial resources and whether the juvenile has the means
30 to pay the fine. The diversion unit shall not consider the financial
31 resources of the juvenile's parents, guardian, or custodian in
32 determining the fine to be imposed; and

33 (e) Requirements to remain during specified hours at home, school,
34 or work, and restrictions on leaving or entering specified geographical
35 areas.

36 (3) In assessing periods of community service to be performed and
37 restitution to be paid by a juvenile who has entered into a diversion
38 agreement, the court officer to whom this task is assigned shall
39 consult with the juvenile's custodial parent or parents or guardian and

1 victims who have contacted the diversionary unit and, to the extent
2 possible, involve members of the community. Such members of the
3 community shall meet with the juvenile and advise the court officer as
4 to the terms of the diversion agreement and shall supervise the
5 juvenile in carrying out its terms.

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

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

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

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

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

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

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

28 (ii) Disclosure of all evidence to be offered against the diverttee;

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

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

32 (ii) The right to confront and cross-examine all adverse witnesses;

33 (iii) A written statement by the court as to the evidence relied on
34 and the reasons for termination, should that be the decision; and

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

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

1 (i) In juvenile court if the divertee is under eighteen years of
2 age; or

3 (ii) In superior court or the appropriate court of limited
4 jurisdiction if the divertee is eighteen years of age or older.

5 (7) The diversion unit shall, subject to available funds, be
6 responsible for providing interpreters when juveniles need interpreters
7 to effectively communicate during diversion unit hearings or
8 negotiations.

9 (8) The diversion unit shall be responsible for advising a divertee
10 of his or her rights as provided in this chapter.

11 (9) The diversion unit may refer a juvenile to community-based
12 counseling or treatment programs.

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

23 The juvenile shall be advised that a diversion agreement shall
24 constitute a part of the juvenile's criminal history as defined by RCW
25 13.40.020(~~(+9)~~)(8). A signed acknowledgment of such advisement shall
26 be obtained from the juvenile, and the document shall be maintained by
27 the diversionary unit together with the diversion agreement, and a copy
28 of both documents shall be delivered to the prosecutor if requested by
29 the prosecutor. The supreme court shall promulgate rules setting forth
30 the content of such advisement in simple language.

31 (11) When a juvenile enters into a diversion agreement, the
32 juvenile court may receive only the following information for
33 dispositional purposes:

34 (a) The fact that a charge or charges were made;

35 (b) The fact that a diversion agreement was entered into;

36 (c) The juvenile's obligations under such agreement;

37 (d) Whether the alleged offender performed his or her obligations
38 under such agreement; and

39 (e) The facts of the alleged offense.

1 (12) A diversionary unit may refuse to enter into a diversion
2 agreement with a juvenile. When a diversionary unit refuses to enter
3 a diversion agreement with a juvenile, it shall immediately refer such
4 juvenile to the court for action and shall forward to the court the
5 criminal complaint and a detailed statement of its reasons for refusing
6 to enter into a diversion agreement. The diversionary unit shall also
7 immediately refer the case to the prosecuting attorney for action if
8 such juvenile violates the terms of the diversion agreement.

9 (13) A diversionary unit may, in instances where it determines that
10 the act or omission of an act for which a juvenile has been referred to
11 it involved no victim, or where it determines that the juvenile
12 referred to it has no prior criminal history and is alleged to have
13 committed an illegal act involving no threat of or instance of actual
14 physical harm and involving not more than fifty dollars in property
15 loss or damage and that there is no loss outstanding to the person or
16 firm suffering such damage or loss, counsel and release or release such
17 a juvenile without entering into a diversion agreement. A diversion
18 unit's authority to counsel and release a juvenile under this
19 subsection shall include the authority to refer the juvenile to
20 community-based counseling or treatment programs. Any juvenile
21 released under this subsection shall be advised that the act or
22 omission of any act for which he or she had been referred shall
23 constitute a part of the juvenile's criminal history as defined by RCW
24 13.40.020(~~(+9)~~)(8). A signed acknowledgment of such advisement shall
25 be obtained from the juvenile, and the document shall be maintained by
26 the unit, and a copy of the document shall be delivered to the
27 prosecutor if requested by the prosecutor. The supreme court shall
28 promulgate rules setting forth the content of such advisement in simple
29 language. A juvenile determined to be eligible by a diversionary unit
30 for release as provided in this subsection shall retain the same right
31 to counsel and right to have his or her case referred to the court for
32 formal action as any other juvenile referred to the unit.

33 (14) A diversion unit may supervise the fulfillment of a diversion
34 agreement entered into before the juvenile's eighteenth birthday and
35 which includes a period extending beyond the divertee's eighteenth
36 birthday.

37 (15) If a fine required by a diversion agreement cannot reasonably
38 be paid due to a change of circumstance, the diversion agreement may be
39 modified at the request of the divertee and with the concurrence of the

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

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

13 **Sec. 7.** RCW 13.40.150 and 1992 c 205 s 109 are each amended to
14 read as follows:

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

25 (2) Prior to disposition, the county shall conduct a predisposition
26 diagnostic evaluation of the juvenile and shall prepare a report of the
27 evaluation. The county shall provide this report to the court. The
28 evaluation shall include an assessment of the juvenile's needs,
29 including but not limited to the juvenile's needs for treatment,
30 therapy, and education. The evaluation shall also include a
31 preliminary assessment of security risks posed by the juvenile.

32 (3) For purposes of disposition:

33 (a) ~~((Violations which are current offenses count as misdemeanors;~~
34 ~~(b)))~~ Violations may not count as part of the offender's criminal
35 history;

36 ~~((+e)))~~ (b) In no event may a disposition for a violation include
37 confinement.

1 (~~(3)~~) (4) Before entering a dispositional order as to a
2 respondent found to have committed an offense, the court shall hold a
3 disposition hearing, at which the court shall:

4 (a) Consider the facts supporting the allegations of criminal
5 conduct by the respondent;

6 (b) Consider information and arguments offered by parties and their
7 counsel;

8 (c) Consider any predisposition reports;

9 (d) Consult with the respondent's parent, guardian, or custodian on
10 the appropriateness of dispositional options under consideration and
11 afford the respondent and the respondent's parent, guardian, or
12 custodian an opportunity to speak in the respondent's behalf;

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

15 (f) Determine the amount of restitution owing to the victim, if
16 any;

17 (g) (~~Determine whether the respondent is a serious offender, a~~
18 ~~middle offender, or a minor or first offender~~) Consider the types of
19 treatment, therapy, education, and other rehabilitative services that
20 would be most effective at rehabilitating the respondent;

21 (h) Consider whether or not any of the following mitigating factors
22 exist:

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

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

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

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

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

35 (i) Consider whether or not any of the following aggravating
36 factors exist:

37 (i) In the commission of the offense, or in flight therefrom, the
38 respondent inflicted or attempted to inflict serious bodily injury to
39 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))~~ (5) The following factors may not be considered in
15 determining the 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))~~ (6) A court may not commit a juvenile to a state
25 institution solely because of the lack of facilities, including
26 treatment facilities, existing in the community.

27 **Sec. 8.** 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 includes a~~
5 ~~term of confinement exceeding thirty days, commitment shall be to the~~
6 ~~department for the standard range of confinement; or~~

7 ~~(b) The court shall impose a disposition under (a) of this~~
8 ~~subsection, which shall be suspended, and shall impose a determinate~~
9 ~~disposition of community supervision and/or up to thirty days~~
10 ~~confinement, as indicated in option B of schedule D-2, RCW 13.40.0357~~
11 ~~in which case, if confinement has been imposed, the court shall state~~
12 ~~either aggravating or mitigating factors as set forth in RCW 13.40.150.~~
13 ~~If the offender violates any condition of the disposition, the court~~
14 ~~may revoke the suspension and order execution of the sentence. The~~
15 ~~court shall give credit for any confinement time previously served if~~
16 ~~that confinement was for the offense for which the suspension is being~~
17 ~~revoked.~~

18 ~~(c) Only if the court concludes, and enters reasons for its~~
19 ~~conclusions, that disposition as provided in subsection (4)(a) or (b)~~
20 ~~of this section would effectuate a manifest injustice, the court shall~~
21 ~~sentence the juvenile to a maximum term, and the provisions of RCW~~
22 ~~13.40.030(2) shall be used to determine the range. The court's finding~~
23 ~~of manifest injustice shall be supported by clear and convincing~~
24 ~~evidence.~~

25 ~~(d) A disposition pursuant to subsection (4)(c) of this section is~~
26 ~~appealable under RCW 13.40.230 by the state or the respondent. A~~
27 ~~disposition pursuant to subsection (4) (a) or (b) of this section is~~
28 ~~not appealable under RCW 13.40.230.~~

29 ~~(5)) The court may impose a disposition as provided in this~~
30 ~~section for any juvenile adjudicated for an offense. Offenders~~
31 ~~eligible for the juvenile offender basic training camp program or the~~
32 ~~modified juvenile offender basic training program may receive a~~
33 ~~disposition under RCW 13.40.320.~~

34 ~~(2) The court shall consider various factors, including but not~~
35 ~~limited to the following, when determining a disposition:~~

36 ~~(a) The juvenile's age and maturity;~~

37 ~~(b) The juvenile's criminal history and the recency of that~~
38 ~~criminal history;~~

39 ~~(c) Whether the juvenile has had prior deferrals of adjudications;~~

1 (d) Whether the juvenile complied with the terms of the disposition
2 imposed for prior offenses;

3 (e) The seriousness of the offense;

4 (f) Whether the juvenile's adjudication resulted from accomplice
5 liability; and

6 (g) Whether any aggravating or mitigating factors apply.

7 (3)(a) For a juvenile adjudicated for a misdemeanor or a gross
8 misdemeanor, the court shall impose a disposition comprised of the
9 following:

10 0 - 12 Months of community supervision;

11 0 - 150 Hours of community service;

12 0 - \$100 Fine;

13 Confinement pursuant to the standard range that is determined under
14 section 9 of this act.

15 (b) The court shall not commit a juvenile adjudicated of a
16 misdemeanor or gross misdemeanor to the department unless the court
17 enters a finding that a disposition under (a) of this subsection would
18 effectuate a manifest injustice.

19 (4)(a) Except as provided in (c) of this subsection, for a juvenile
20 adjudicated of a class C or B felony that is not: A violent offense,
21 a crime against persons as defined in RCW 9.94A.440(2), a crime of
22 harassment as defined in RCW 9A.46.060, or a sex offense, the court
23 shall impose a disposition comprised of the following:

24 0 - 12 Months of community supervision;

25 0 - 150 Hours of community service;

26 0 - \$100 Fine;

27 Confinement or commitment to the department within the standard
28 range that is determined under section 9 of this act.

29 (b) Except as provided in (c) of this subsection, the court shall
30 not commit a juvenile adjudicated under this subsection (4) to the
31 department for more than sixty days unless (i) the court enters a
32 finding that a disposition under (a) of this subsection would
33 effectuate a manifest injustice; or (ii) the juvenile has a significant
34 criminal history that would support a finding of an aggravating factor
35 under RCW 13.40.150(4) if the criminal history was more recent.

36 (c)(i) If a respondent is found to have been in possession of a
37 firearm in violation of RCW 9.41.040(1)(e), the court shall impose a
38 determinate disposition of a minimum of thirty days' confinement. If

1 the court imposes a determinate disposition of thirty days, the court
2 may also impose up to a year of community supervision.

3 (ii) If a respondent is found to have delivered a firearm in
4 violation of RCW 9.41.080, the court shall commit the offender to the
5 department for one hundred twenty days' confinement.

6 (iii) If a respondent is found to have committed an offense of
7 theft of a firearm as defined in RCW 9A.56.300, the court shall commit
8 the offender to the department for one hundred twenty days'
9 confinement.

10 (d) An offender given a disposition under (c) (i), (ii), or (iii)
11 of this subsection shall not be released prior to expiration of the
12 court-ordered term of confinement.

13 (e) Any term of confinement ordered pursuant to (c) (i), (ii), or
14 (iii) of this subsection shall run consecutively to any term of
15 confinement imposed in the same disposition for other offenses.

16 (f) The court may suspend all or a portion of any term of
17 confinement or commitment imposed under this subsection (4). In
18 addition to the suspended confinement or commitment, the court shall
19 impose community supervision, community service, or a fine as provided
20 in (a) of this subsection.

21 (5)(a) For a juvenile adjudicated of a class C or B felony that is
22 a crime against persons, a crime of harassment, a violent offense, or
23 a sex offense, the court shall impose a disposition comprised of the
24 following:

25 0 - 12 Months community supervision;

26 0 - 150 Hours community service;

27 0 - \$100 Fine;

28 Confinement or commitment to the department within the standard
29 range that is determined under section 9 of this act.

30 (b) The court shall not commit a juvenile adjudicated under this
31 subsection (5) to the department in excess of one hundred twenty-nine
32 weeks unless the court enters a finding that a disposition under this
33 subsection (5) would effect a manifest injustice. The basis for the
34 manifest injustice must be a basis other than the offender's criminal
35 history as described in RCW 13.40.150(4)(i)(iv).

36 (c) The court may suspend all or a portion of any term of
37 confinement or commitment imposed under this subsection (5). In
38 addition to the suspended confinement or commitment, the court shall

1 impose community supervision, community service, or a fine as provided
2 in (a) of this subsection.

3 (6)(a) If a juvenile is adjudicated of a class A felony or an
4 attempt to commit a class A felony, the court shall impose a
5 disposition of the following:

6 Commitment to the department within the standard range determined
7 under section 9 of this act.

8 (b) The court shall not impose a disposition under this subsection
9 (6) outside the standard range unless the court finds that imposition
10 of the standard range would effectuate a manifest injustice.

11 (7)(a) If the juvenile is adjudicated of a sex offense, other than
12 a sex offense that is also a serious violent offense as defined by RCW
13 9.94A.030, the court need not impose a disposition under subsection (5)
14 or (6) of this section. The court may instead order a treatment
15 disposition option under subsection (13) of this section.

16 (b) When a court adjudicates a juvenile of a sex offense, the court
17 shall impose a disposition as provided in subsection (5) or (6) of this
18 section, as modified by this subsection (7)(b), unless the court orders
19 a disposition under subsection (13) of this section. In addition to
20 the term of commitment imposed under subsection (5) or (6) of this
21 section, the court shall impose a term of postrelease supervision not
22 to exceed five years. The department shall provide the postrelease
23 supervision. If the juvenile receives treatment while committed, the
24 court, as a condition of postrelease supervision, may order the
25 juvenile to continue with a particular treatment program for all or a
26 portion of the term of postrelease supervision. The department may
27 recommend to the sentencing court whether the option of continuing
28 treatment is appropriate. Upon the recommendation of the department,
29 the court may either reduce the term of postrelease supervision or
30 impose additional or more restrictive terms of postrelease supervision.
31 The postrelease supervision required by this section shall be in
32 addition to any term of parole imposed by the department.

33 (8) If the court finds that the respondent or an accomplice was
34 armed with a firearm as provided in RCW 13.40.196, the court shall
35 determine the standard range disposition for the offense pursuant to
36 this section. One hundred eighty days of confinement shall be added to
37 the entire standard range disposition of confinement if the offender or
38 an accomplice was armed with a firearm when the offender committed:
39 (a) Any violent offense; or (b) escape in the first degree (RCW

1 9A.76.110), burglary in the second degree (RCW 9A.52.030), theft of
2 livestock in the first or second degree (RCW 9A.56.080), or any felony
3 drug offense. If the offender or an accomplice was armed with a
4 firearm and the offender is being adjudicated for an anticipatory
5 felony offense under chapter 9A.28 RCW to commit one of the offenses
6 listed in this subsection, one hundred eighty days shall be added to
7 the entire standard range disposition of confinement. The department
8 shall not release the offender until the offender has served a minimum
9 of one hundred eighty days in confinement unless the juvenile is
10 committed to and successfully completes the juvenile offender basic
11 training camp disposition option.

12 (9) In all cases, the court shall impose a determinate disposition.

13 (10) If the court concludes, and enters reasons for its conclusion,
14 that disposition within the standard range would effectuate a manifest
15 injustice, the court shall impose a determinate disposition outside the
16 standard range. If the court imposes a disposition below the standard
17 range due to a manifest injustice, the disposition shall be comprised
18 of community supervision or confinement, or both. The court's finding
19 of manifest injustice shall be supported by clear and convincing
20 evidence. A disposition outside the standard range shall be appealable
21 under RCW 13.40.230, by the state or respondent. A disposition within
22 the standard range is not appealable.

23 (11) In all cases, the court shall enter an order for restitution,
24 if any is due to the victim, according to RCW 13.40.190.

25 (12) In all disposition orders that include commitment to the
26 department, the court shall make a finding of reasonable rehabilitative
27 goals to be achieved by the juvenile during the commitment term. These
28 goals may include, by way of example and not limitation, completion of
29 substance abuse treatment, completion of anger management courses, and
30 achievement of academic, educational, or vocational goals, such as
31 grade-level reading or GED completion.

32 (13) When ((a serious, middle, or minor first)) an offender is
33 found to have committed a sex offense, other than a sex offense that is
34 also a serious violent offense as defined by RCW 9.94A.030, and has no
35 history of a prior sex offense, the court, on its own motion or the
36 motion of the state or the respondent, may order an examination to
37 determine whether the respondent is amenable to treatment.

38 The report of the examination shall include at a minimum the
39 following: The respondent's version of the facts and the official

1 version of the facts, the respondent's offense history, an assessment
2 of problems in addition to alleged deviant behaviors, the respondent's
3 social, educational, and employment situation, and other evaluation
4 measures used. The report shall set forth the sources of the
5 evaluator's information.

6 The examiner shall assess and report regarding the respondent's
7 amenability to treatment and relative risk to the community. A
8 proposed treatment plan shall be provided and shall include, at a
9 minimum:

10 (a)(i) Frequency and type of contact between the offender and
11 therapist;

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

14 (iii) Monitoring plans, including any requirements regarding living
15 conditions, lifestyle requirements, and monitoring by family members,
16 legal guardians, or others;

17 (iv) Anticipated length of treatment; and

18 (v) Recommended crime-related prohibitions.

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

25 After receipt of reports of the examination, the court shall then
26 consider whether the offender and the community will benefit from use
27 of this special sex offender disposition alternative and consider the
28 victim's opinion whether the offender should receive a treatment
29 disposition under this section. If the court determines that this
30 special sex offender disposition alternative is appropriate, then the
31 court shall impose a determinate disposition within the standard range
32 for the offense, and the court may suspend the execution of the
33 disposition and place the offender on community supervision for (~~up~~
34 ~~to~~) not less than two years. As a condition of the suspended
35 disposition, the court may impose the conditions of community
36 supervision and other conditions, including up to thirty days of
37 confinement and requirements that the offender do any one or more of
38 the following:

1 (b)(i) Devote time to a specific education, employment, or
2 occupation;

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

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

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

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

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

22 (vii) Make restitution to the victim for the cost of any counseling
23 reasonably related to the offense.

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

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

33 Except as provided in this subsection (~~((+5))~~) (13), after July 1,
34 1991, examinations and treatment ordered pursuant to this subsection
35 shall only be conducted by sex offender treatment providers certified
36 by the department of health pursuant to chapter 18.155 RCW. A sex
37 offender therapist who examines or treats a juvenile sex offender
38 pursuant to this subsection (13) does not have to be certified by the
39 department of health pursuant to chapter 18.155 RCW if the court finds

1 that: (A) The offender has already moved to another state or plans to
2 move to another state for reasons other than circumventing the
3 certification requirements; (B) no certified providers are available
4 for treatment within a reasonable geographical distance of the
5 offender's home; and (C) the evaluation and treatment plan comply with
6 this subsection (~~((5))~~) (13) and the rules adopted by the department of
7 health.

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

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

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

27 ~~(7))~~ (14) Whenever a juvenile offender is entitled to credit for
28 time spent in detention prior to a dispositional order, the
29 dispositional order shall specifically state the number of days of
30 credit for time served.

31 ~~((8) Except as provided for in subsection (5) of this section, the
32 court shall not suspend or defer the imposition or the execution of the
33 disposition.~~

34 ~~(9))~~ (15) In no case shall the term of confinement imposed by the
35 court at disposition exceed that to which an adult could be subjected
36 for the same offense.

37 (16) Whenever a dispositional order requires a juvenile to
38 participate in a treatment program, the court may require the

1 juvenile's parents, guardians, or custodians to participate in the
2 treatment program with the juvenile.

3 (17) If a court does not exercise a disposition option available
4 under this chapter due to a lack of available funds, services, or bed
5 space, the court shall enter a finding in the disposition that an
6 alternative disposition was not ordered due to the lack of available
7 funds, services, or bed space.

8 NEW SECTION. Sec. 9. A new section is added to chapter 13.40 RCW
9 to read as follows:

10 This section establishes the confinement standard ranges to be used
11 in sentencing juveniles pursuant to RCW 13.40.160.

12 **Tier I.** When sentencing for misdemeanors or gross misdemeanors:

13 If most serious prior offense is: Confinement standard range:

14 None 0 - 30 days

15 From Tier I 5 - 30 days

16 From Tier II, III, or IV 10 - 30 days

17 **Tier II.** When sentencing for class B or class C felonies, EXCLUDING
18 crimes against persons, crimes of harassment, sex offenses, and violent
19 offenses:

20 If most serious prior offense is: Confinement standard range:

21 None 5 - 60 days

22 From Tier I 10 - 60 days

23 From Tier II, III, or IV 20 - 60 days

1 **Tier III.** When sentencing for class B or class C felonies that fall
2 within one or more of the following categories: crimes against
3 persons, crimes of harassment, sex offenses, or violent offenses:

4 If most serious prior offense is: Confinement standard range:

5	None	10 days - 104 weeks
6	From Tier I	20 days - 104 weeks
7	From Tier II	10 weeks - 104 weeks
8	From Tier III	15 weeks - 104 weeks
9	From Tier IV	20 weeks - 104 weeks

10 **Tier IV.** When sentencing for class A felonies or attempted class A
11 felonies:

12 If most serious prior offense is: Confinement standard range:

13	None	52 - 224 weeks
14	From Tier I	78 - 224 weeks
15	From Tier II or III	131 - 224 weeks
16	From Tier IV	176 - 224 weeks

17 **Sec. 10.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to
18 read as follows:

19 Unless otherwise provided in this chapter, where a disposition is
20 imposed on a youth for two or more offenses, the terms shall run
21 consecutively(~~(, subject to the following limitations:~~

22 ~~(1) Where the offenses were committed through a single act or~~
23 ~~omission, omission, or through an act or omission which in itself~~
24 ~~constituted one of the offenses and also was an element of the other,~~

1 ~~the aggregate of all the terms shall not exceed one hundred fifty~~
2 ~~percent of the term imposed for the most serious offense;~~

3 ~~(2) The aggregate of all consecutive terms shall not exceed three~~
4 ~~hundred percent of the term imposed for the most serious offense; and~~

5 ~~(3) The aggregate of all consecutive terms of community supervision~~
6 ~~shall not exceed two years in length, or require payment of more than~~
7 ~~two hundred dollars in fines or the performance of more than two~~
8 ~~hundred hours of community service)) or concurrently in the court's~~
9 ~~discretion, except as provided in RCW 13.40.160(4)(e).~~

10 **Sec. 11.** RCW 13.40.185 and 1994 sp.s. c 7 s 524 are each amended
11 to read as follows:

12 (1) Any term of confinement imposed for an offense which exceeds
13 thirty days shall be served under the supervision of the department.
14 If the period of confinement imposed for more than one offense exceeds
15 thirty days but the term imposed for each offense is less than thirty
16 days, the confinement may, in the discretion of the court, be served in
17 a juvenile facility operated by or pursuant to a contract with the
18 state or a county.

19 ~~(2) ((Whenever a juvenile is confined in a detention facility or is~~
20 ~~committed to the department, the court may not directly order a~~
21 ~~juvenile into a particular county or state facility. The juvenile~~
22 ~~court administrator and the secretary, assistant secretary, or the~~
23 ~~secretary's designee, as appropriate, has the sole discretion to~~
24 ~~determine in which facility a juvenile should be confined or~~
25 ~~committed.))~~ The counties may operate a variety of detention
26 facilities as determined by the county legislative authority subject to
27 available funds.

28 **Sec. 12.** RCW 13.40.205 and 1990 c 3 s 103 are each amended to read
29 as follows:

30 (1) A juvenile sentenced to a term of confinement to be served
31 under the supervision of the department shall not be released from the
32 physical custody of the department prior to the release date
33 established under RCW 13.40.210 except as otherwise provided in this
34 section.

35 (2) A juvenile serving a term of confinement under the supervision
36 of the department may be released on authorized leave from the physical
37 custody of the department only if consistent with public safety and if:

1 (a) Sixty percent of the ((minimum)) term of confinement has been
2 served; and

3 (b) The purpose of the leave is to enable the juvenile:

4 (i) To visit the juvenile's family for the purpose of strengthening
5 or preserving family relationships;

6 (ii) To make plans for parole or release which require the
7 juvenile's personal appearance in the community and which will
8 facilitate the juvenile's reintegration into the community; or

9 (iii) To make plans for a residential placement out of the
10 juvenile's home which requires the juvenile's personal appearance in
11 the community.

12 (3) No authorized leave may exceed seven consecutive days. The
13 total of all pre-minimum term authorized leaves granted to a juvenile
14 prior to final discharge from confinement shall not exceed thirty days.

15 (4) Prior to authorizing a leave, the secretary shall require a
16 written leave plan, which shall detail the purpose of the leave and how
17 it is to be achieved, the address at which the juvenile shall reside,
18 the identity of the person responsible for supervising the juvenile
19 during the leave, and a statement by such person acknowledging
20 familiarity with the leave plan and agreeing to supervise the juvenile
21 and to notify the secretary immediately if the juvenile violates any
22 terms or conditions of the leave. The leave plan shall include such
23 terms and conditions as the secretary deems appropriate and shall be
24 signed by the juvenile.

25 (5) Upon authorizing a leave, the secretary shall issue to the
26 juvenile an authorized leave order which shall contain the name of the
27 juvenile, the fact that the juvenile is on leave from a designated
28 facility, the time period of the leave, and the identity of an
29 appropriate official of the department to contact when necessary. The
30 authorized leave order shall be carried by the juvenile at all times
31 while on leave.

32 (6) Prior to the commencement of any authorized leave, the
33 secretary shall give notice of the leave to the appropriate law
34 enforcement agency in the jurisdiction in which the juvenile will
35 reside during the leave period. The notice shall include the identity
36 of the juvenile, the time period of the leave, the residence of the
37 juvenile during the leave, and the identity of the person responsible
38 for supervising the juvenile during the leave.

1 (7) The secretary may authorize a leave, which shall not exceed
2 forty-eight hours plus travel time, to meet an emergency situation such
3 as a death or critical illness of a member of the juvenile's family.
4 The secretary may authorize a leave, which shall not exceed the period
5 of time medically necessary, to obtain medical care not available in a
6 juvenile facility maintained by the department. In cases of emergency
7 or medical leave the secretary may waive all or any portions of
8 subsections (2)(a), (3), (4), (5), and (6) of this section.

9 (8) If requested by the juvenile's victim or the victim's immediate
10 family, the secretary shall give notice of any leave to the victim or
11 the victim's immediate family.

12 (9) A juvenile who violates any condition of an authorized leave
13 plan may be taken into custody and returned to the department in the
14 same manner as an adult in identical circumstances.

15 (10) Notwithstanding the provisions of this section, a juvenile
16 placed in minimum security status may participate in work, educational,
17 community service, or treatment programs in the community up to twelve
18 hours a day if approved by the secretary. Such a release shall not be
19 deemed a leave of absence.

20 (11) Subsections (6), (7), and (8) of this section do not apply to
21 juveniles covered by RCW 13.40.215.

22 **Sec. 13.** RCW 13.40.210 and 1994 sp.s. c 7 s 527 are each amended
23 to read as follows:

24 ~~(1) ((The secretary shall, except in the case of a juvenile~~
25 ~~committed by a court to a term of confinement in a state institution~~
26 ~~outside the appropriate standard range for the offense(s) for which the~~
27 ~~juvenile was found to be guilty established pursuant to RCW 13.40.030,~~
28 ~~set a release or discharge date for each juvenile committed to its~~
29 ~~custody. The release or discharge date shall be within the prescribed~~
30 ~~range to which a juvenile has been committed except as provided in RCW~~
31 ~~13.40.320 concerning offenders the department determines are eligible~~
32 ~~for the juvenile offender basic training camp program. Such dates~~
33 ~~shall be determined prior to the expiration of sixty percent of a~~
34 ~~juvenile's minimum term of confinement included within the prescribed~~
35 ~~range to which the juvenile has been committed.)) (a) When a juvenile~~
36 is committed to a term of confinement in a state institution, the
37 assistant secretary shall review the sentencing court's finding of the
38 rehabilitative goals to be achieved by the juvenile during the term of

1 confinement. The department shall provide rehabilitative resources,
2 including but not limited to education, vocational training, substance
3 abuse treatment, and counseling, to permit the juvenile to achieve
4 these rehabilitative goals.

5 (b) After expiration of no more than sixty percent of the
6 juvenile's commitment term, the department shall provide a report
7 containing an evaluation of the juvenile's behavior and performance
8 during commitment. This report shall specifically describe the
9 juvenile's progress toward achieving the designated rehabilitative
10 goals.

11 (c) The department shall provide this report to the committing
12 court. The court, after considering the department's report, shall
13 determine a release or discharge date for the juvenile, which date
14 shall fall on or before expiration of the original term of commitment.
15 If the court sets a release date prior to expiration of the original
16 term, the court may suspend the remainder of the term.

17 (d) Nothing in this section entitles a juvenile to release prior to
18 the expiration of the term of confinement imposed by the court.

19 (e) The department shall establish by rule standards of good
20 behavior, good performance, and progress toward rehabilitative goals.

21 (f) After the court determines a release date, the secretary shall
22 release any juvenile committed to the custody of the department within
23 four calendar days prior to the juvenile's release date or on the
24 release date set under this chapter. Days spent in the custody of the
25 department shall be tolled by any period of time during which a
26 juvenile has absented himself or herself from the department's
27 supervision without the prior approval of the secretary or the
28 secretary's designee.

29 (g) The early release provisions of this section do not apply to
30 confinement imposed under RCW 13.40.160(4)(c).

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

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

12 (3) Following the juvenile's release under subsection (1) of this
13 section, the secretary may require the juvenile to comply with a
14 program of parole to be administered by the department in his or her
15 community which shall last no longer than eighteen months, except that
16 in the case of a juvenile sentenced for rape in the first or second
17 degree, rape of a child in the first or second degree, child
18 molestation in the first degree, or indecent liberties with forcible
19 compulsion, the period of parole shall be twenty-four months. A parole
20 program is mandatory for offenders released under subsection (2) of
21 this section. The secretary shall, for the period of parole,
22 facilitate the juvenile's reintegration into his or her community and
23 to further this goal shall require the juvenile to refrain from
24 possessing a firearm or using a deadly weapon and refrain from
25 committing new offenses and may require the juvenile to: (a) Undergo
26 available medical or psychiatric treatment; (b) report as directed to
27 a parole officer; (c) pursue a course of study or vocational training;
28 and (d) remain within prescribed geographical boundaries and notify the
29 department of any change in his or her address. As a mandatory
30 condition of any term of parole, the secretary shall require the
31 juvenile to refrain from committing new offenses. As a mandatory
32 condition of community supervision, the court shall order the juvenile
33 to comply with the mandatory school attendance provisions of chapter
34 28A.225 RCW and to inform the school of the existence of this
35 requirement. After termination of the parole period, the juvenile
36 shall be discharged from the department's supervision.

37 (4)(a) The department may also modify parole for violation thereof.
38 If, after affording a juvenile all of the due process rights to which
39 he or she would be entitled if the juvenile were an adult, the

1 secretary finds that a juvenile has violated a condition of his or her
2 parole, the secretary shall order one of the following which is
3 reasonably likely to effectuate the purpose of the parole and to
4 protect the public: (i) Continued supervision under the same
5 conditions previously imposed; (ii) intensified supervision with
6 increased reporting requirements; (iii) additional conditions of
7 supervision authorized by this chapter; (iv) except as provided in
8 (a)(v) of this subsection, imposition of a period of confinement not to
9 exceed thirty days in a facility operated by or pursuant to a contract
10 with the state of Washington or any city or county for a portion of
11 each day or for a certain number of days each week with the balance of
12 the days or weeks spent under supervision; and (v) the secretary may
13 order any of the conditions or may return the offender to confinement
14 in an institution for the remainder of the sentence range if the
15 offense for which the offender was sentenced is rape in the first or
16 second degree, rape of a child in the first or second degree, child
17 molestation in the first degree, indecent liberties with forcible
18 compulsion, or a sex offense that is also a serious violent offense as
19 defined by RCW 9.94A.030.

20 (b) If the department finds that any juvenile in a program of
21 parole has possessed a firearm or used a deadly weapon during the
22 program of parole, the department shall modify the parole under (a) of
23 this subsection and confine the juvenile for at least thirty days.
24 Confinement shall be in a facility operated by or pursuant to a
25 contract with the state or any county.

26 (c) If the department finds that the juvenile has violated parole
27 by committing any new offense, the secretary shall order the imposition
28 of thirty days' confinement as a penalty for the violation. This
29 period of confinement shall be in addition to any confinement imposed
30 as a disposition for the new offense.

31 (5) A parole officer of the department of social and health
32 services shall have the power to arrest a juvenile under his or her
33 supervision on the same grounds as a law enforcement officer would be
34 authorized to arrest the person.

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

1 **Sec. 14.** RCW 13.40.230 and 1981 c 299 s 16 are each amended to
2 read as follows:

3 (1) Dispositions reviewed pursuant to RCW 13.40.160(~~(, as now or~~
4 ~~hereafter amended,)~~) shall be reviewed in the appropriate division of
5 the court of appeals.

6 An appeal under this section shall be heard solely upon the record
7 that was before the disposition court. No written briefs may be
8 required, and the appeal shall be heard within thirty days following
9 the date of sentencing and a decision rendered within fifteen days
10 following the argument. The supreme court shall promulgate any
11 necessary rules to effectuate the purposes of this section.

12 (2) To uphold a disposition outside the standard range, (~~or which~~
13 ~~imposes confinement for a minor or first offender,)~~) the court of
14 appeals must find (a) that the reasons supplied by the disposition
15 judge are supported by the record which was before the judge and that
16 those reasons clearly and convincingly support the conclusion that a
17 disposition within the range(~~, or nonconfinement for a minor or first~~
18 ~~offender,)~~) would constitute a manifest injustice, and (b) that the
19 sentence imposed was neither clearly excessive nor clearly too lenient.

20 (3) If the court does not find subsection (2)(a) of this section it
21 shall remand the case for disposition within the standard range or for
22 community supervision without confinement as would otherwise be
23 appropriate pursuant to this chapter.

24 (4) If the court finds subsection (2)(a) but not subsection (2)(b)
25 of this section it shall remand the case with instructions for further
26 proceedings consistent with the provisions of this chapter.

27 (5) Pending appeal, a respondent may not be committed or detained
28 for a period of time in excess of the standard range for the offense(s)
29 committed or sixty days, whichever is longer. The disposition court
30 may impose conditions on release pending appeal as provided in RCW
31 13.40.040(4) and 13.40.050(6). Upon the expiration of the period of
32 commitment or detention specified in this subsection, the court may
33 also impose such conditions on the respondent's release pending
34 disposition of the appeal.

35 (6) Appeal of a disposition under this section does not affect the
36 finality or appeal of the underlying adjudication of guilt.

37 **Sec. 15.** RCW 13.40.320 and 1994 sp.s. c 7 s 532 are each amended
38 to read as follows:

1 (1) The department of social and health services shall establish
2 and operate a medium security juvenile offender basic training camp
3 program. The department shall site a juvenile offender basic training
4 camp facility in the most cost-effective facility possible and shall
5 review the possibility of using an existing abandoned and/or available
6 state, federally, or military-owned site or facility.

7 (2) The department may contract under this chapter with private
8 companies, the national guard, or other federal, state, or local
9 agencies to operate the juvenile offender basic training camp,
10 notwithstanding the provisions of RCW 41.06.380. Requests for
11 proposals from possible contractors shall not call for payment on a per
12 diem basis.

13 (3) The juvenile offender basic training camp shall accommodate at
14 least seventy offenders. The beds shall count as additions to, and not
15 be used as replacements for, existing bed capacity at existing
16 department of social and health services juvenile facilities.

17 (4) The juvenile offender basic training camp shall be a structured
18 and regimented model lasting one hundred twenty days emphasizing the
19 building up of an offender's self-esteem, confidence, and discipline.
20 The juvenile offender basic training camp program shall provide
21 participants with basic education, prevocational training, work-based
22 learning, live work, work ethic skills, conflict resolution counseling,
23 substance abuse intervention, anger management counseling, and
24 structured intensive physical training. The juvenile offender basic
25 training camp program shall have a curriculum training and work
26 schedule that incorporates a balanced assignment of these or other
27 rehabilitation and training components for no less than sixteen hours
28 per day, six days a week.

29 The department shall adopt rules for the safe and effective
30 operation of the juvenile offender basic training camp program,
31 standards for an offender's successful program completion, and rules
32 for the continued after-care supervision of offenders who have
33 successfully completed the program.

34 (5) Offenders eligible for the juvenile offender basic training
35 camp option shall be those with a disposition of at least fifty-two
36 weeks but not more than seventy-eight weeks. Violent and sex offenders
37 shall not be eligible for the juvenile offender basic training camp
38 program.

1 (6) If the court determines that the offender is eligible for the
2 juvenile offender basic training camp option, the court may recommend
3 that the department place the offender in the program. The department
4 shall evaluate the offender and may place the offender in the program.
5 No juvenile who suffers from any mental or physical problems that could
6 endanger his or her health or drastically affect his or her performance
7 in the program shall be admitted to or retained in the juvenile
8 offender basic training camp program.

9 (7) All juvenile offenders eligible for the juvenile offender basic
10 training camp sentencing option shall spend the first one hundred
11 twenty days of their disposition in a juvenile offender basic training
12 camp. If the juvenile offender's activities while in the juvenile
13 offender basic training camp are so disruptive to the juvenile offender
14 basic training camp program, as determined by the secretary according
15 to rules adopted by the department, as to result in the removal of the
16 juvenile offender from the juvenile offender basic training camp
17 program, or if the offender cannot complete the juvenile offender basic
18 training camp program due to medical problems, the secretary shall
19 require that the offender be committed to a juvenile institution to
20 serve the entire remainder of his or her disposition, less the amount
21 of time already served in the juvenile offender basic training camp
22 program.

23 (8) All offenders who successfully graduate from the one hundred
24 twenty day juvenile offender basic training camp program shall spend
25 the remainder of their disposition on parole in a division of juvenile
26 rehabilitation intensive aftercare program in the local community. The
27 program shall provide for the needs of the offender based on his or her
28 progress in the aftercare program as indicated by ongoing assessment of
29 those needs and progress. The intensive aftercare program shall
30 monitor postprogram juvenile offenders and assist them to successfully
31 reintegrate into the community. In addition, the program shall develop
32 a process for closely monitoring and assessing public safety risks.
33 The intensive aftercare program shall be designed and funded by the
34 department of social and health services.

35 (9) The department shall establish a modified juvenile offender
36 basic training program. The modified program shall be a structured and
37 regimented model lasting sixty days. The modified program shall
38 provide similar programs and shall meet similar purposes as are
39 established under this section for the basic training program. The

1 department shall adopt rules for the modified program that parallel
2 those adopted pursuant to subsection (4) of this section. Offenders
3 eligible for the modified program shall be juveniles with a disposition
4 of at least sixty days but not more than twelve weeks commitment to the
5 department. This range allows the court the option of recommending
6 first-time felony offenders to the modified program. Violent and sex
7 offenders shall not be eligible for the modified program. The
8 provisions of subsections (6) through (8) of this section, except
9 references therein to the length of incarceration, shall apply to the
10 modified program.

11 (10) The department shall also develop and maintain a data base to
12 measure recidivism rates specific to ~~((this))~~ the department's
13 incarceration programs established under this section. The data base
14 shall maintain data on all juvenile offenders who complete ~~((the))~~ a
15 juvenile offender basic training camp program for a period of two years
16 after they have completed the program. The data base shall also
17 maintain data on the criminal activity, educational progress, and
18 employment activities of all juvenile offenders who participated in the
19 program. The department shall produce an outcome evaluation report on
20 the progress of the juvenile offender basic training camp program to
21 the appropriate committees of the legislature no later than December
22 12, 1996.

23 (11) Counties are encouraged to develop their own juvenile offender
24 basic training camps.

25 **Sec. 16.** RCW 13.06.050 and 1993 c 415 s 7 are each amended to read
26 as follows:

27 No county shall be entitled to receive any state funds provided by
28 this chapter until its application and plan are approved, and unless
29 and until the minimum standards prescribed by the department of social
30 and health services are complied with and then only on such terms as
31 are set forth in this section. In addition, any county making
32 application for state funds under this chapter that also operates a
33 juvenile detention facility must have standards of operations in place
34 that include: Intake and admissions, medical and health care,
35 communication, correspondence, visiting and telephone use, security and
36 control, sanitation and hygiene, juvenile rights, rules and discipline,
37 property, juvenile records, safety and emergency procedures,

1 programming, release and transfer, training and staff development, and
2 food service.

3 (1) The distribution of funds to a county or a group of counties
4 shall be based on criteria including but not limited to the county's
5 per capita income, regional or county at-risk populations, juvenile
6 crime or arrest rates, rates of poverty, size of racial minority
7 populations, and existing programs~~((, and the effectiveness and
8 efficiency of consolidating local programs towards reducing commitments
9 to state correctional facilities for offenders whose standard range
10 disposition does not include commitment of the offender to the
11 department and reducing reliance on other traditional departmental
12 services))~~.

13 (2) The department may not place caps on commitments to the
14 department or otherwise limit a county's ability to commit juvenile
15 offenders to the department. The department's disbursement of funds under
16 this chapter may not be conditioned on the number of juveniles
17 committed to the department.

18 (3) The secretary will reimburse a county upon presentation and
19 approval of a valid claim pursuant to the provisions of this chapter
20 based on actual performance in meeting the terms and conditions of the
21 approved plan and contract. Funds received by participating counties
22 under this chapter shall not be used to replace local funds for
23 existing programs.

24 ~~((+3))~~ (4) The secretary, in conjunction with the human rights
25 commission, shall evaluate the effectiveness of programs funded under
26 this chapter in reducing racial disproportionality. The secretary
27 shall investigate whether implementation of such programs has reduced
28 disproportionality in counties with initially high levels of
29 disproportionality. The analysis shall indicate which programs are
30 cost-effective in reducing disproportionality in such areas as
31 alternatives to detention, intake and risk assessment standards
32 pursuant to RCW 13.40.038, alternatives to incarceration, and in the
33 prosecution and adjudication of juveniles. The secretary shall report
34 his or her findings to the appropriate committees of the legislature by
35 ~~((December 1, 1994, and))~~ December 1 of each year ~~((thereafter))~~.

36 NEW SECTION. Sec. 17. (1) The office of the administrator for the
37 courts shall convene a work group to recommend to the legislature
38 standards to guide the court's discretion at significant stages of the

1 juvenile justice process. The work group shall consist of two juvenile
2 court judges, two juvenile court administrators, two prosecuting
3 attorneys or deputy prosecuting attorneys actively practicing in
4 juvenile court, and two defense attorneys actively practicing in
5 juvenile court. The work group shall, by September 1, 1995, recommend
6 to the appropriate committees of the legislature standards to guide:

7 (a) The decision to defer adjudication;

8 (b) The decision to suspend a sentence;

9 (c) The setting of rehabilitative goals in a disposition order that
10 includes commitment to the department of social and health services;

11 (d) The determination that a juvenile has or has not met the
12 rehabilitative goals during the term of commitment to the department of
13 social and health services; and

14 (e) The decision to set a date for a juvenile's release from the
15 department of social and health services' custody.

16 (2) The office of the administrator for the courts shall convene a
17 work group of at least five juvenile court administrators to establish
18 a state-wide uniform process for conducting the predisposition,
19 evaluation required by section 7, chapter . . . , Laws of 1995 (section
20 7 of this act).

21 The work group shall, by January 1, 1996, provide to the office of
22 the administrator for the courts a recommendation for a state-wide
23 uniform evaluation process.

24 **Sec. 18.** RCW 13.04.030 and 1994 sp.s. c 7 s 519 are each amended
25 to read as follows:

26 (1) Except as provided in subsection (2) of this section, the
27 juvenile courts in the several counties of this state, shall have
28 exclusive original jurisdiction over all proceedings:

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

31 (b) Relating to children alleged or found to be dependent as
32 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

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

35 (d) To approve or disapprove alternative residential placement as
36 provided in RCW 13.32A.170;

1 (e) Relating to juveniles alleged or found to have committed
2 offenses, traffic infractions, or violations as provided in RCW
3 13.40.020 through 13.40.230, unless:

4 (i) The juvenile court transfers jurisdiction of a particular
5 juvenile to adult criminal court pursuant to RCW 13.40.110; or

6 (ii) The statute of limitations applicable to adult prosecution for
7 the offense, traffic infraction, or violation has expired; or

8 (iii) The alleged offense or infraction is a traffic, fish,
9 boating, or game offense or traffic infraction committed by a juvenile
10 sixteen years of age or older and would, if committed by an adult, be
11 tried or heard in a court of limited jurisdiction, in which instance
12 the appropriate court of limited jurisdiction shall have jurisdiction
13 over the alleged offense or infraction: PROVIDED, That if such an
14 alleged offense or infraction and an alleged offense or infraction
15 subject to juvenile court jurisdiction arise out of the same event or
16 incident, the juvenile court may have jurisdiction of both matters:
17 PROVIDED FURTHER, That the jurisdiction under this subsection does not
18 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)
19 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited
20 jurisdiction which confine juveniles for an alleged offense or
21 infraction may place juveniles in juvenile detention facilities under
22 an agreement with the officials responsible for the administration of
23 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

24 (iv) The juvenile is sixteen or seventeen years old and the alleged
25 offense is: (A) A serious violent offense as defined in RCW 9.94A.030
26 committed on or after June 13, 1994; or (B) a violent offense as
27 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the
28 juvenile has a criminal history consisting of: (I) One or more prior
29 serious violent offenses; (II) two or more prior violent offenses; or
30 (III) three or more of any combination of the following offenses: Any
31 class A felony, any class B felony, vehicular assault, or manslaughter
32 in the second degree, all of which must have been committed after the
33 juvenile's thirteenth birthday and prosecuted separately. In such a
34 case the adult criminal court shall have exclusive original
35 jurisdiction.

36 If the juvenile challenges the state's determination of the
37 juvenile's criminal history, the state may establish the offender's
38 criminal history by a preponderance of the evidence. If the criminal
39 history consists of adjudications entered upon a plea of guilty, the

1 state shall not bear a burden of establishing the knowing and
2 voluntariness of the plea;

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

5 (g) Relating to termination of a diversion agreement under RCW
6 13.40.080, including a proceeding in which the divertee has attained
7 eighteen years of age; and

8 (h) Relating to court validation of a voluntary consent to foster
9 care placement under chapter 13.34 RCW, by the parent or Indian
10 custodian of an Indian child, except if the parent or Indian custodian
11 and child are residents of or domiciled within the boundaries of a
12 federally recognized Indian reservation over which the tribe exercises
13 exclusive jurisdiction.

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

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

22 (4) A parent, guardian, or custodian who has custody of any
23 juvenile described in this section, if such parent, guardian, or
24 custodian was served with summons, shall be subject to the jurisdiction
25 of the court for purposes of this section.

26 **Sec. 19.** RCW 13.40.040 and 1979 c 155 s 57 are each amended to
27 read as follows:

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

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

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

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

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

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

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

7 (i) The juvenile will likely fail to appear for further
8 proceedings; or

9 (ii) Detention is required to protect the juvenile from himself or
10 herself; or

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

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

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

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

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

18 (d) The juvenile is a material witness.

19 (3) Upon a finding that members of the community have threatened
20 the health of a juvenile taken into custody, at the juvenile's request
21 the court may order continued detention pending further order of the
22 court.

23 (4) A juvenile detained under this section may be released upon
24 posting bond set by the court. A court authorizing such a release
25 shall issue an order containing a statement of conditions imposed upon
26 the juvenile and shall set the date of his or her next court
27 appearance. The court shall advise the juvenile of any conditions
28 specified in the order and may at any time amend such an order in order
29 to impose additional or different conditions of release upon the
30 juvenile or to return the juvenile to custody for failing to conform to
31 the conditions imposed. A juvenile shall not be released except to a
32 responsible adult. Failure to appear on the date scheduled by the
33 court pursuant to this section shall constitute the crime of bail
34 jumping.

35 **Sec. 20.** RCW 13.40.050 and 1992 c 205 s 106 are each amended to
36 read as follows:

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

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

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

11 (2) Notice of the detention hearing, stating the time, place, and
12 purpose of the hearing, (~~and~~) stating the right to counsel, and
13 requiring attendance, shall be given to the parent, guardian, or
14 custodian if such person can be found and shall also be given to the
15 juvenile if over twelve years of age.

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

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

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

29 (6) If detention is not necessary under RCW 13.40.040, (~~as now or~~
30 ~~hereafter amended,~~) the court shall impose the most appropriate of the
31 following conditions or, if necessary, any combination of the following
32 conditions:

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

35 (b) Place restrictions on the travel of the juvenile during the
36 period of release;

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

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

3 (e) Require that the juvenile return to detention during specified
4 hours.

5 (7) A juvenile shall not be released except to a responsible adult.

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

10 (9) If the person notified as provided in this section fails
11 without reasonable cause to appear and abide the order of the court,
12 the person may be proceeded against as for contempt of court.

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

15 (1) The respondent shall be advised of the allegations in the
16 information and shall be required to plead guilty or not guilty to the
17 allegation(s). The state or the respondent may make preliminary
18 motions up to the time of the plea.

19 (2) If the respondent pleads guilty, the court may proceed with
20 disposition or may continue the case for a dispositional hearing. If
21 the respondent denies guilt, an adjudicatory hearing date shall be set.
22 The court shall notify the parent, guardian, or custodian who has
23 custody of any juvenile described in the charging document of the date,
24 time, and place of the dispositional or adjudicatory hearing, and
25 require attendance.

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

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

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

34 (6) If the respondent is found guilty the court may immediately
35 proceed to disposition or may continue the case for a dispositional
36 hearing. Notice of the time and place of the continued hearing may be
37 given in open court. If notice is not given in open court to a party,
38 the party and the parent, guardian, or custodian who has custody of the

1 juvenile shall be notified by mail of the time and place of the
2 continued hearing.

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

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

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

13 (10) If the person notified as provided in this section fails
14 without reasonable cause to appear and abide the order of the court,
15 the person may be proceeded against as for contempt of court.

16 **Sec. 22.** RCW 9A.04.050 and 1975 1st ex.s. c 260 s 9A.04.050 are
17 each amended to read as follows:

18 Children under the age of eight years are incapable of committing
19 crime. Children of eight and under (~~twelve~~) ten years of age are
20 presumed to be incapable of committing crime, but this presumption may
21 be removed by proof that they have sufficient capacity to understand
22 the act or neglect, and to know that it was wrong. Whenever in legal
23 proceedings it becomes necessary to determine the age of a child, he or
24 she may be produced for inspection, to enable the court or jury to
25 determine the age thereby; and the court may also direct (~~his~~) the
26 child's examination by one or more physicians, whose opinion shall be
27 competent evidence upon the question of (~~his~~) the child's age.

28 NEW SECTION. **Sec. 23.** The following acts or parts of acts are
29 each repealed:

- 30 (1) RCW 13.40.0354 and 1994 sp.s. c 7 s 521 & 1989 c 407 s 6;
31 (2) RCW 13.40.0357 and 1994 sp.s. c 7 s 522 & 1989 c 407 s 7; and
32 (3) RCW 13.40.193 and 1994 sp.s. c 7 s 525.

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