
HOUSE BILL 2746

State of Washington

64th Legislature

2016 Regular Session

By Representatives Walkinshaw, Walsh, Kagi, Senn, Frame, Kilduff, Sawyer, McBride, Goodman, Ormsby, and Tarleton

Read first time 01/20/16. Referred to Committee on Early Learning & Human Services.

1 AN ACT Relating to mental health and chemical dependency
2 treatment for juvenile offenders; amending RCW 13.40.020, 13.40.0357,
3 and 13.40.165; and repealing RCW 13.40.167.

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

5 **Sec. 1.** RCW 13.40.020 and 2014 c 110 s 1 are each amended to
6 read as follows:

7 For the purposes of this chapter:

8 (1) "Assessment" means an individualized examination of a child
9 to determine the child's psychosocial needs and problems, including
10 the type and extent of any mental health, substance abuse, or co-
11 occurring mental health and substance abuse disorders, and
12 recommendations for treatment. "Assessment" includes, but is not
13 limited to, drug and alcohol evaluations, psychological and
14 psychiatric evaluations, records review, clinical interview, and
15 administration of a formal test or instrument;

16 (2) "Community-based rehabilitation" means one or more of the
17 following: Employment; attendance of information classes; literacy
18 classes; counseling, outpatient substance abuse treatment programs,
19 outpatient mental health programs, anger management classes,
20 education or outpatient treatment programs to prevent animal cruelty,
21 or other services; or attendance at school or other educational

1 programs appropriate for the juvenile as determined by the school
2 district. Placement in community-based rehabilitation programs is
3 subject to available funds;

4 (3) "Community-based sanctions" may include one or more of the
5 following:

6 (a) A fine, not to exceed five hundred dollars;

7 (b) Community restitution not to exceed one hundred fifty hours
8 of community restitution;

9 (4) "Community restitution" means compulsory service, without
10 compensation, performed for the benefit of the community by the
11 offender as punishment for committing an offense. Community
12 restitution may be performed through public or private organizations
13 or through work crews;

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

27 (a) Community-based sanctions;

28 (b) Community-based rehabilitation;

29 (c) Monitoring and reporting requirements;

30 (d) Posting of a probation bond;

31 (e) Residential treatment, where substance abuse, mental health,
32 and/or co-occurring disorders have been identified in an assessment
33 by a qualified mental health professional, psychologist,
34 psychiatrist, or chemical dependency professional.

35 (i) A court may order residential treatment after consideration
36 and findings regarding whether:

37 (A) The referral is necessary to rehabilitate the child;

38 (B) The referral is necessary to protect the public or the child;

39 (C) The referral is in the child's best interest;

1 (D) The child has been given the opportunity to engage in less
2 restrictive treatment and has been unable or unwilling to comply; and

3 (E) Inpatient treatment is the least restrictive action
4 consistent with the child's needs and circumstances.

5 (ii) In any case where a court orders a child to inpatient
6 treatment under this section, the court must hold a review hearing no
7 later than sixty days after the youth begins inpatient treatment, and
8 every thirty days thereafter, as long as the youth is in inpatient
9 treatment;

10 (6) "Confinement" means physical custody by the department of
11 social and health services in a facility operated by or pursuant to a
12 contract with the state, or physical custody in a detention facility
13 operated by or pursuant to a contract with any county. The county may
14 operate or contract with vendors to operate county detention
15 facilities. The department may operate or contract to operate
16 detention facilities for juveniles committed to the department.
17 Pretrial confinement or confinement of less than thirty-one days
18 imposed as part of a disposition or modification order may be served
19 consecutively or intermittently, in the discretion of the court;

20 (7) "Court," when used without further qualification, means the
21 juvenile court judge(s) or commissioner(s);

22 (8) "Criminal history" includes all criminal complaints against
23 the respondent for which, prior to the commission of a current
24 offense:

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

29 (b) The criminal complaint was diverted by a prosecutor pursuant
30 to the provisions of this chapter on agreement of the respondent and
31 after an advisement to the respondent that the criminal complaint
32 would be considered as part of the respondent's criminal history. A
33 successfully completed deferred adjudication that was entered before
34 July 1, 1998, or a deferred disposition shall not be considered part
35 of the respondent's criminal history;

36 (9) "Department" means the department of social and health
37 services;

38 (10) "Detention facility" means a county facility, paid for by
39 the county, for the physical confinement of a juvenile alleged to
40 have committed an offense or an adjudicated offender subject to a

1 disposition or modification order. "Detention facility" includes
2 county group homes, inpatient substance abuse programs, juvenile
3 basic training camps, and electronic monitoring;

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

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

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

27 (14) "Intensive supervision program" means a parole program that
28 requires intensive supervision and monitoring, offers an array of
29 individualized treatment and transitional services, and emphasizes
30 community involvement and support in order to reduce the likelihood a
31 juvenile offender will commit further offenses;

32 (15) "Juvenile," "youth," and "child" mean any individual who is
33 under the chronological age of eighteen years and who has not been
34 previously transferred to adult court pursuant to RCW 13.40.110,
35 unless the individual was convicted of a lesser charge or acquitted
36 of the charge for which he or she was previously transferred pursuant
37 to RCW 13.40.110 or who is not otherwise under adult court
38 jurisdiction;

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

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

3 (17) "Labor" means the period of time before a birth during which
4 contractions are of sufficient frequency, intensity, and duration to
5 bring about effacement and progressive dilation of the cervix;

6 (18) "Local sanctions" means one or more of the following: (a)
7 0-30 days of confinement; (b) 0-12 months of community supervision;
8 (c) 0-150 hours of community restitution; or (d) \$0-\$500 fine;

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

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

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

25 (22) "Physical restraint" means the use of any bodily force or
26 physical intervention to control a juvenile offender or limit a
27 juvenile offender's freedom of movement in a way that does not
28 involve a mechanical restraint. Physical restraint does not include
29 momentary periods of minimal physical restriction by direct person-
30 to-person contact, without the aid of mechanical restraint,
31 accomplished with limited force and designed to:

32 (a) Prevent a juvenile offender from completing an act that would
33 result in potential bodily harm to self or others or damage property;

34 (b) Remove a disruptive juvenile offender who is unwilling to
35 leave the area voluntarily; or

36 (c) Guide a juvenile offender from one location to another;

37 (23) "Postpartum recovery" means (a) the entire period a woman or
38 youth is in the hospital, birthing center, or clinic after giving
39 birth and (b) an additional time period, if any, a treating physician

1 determines is necessary for healing after the youth leaves the
2 hospital, birthing center, or clinic;

3 (24) "Probation bond" means a bond, posted with sufficient
4 security by a surety justified and approved by the court, to secure
5 the offender's appearance at required court proceedings and
6 compliance with court-ordered community supervision or conditions of
7 release ordered pursuant to RCW 13.40.040 or 13.40.050. It also means
8 a deposit of cash or posting of other collateral in lieu of a bond if
9 approved by the court;

10 (25) "Respondent" means a juvenile who is alleged or proven to
11 have committed an offense;

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

22 (27) "Restorative justice" means practices, policies, and
23 programs informed by and sensitive to the needs of crime victims that
24 are designed to encourage offenders to accept responsibility for
25 repairing the harm caused by their offense by providing safe and
26 supportive opportunities for voluntary participation and
27 communication between the victim, the offender, their families, and
28 relevant community members;

29 (28) "Restraints" means anything used to control the movement of
30 a person's body or limbs and includes:

31 (a) Physical restraint; or

32 (b) Mechanical device including but not limited to: Metal
33 handcuffs, plastic ties, ankle restraints, leather cuffs, other
34 hospital-type restraints, tasers, or batons;

35 (29) "Screening" means a process that is designed to identify a
36 child who is at risk of having mental health, substance abuse, or co-
37 occurring mental health and substance abuse disorders that warrant
38 immediate attention, intervention, or more comprehensive assessment.
39 A screening may be undertaken with or without the administration of a
40 formal instrument;

1 (30) "Secretary" means the secretary of the department of social
2 and health services. "Assistant secretary" means the assistant
3 secretary for juvenile rehabilitation for the department;

4 (31) "Services" means services which provide alternatives to
5 incarceration for those juveniles who have pleaded or been
6 adjudicated guilty of an offense or have signed a diversion agreement
7 pursuant to this chapter;

8 (32) "Sex offense" means an offense defined as a sex offense in
9 RCW 9.94A.030;

10 (33) "Sexual motivation" means that one of the purposes for which
11 the respondent committed the offense was for the purpose of his or
12 her sexual gratification;

13 (34) "Surety" means an entity licensed under state insurance laws
14 or by the state department of licensing, to write corporate,
15 property, or probation bonds within the state, and justified and
16 approved by the superior court of the county having jurisdiction of
17 the case;

18 (35) "Transportation" means the conveying, by any means, of an
19 incarcerated pregnant youth from the institution or detention
20 facility to another location from the moment she leaves the
21 institution or detention facility to the time of arrival at the other
22 location, and includes the escorting of the pregnant incarcerated
23 youth from the institution or detention facility to a transport
24 vehicle and from the vehicle to the other location;

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

28 (37) "Violent offense" means a violent offense as defined in RCW
29 9.94A.030;

30 (38) "Youth court" means a diversion unit under the supervision
31 of the juvenile court.

32 **Sec. 2.** RCW 13.40.0357 and 2013 c 20 s 2 are each amended to
33 read as follows:

34 **DESCRIPTION AND OFFENSE CATEGORY**

1		JUVENILE DISPOSITION	
2	JUVENILE		CATEGORY FOR
3	DISPOSITION		ATTEMPT, BAILJUMP,
4	OFFENSE		CONSPIRACY, OR
5	CATEGORY	DESCRIPTION (RCW CITATION)	SOLICITATION
6		
7	Arson and Malicious Mischief		
8	A	Arson 1 (9A.48.020)	B+
9	B	Arson 2 (9A.48.030)	C
10	C	Reckless Burning 1 (9A.48.040)	D
11	D	Reckless Burning 2 (9A.48.050)	E
12	B	Malicious Mischief 1 (9A.48.070)	C
13	C	Malicious Mischief 2 (9A.48.080)	D
14	D	Malicious Mischief 3 (9A.48.090)	E
15			
16	E	Tampering with Fire Alarm Apparatus	
17		(9.40.100)	E
18	E	Tampering with Fire Alarm Apparatus with	
19		Intent to Commit Arson (9.40.105)	E
20	A	Possession of Incendiary Device (9.40.120)	B+
21	Assault and Other Crimes Involving		
22	Physical Harm		
23	A	Assault 1 (9A.36.011)	B+
24	B+	Assault 2 (9A.36.021)	C+
25	C+	Assault 3 (9A.36.031)	D+
26	D+	Assault 4 (9A.36.041)	E
27	B+	Drive-By Shooting (9A.36.045)	C+
28	D+	Reckless Endangerment (9A.36.050)	E
29	C+	Promoting Suicide Attempt (9A.36.060)	D+
30	D+	Coercion (9A.36.070)	E
31	C+	Custodial Assault (9A.36.100)	D+
32	Burglary and Trespass		
33	B+	Burglary 1 (9A.52.020)	C+
34	B	Residential Burglary (9A.52.025)	C
35	B	Burglary 2 (9A.52.030)	C
36	D	Burglary Tools (Possession of) (9A.52.060)	E

1	D	Criminal Trespass 1 (9A.52.070)	E
2	E	Criminal Trespass 2 (9A.52.080)	E
3	C	Mineral Trespass (78.44.330)	C
4	C	Vehicle Prowling 1 (9A.52.095)	D
5	D	Vehicle Prowling 2 (9A.52.100)	E
6		Drugs	
7	E	Possession/Consumption of Alcohol	
8		(66.44.270)	E
9	C	Illegally Obtaining Legend Drug	
10		(69.41.020)	D
11	C+	Sale, Delivery, Possession of Legend Drug	
12		with Intent to Sell (69.41.030(2)(a))	D+
13	E	Possession of Legend Drug	
14		(69.41.030(2)(b))	E
15	B+	Violation of Uniform Controlled	
16		Substances Act - Narcotic,	
17		Methamphetamine, or Flunitrazepam Sale	
18		(69.50.401(2) (a) or (b))	B+
19	C	Violation of Uniform Controlled	
20		Substances Act - Nonnarcotic Sale	
21		(69.50.401(2)(c))	C
22	E	Possession of Marihuana <40 grams	
23		(69.50.4014)	E
24	C	Fraudulently Obtaining Controlled	
25		Substance (69.50.403)	C
26	C+	Sale of Controlled Substance for Profit	
27		(69.50.410)	C+
28	E	Unlawful Inhalation (9.47A.020)	E
29	B	Violation of Uniform Controlled	
30		Substances Act - Narcotic,	
31		Methamphetamine, or Flunitrazepam	
32		Counterfeit Substances (69.50.4011(2) (a)	
33		or (b))	B
34	C	Violation of Uniform Controlled	
35		Substances Act - Nonnarcotic Counterfeit	
36		Substances (69.50.4011(2) (c), (d), or (e))	C

1	C	Violation of Uniform Controlled	
2		Substances Act - Possession of a Controlled	
3		Substance (69.50.4013)	C
4	C	Violation of Uniform Controlled	
5		Substances Act - Possession of a Controlled	
6		Substance (69.50.4012)	C
7		Firearms and Weapons	
8	B	Theft of Firearm (9A.56.300)	C
9	B	Possession of Stolen Firearm (9A.56.310)	C
10	E	Carrying Loaded Pistol Without Permit	
11		(9.41.050)	E
12	C	Possession of Firearms by Minor (<18)	
13		(9.41.040(2)(a)((iii)) (iv))	C
14	D+	Possession of Dangerous Weapon	
15		(9.41.250)	E
16	D	Intimidating Another Person by use of	
17		Weapon (9.41.270)	E
18		Homicide	
19	A+	Murder 1 (9A.32.030)	A
20	A+	Murder 2 (9A.32.050)	B+
21	B+	Manslaughter 1 (9A.32.060)	C+
22	C+	Manslaughter 2 (9A.32.070)	D+
23	B+	Vehicular Homicide (46.61.520)	C+
24		Kidnapping	
25	A	Kidnap 1 (9A.40.020)	B+
26	B+	Kidnap 2 (9A.40.030)	C+
27	C+	Unlawful Imprisonment (9A.40.040)	D+
28		Obstructing Governmental Operation	
29	D	Obstructing a Law Enforcement Officer	
30		(9A.76.020)	E
31	E	Resisting Arrest (9A.76.040)	E
32	B	Introducing Contraband 1 (9A.76.140)	C
33	C	Introducing Contraband 2 (9A.76.150)	D
34	E	Introducing Contraband 3 (9A.76.160)	E
35	B+	Intimidating a Public Servant (9A.76.180)	C+
36	B+	Intimidating a Witness (9A.72.110)	C+

1		Public Disturbance	
2	C+	Criminal Mischief with Weapon	
3		(9A.84.010(2)(b))	D+
4	D+	Criminal Mischief Without Weapon	
5		(9A.84.010(2)(a))	E
6	E	Failure to Disperse (9A.84.020)	E
7	E	Disorderly Conduct (9A.84.030)	E
8		Sex Crimes	
9	A	Rape 1 (9A.44.040)	B+
10	A-	Rape 2 (9A.44.050)	B+
11	C+	Rape 3 (9A.44.060)	D+
12	A-	Rape of a Child 1 (9A.44.073)	B+
13	B+	Rape of a Child 2 (9A.44.076)	C+
14	B	Incest 1 (9A.64.020(1))	C
15	C	Incest 2 (9A.64.020(2))	D
16	D+	Indecent Exposure (Victim <14)	
17		(9A.88.010)	E
18	E	Indecent Exposure (Victim 14 or over)	
19		(9A.88.010)	E
20	B+	Promoting Prostitution 1 (9A.88.070)	C+
21	C+	Promoting Prostitution 2 (9A.88.080)	D+
22	E	O & A (Prostitution) (9A.88.030)	E
23	B+	Indecent Liberties (9A.44.100)	C+
24	A-	Child Molestation 1 (9A.44.083)	B+
25	B	Child Molestation 2 (9A.44.086)	C+
26	C	Failure to Register as a Sex Offender	
27		(9A.44.132)	D
28		Theft, Robbery, Extortion, and Forgery	
29	B	Theft 1 (9A.56.030)	C
30	C	Theft 2 (9A.56.040)	D
31	D	Theft 3 (9A.56.050)	E
32	B	Theft of Livestock 1 and 2 (9A.56.080 and	
33		9A.56.083)	C
34	C	Forgery (9A.60.020)	D
35	A	Robbery 1 (9A.56.200)	B+
36	B+	Robbery 2 (9A.56.210)	C+

1	B+	Extortion 1 (9A.56.120)	C+
2	C+	Extortion 2 (9A.56.130)	D+
3	C	Identity Theft 1 (9.35.020(2))	D
4	D	Identity Theft 2 (9.35.020(3))	E
5	D	Improperly Obtaining Financial	
6		Information (9.35.010)	E
7	B	Possession of a Stolen Vehicle (9A.56.068)	C
8	B	Possession of Stolen Property 1	
9		(9A.56.150)	C
10	C	Possession of Stolen Property 2	
11		(9A.56.160)	D
12	D	Possession of Stolen Property 3	
13		(9A.56.170)	E
14	B	Taking Motor Vehicle Without Permission	
15		1 (9A.56.070)	C
16	C	Taking Motor Vehicle Without Permission	
17		2 (9A.56.075)	D
18	B	Theft of a Motor Vehicle (9A.56.065)	C
19		Motor Vehicle Related Crimes	
20	E	Driving Without a License (46.20.005)	E
21	B+	Hit and Run - Death (46.52.020(4)(a))	C+
22	C	Hit and Run - Injury (46.52.020(4)(b))	D
23	D	Hit and Run-Attended (46.52.020(5))	E
24	E	Hit and Run-Unattended (46.52.010)	E
25	C	Vehicular Assault (46.61.522)	D
26	C	Attempting to Elude Pursuing Police	
27		Vehicle (46.61.024)	D
28	E	Reckless Driving (46.61.500)	E
29	D	Driving While Under the Influence	
30		(46.61.502 and 46.61.504)	E
31	B+	Felony Driving While Under the Influence	
32		(46.61.502(6))	B
33	B+	Felony Physical Control of a Vehicle While	
34		Under the Influence (46.61.504(6))	B
35		Other	
36	B	Animal Cruelty 1 (16.52.205)	C

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

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

22 1st escape or attempted escape during 12-month period - 4 weeks
23 confinement

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

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

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

30 **JUVENILE SENTENCING STANDARDS**

31 This schedule must be used for juvenile offenders. The court may
32 select sentencing option A, B, C, or D(~~(, or RCW 13.40.167)~~).

33 OPTION A

34 JUVENILE OFFENDER SENTENCING GRID

35 STANDARD RANGE

1	A+	180 weeks to age 21 for all category A+ offenses					
2	A	103-129 weeks for all category A offenses					
3	A-	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
4		Except 30-40 weeks					
5		for 15 to 17 year olds					
6	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
7	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
8	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
9		C	LS	LS	LS	LS	15-36 weeks
10		D+	LS	LS	LS	LS	LS
11		D	LS	LS	LS	LS	LS
12		E	LS	LS	LS	LS	LS
13							
14	PRIOR		0	1	2	3	4 or more
15	ADJUDICATIONS						

16 NOTE: References in the grid to days or weeks mean periods of
17 confinement. "LS" means "local sanctions" as defined in RCW
18 13.40.020.

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

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

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

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

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

35 OR

1 controlled substances act (RCW 69.50.401 (2)(a) and (b)), or
2 manslaughter 2 (RCW 9A.32.070), when the offense includes infliction
3 of bodily harm upon another or when during the commission or
4 immediate withdrawal from the offense the respondent was armed with a
5 deadly weapon;

6 (c) Ordered to serve a disposition for a firearm violation under
7 RCW 13.40.193; or

8 (d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

9 OR

10 OPTION C

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

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

16 OR

17 OPTION D

18 **MANIFEST INJUSTICE**

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

22 **Sec. 3.** RCW 13.40.165 and 2004 c 120 s 5 are each amended to
23 read as follows:

24 (1) The purpose of this disposition alternative is to ensure that
25 successful treatment options to reduce recidivism are available to
26 eligible youth, pursuant to RCW 70.96A.520. It is also the purpose of
27 the disposition alternative to assure that minors in need of chemical
28 dependency, mental health, and/or co-occurring disorder treatment
29 receive an appropriate continuum of culturally relevant care and
30 treatment, including prevention and early intervention, self-directed
31 care, parent-directed care, and residential treatment. To facilitate
32 the continuum of care and treatment to minors in out-of-home
33 placements, all divisions of the department that provide these
34 services to minors shall jointly plan and deliver these services. It
35 is also the purpose of the disposition alternative to protect the
36 rights of minors against needless hospitalization and deprivations of
37 liberty and to enable treatment decisions to be made in response to

1 clinical needs and in accordance with sound professional judgment.
2 The mental health, substance abuse, and co-occurring disorder
3 treatment providers shall, to the extent possible, offer services
4 that involve minors' parents, guardians, and family.

5 (2) The court must consider eligibility for the chemical
6 dependency or mental health disposition alternative when a juvenile
7 offender is subject to a standard range disposition of local
8 sanctions or 15 to 36 weeks of confinement and has not committed an
9 A- or B+ offense, other than a first time B+ offense under chapter
10 69.50 RCW. The court, on its own motion or the motion of the state or
11 the respondent if the evidence shows that the offender may be
12 chemically dependent ~~((\otimes))~~, substance abusing, or has significant
13 mental health or co-occurring disorders may order an examination by a
14 chemical dependency counselor from a chemical dependency treatment
15 facility approved under chapter 70.96A RCW or a mental health
16 professional as defined in chapter 71.34 RCW to determine if the
17 youth is chemically dependent ~~((\otimes))~~, substance abusing, or suffers
18 from significant mental health or co-occurring disorders. The
19 offender shall pay the cost of any examination ordered under this
20 subsection unless the court finds that the offender is indigent and
21 no third party insurance coverage is available, in which case the
22 state shall pay the cost.

23 ~~((+2))~~ (3) The report of the examination shall include at a
24 minimum the following: The respondent's version of the facts and the
25 official version of the facts, the respondent's offense history, an
26 assessment of drug-alcohol problems ~~((and))~~, mental health diagnoses,
27 previous treatment attempts, the respondent's social, educational,
28 and employment situation, and other evaluation measures used. The
29 report shall set forth the sources of the examiner's information.

30 ~~((+3))~~ (4) The examiner shall assess and report regarding the
31 respondent's relative risk to the community. A proposed treatment
32 plan shall be provided and shall include, at a minimum:

- 33 (a) Whether inpatient and/or outpatient treatment is recommended;
- 34 (b) Availability of appropriate treatment;
- 35 (c) Monitoring plans, including any requirements regarding living
36 conditions, lifestyle requirements, and monitoring by family members,
37 legal guardians, or others;
- 38 (d) Anticipated length of treatment; and
- 39 (e) Recommended crime-related prohibitions.

1 (~~(4)~~) (5) The court on its own motion may order, or on a motion
2 by the state or the respondent shall order, a second examination. The
3 evaluator shall be selected by the party making the motion. The
4 requesting party shall pay the cost of any examination ordered under
5 this subsection unless the requesting party is the offender and the
6 court finds that the offender is indigent and no third party
7 insurance coverage is available, in which case the state shall pay
8 the cost.

9 (~~(5)~~) (6)(a) After receipt of reports of the examination, the
10 court shall then consider whether the offender and the community will
11 benefit from use of this (~~chemical dependency~~) disposition
12 alternative and consider the victim's opinion whether the offender
13 should receive a treatment disposition under this section.

14 (b) If the court determines that this (~~chemical dependency~~)
15 disposition alternative is appropriate, then the court shall impose
16 the standard range for the offense, or if the court concludes, and
17 enters reasons for its conclusion, that such disposition would
18 effectuate a manifest injustice, the court shall impose a disposition
19 above the standard range as indicated in option D of RCW 13.40.0357
20 if the disposition is an increase from the standard range and the
21 confinement of the offender does not exceed a maximum of fifty-two
22 weeks, suspend execution of the disposition, and place the offender
23 on community supervision for up to one year. As a condition of the
24 suspended disposition, the court shall require the offender to
25 undergo available outpatient drug/alcohol, mental health, or co-
26 occurring disorder treatment and/or inpatient mental health or drug/
27 alcohol treatment. (~~For purposes of this section,~~) If the inpatient
28 treatment (~~may not exceed~~) is longer than ninety days, the court
29 shall hold a review hearing every thirty days beyond the initial
30 ninety days. The respondent may appear telephonically at these review
31 hearings if in compliance with treatment. As a condition of the
32 suspended disposition, the court may impose conditions of community
33 supervision and other sanctions, including up to thirty days of
34 confinement, one hundred fifty hours of community restitution, and
35 payment of legal financial obligations and restitution.

36 (~~(6)~~) (7) The mental health/co-occurring disorder/drug/alcohol
37 treatment provider shall submit monthly reports on the respondent's
38 progress in treatment to the court and the parties. The reports shall
39 reference the treatment plan and include at a minimum the following:
40 Dates of attendance, respondent's compliance with requirements,

1 treatment activities, the respondent's relative progress in
2 treatment, and any other material specified by the court at the time
3 of the disposition.

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

6 If the offender violates any condition of the disposition or the
7 court finds that the respondent is failing to make satisfactory
8 progress in treatment, the court may impose sanctions pursuant to RCW
9 13.40.200 or revoke the suspension and order execution of the
10 disposition. The court shall give credit for any confinement time
11 previously served if that confinement was for the offense for which
12 the suspension is being revoked.

13 ~~((+7))~~ (8) For purposes of this section, "victim" means any
14 person who has sustained emotional, psychological, physical, or
15 financial injury to person or property as a direct result of the
16 offense charged. "Victim" may also include a known parent or guardian
17 of a victim who is a minor child or is not a minor child but is
18 incapacitated, incompetent, disabled, or deceased.

19 ~~((+8))~~ (9) Whenever a juvenile offender is entitled to credit
20 for time spent in detention prior to a dispositional order, the
21 dispositional order shall specifically state the number of days of
22 credit for time served.

23 ~~((+9))~~ (10) In no case shall the term of confinement imposed by
24 the court at disposition exceed that to which an adult could be
25 subjected for the same offense.

26 ~~((+10))~~ (11) A disposition under this section is not appealable
27 under RCW 13.40.230.

28 (12) Subject to funds appropriated for this specific purpose, the
29 costs incurred by the juvenile courts for the mental health, chemical
30 dependency, and/or co-occurring disorder evaluations, treatment, and
31 costs of supervision required under this section shall be paid by the
32 department.

33 NEW SECTION. **Sec. 4.** RCW 13.40.167 (Mental health disposition
34 alternative) and 2005 c 508 s 1 & 2003 c 378 s 4 are each repealed.

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