

take such additional action as may be reasonably necessary after consultation with the designated incident command agency in order to achieve compliance with all applicable federal and state laws and regulations.

Any person transporting hazardous materials that is responsible for causing ((the)) a hazardous materials incident, as defined in RCW 70.136.020, other than the operating employees of a transportation company, is liable to the state or any political subdivision thereof for extraordinary costs incurred by the state or the political subdivision in the course of protecting the public from actual or threatened harm resulting from the hazardous materials incident.

(2) Any person, other than a person transporting hazardous materials or an operating employee of a company, responsible for causing a hazardous materials incident, as defined in RCW 70.136.020, is liable to a municipal fire department or fire district for extraordinary costs incurred by the municipal fire department or fire district, in the course of protecting the public from actual or threatened harm resulting from the hazardous materials incident, until the incident oversight is assumed by the department of ecology.

(3) "Extraordinary costs" as used in this section means those reasonable and necessary costs incurred by a governmental entity in the course of protecting life and property that exceed the normal and usual expenses anticipated for police and fire protection, emergency services, and public works. These shall include, but not be limited to, overtime for public employees, unusual fuel consumption requirements, any loss or damage to publicly owned equipment, and the purchase or lease of any special equipment or services required to protect the public during the hazardous materials incident.

Passed the Senate April 17, 1989.

Passed the House April 13, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

CHAPTER 407

[Senate Bill No. 5833]

JUVENILE OFFENDERS—DISPOSITION AND SENTENCING

AN ACT Relating to the disposition and sentencing of juvenile offenders; and amending RCW 13.40.020, 13.40.027, 13.40.030, 13.40.160, 13.40.280, and 13.40.070; adding new sections to chapter 13.40 RCW; repealing RCW 13.40.035 and 13.40.036; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 56, chapter 291, Laws of 1977 ex. sess. as last amended by section 17, chapter 145, Laws of 1988 and RCW 13.40.020 are each amended to read as follows:

For the purposes of this chapter:

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

- (a) A class A felony, or an attempt to commit a class A felony;
- (b) Manslaughter in the first degree or rape in the second degree; or
- (c) Assault in the second degree, extortion in the first degree, child molestation in the first or second degree, rape of a child in the second degree, kidnapping in the second degree, robbery in the second degree, or burglary in the second degree, where such offenses include the infliction of bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator is armed with a deadly weapon or firearm as defined in RCW 9A.04.110;

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

(3) "Community supervision" means an order of disposition by the court of an adjudicated youth. A community supervision order for a single offense may be for a period of up to one year and include one or more of the following:

- (a) A fine, not to exceed one hundred dollars;
- (b) Community service not to exceed one hundred fifty hours of service;
- (c) Attendance of information classes;
- (d) Counseling; or
- (e) Such other services to the extent funds are available for such services, conditions, or limitations as the court may require which may not include confinement;

(4) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a facility operated by or pursuant to a contract with any county. Confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

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

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

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

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

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

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

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

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

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

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

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

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

(a) Four misdemeanors;

(b) Two misdemeanors and one gross misdemeanor;

(c) One misdemeanor and two gross misdemeanors;

(d) Three gross misdemeanors;

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

(f) One class B felony except: Any felony which constitutes an attempt to commit a class A felony; manslaughter in the first degree; rape in the second degree; assault in the second degree; extortion in the first degree; indecent liberties; kidnapping in the second degree; robbery in the second degree; burglary in the second degree; rape of a child in the second degree; vehicular homicide; child molestation in the first degree; or arson in the second degree.

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

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

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

(17) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, and lost wages resulting from physical injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(18) "Secretary" means the secretary of the department of social and health services;

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

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

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

Sec. 2. Section 4, chapter 299, Laws of 1981 as amended by section 9, chapter 288, Laws of 1986 and RCW 13.40.027 are each amended to read as follows:

(1) It is the responsibility of the commission to: (a) (i) Evaluate the effectiveness of existing disposition standards and related statutes in implementing policies set forth in RCW 13.40.010 generally and (ii) specifically review the guidelines relating to the confinement of minor and first offenders as well as the use of diversion (~~(-The committee shall propose modifications to the legislature regarding subsection (1)(a)(ii) of this section by January 1, 1987)~~); (b) solicit the comments and suggestions of the juvenile justice community concerning disposition standards; and (c) (~~develop and propose~~) make recommendations to the legislature regarding revisions or modifications of the disposition standards in accordance with RCW 13.40.030.

(2) It is the responsibility of the department to: (a) Provide the commission with available data concerning the implementation of the disposition standards and related statutes and their effect on the performance of the department's responsibilities relating to juvenile offenders; (b) at the request of the commission, provide technical and administrative assistance to the commission in the performance of its responsibilities; and (c) provide the commission and legislature with recommendations for modification of the disposition standards.

Sec. 3. Section 57, chapter 291, Laws of 1977 ex. sess. as last amended by section 1, chapter 73, Laws of 1985 and RCW 13.40.030 are each amended to read as follows:

(1) (a) The juvenile disposition standards commission shall ~~((propose))~~ recommend to the legislature no later than November 1st of each ~~((even-numbered))~~ year disposition standards for all offenses. The standards shall establish, in accordance with the purposes of this chapter, ranges which may include terms of confinement and/or community supervision established on the basis of a youth's age, the instant offense, and the history and seriousness of previous offenses, but in no case may the period of confinement and supervision exceed that to which an adult may be subjected for the same offense(s). Standards ~~((proposed))~~ recommended for offenders listed in RCW 13.40.020(1) shall include a range of confinement which may not be less than thirty days. No standard range may include a period of confinement which includes both more than thirty, and thirty or less, days. Disposition standards ~~((proposed))~~ recommended by the commission shall provide that in all cases where a youth is sentenced to a term of confinement in excess of thirty days the department may impose an additional period of parole not to exceed eighteen months. Standards of confinement which may be proposed may relate only to the length of the proposed terms and not to the nature of the security to be imposed. In developing ~~((proposed))~~ recommended disposition standards, the commission shall consider the capacity of the state juvenile facilities and the projected impact of the proposed standards on that capacity.

(b) The secretary shall submit guidelines pertaining to the nature of the security to be imposed on youth placed in his or her custody based on the age, offense(s), and criminal history of the juvenile offender. Such guidelines shall be submitted to the legislature for its review no later than November 1st of each ~~((even-numbered))~~ year. At the same time the secretary shall submit a report on security at juvenile facilities during the preceding ~~((two-year period))~~ year. The report shall include the number of escapes from each juvenile facility, the most serious offense for which each escapee had been confined, the number and nature of offenses found to have been committed by juveniles while on escape status, the number of authorized leaves granted, the number of failures to comply with leave requirements, the number and nature of offenses committed while on leave, and the number and nature of offenses committed by juveniles while in the community on minimum security status; to the extent this information is available to the secretary. The department shall include security status definitions in the security guidelines it submits to the legislature pursuant to this section.

(2) ~~((If the commission fails to propose disposition standards as provided in this section, the existing standards shall remain in effect and may be adopted by the legislature or referred to the commission for modification~~

~~as provided in subsection (3) of this section. If the standards are referred for modification, the provisions of subsection (4) shall be applicable.~~

~~(3) The legislature may adopt the proposed standards or refer the proposed standards to the commission for modification. If the legislature fails to adopt or refer the proposed standards to the commission by February 15th of the following year, the proposed standards shall take effect without legislative approval on July 1st of that year.~~

~~(4) If the legislature refers the proposed standards to the commission for modification on or before February 15th, the commission shall resubmit the proposed modifications to the legislature no later than March 1st. The legislature may adopt or modify the resubmitted proposed standards. If the legislature fails to adopt or modify the resubmitted proposed standards by April 1st, the resubmitted proposed standards shall take effect without legislative approval on July 1st of that year.~~

~~(5)) In developing ((and promulgating)) recommendations for the permissible ranges of confinement under this section the commission shall be subject to the following limitations:~~

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

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

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

Sec. 4. Section 70, chapter 291, Laws of 1977 ex. sess. as last amended by section 8, chapter 191, Laws of 1983 and RCW 13.40.160 are each amended to read as follows:

(1) When the respondent is found to be a serious offender, the court shall commit the offender to the department for the standard range of disposition for the offense, as indicated in option A of schedule D-3, section 7 of this act.

If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option B of schedule D-3, section 7 of this act. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(5), as now or hereafter amended, shall be used to determine the range. A disposition outside

the standard range is appealable under RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230 as now or hereafter amended.

(2) Where the respondent is found to be a minor or first offender, the court shall order that the respondent serve a term of community supervision as indicated in option A or option B of schedule D-1, section 7 of this act. If the court determines that a disposition of community supervision would effectuate a manifest injustice the court may impose another disposition under option C of schedule D-1, section 7 of this act. A disposition other than a community supervision may be imposed only after the court enters reasons upon which it bases its conclusions that imposition of community supervision would effectuate a manifest injustice. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(5), as now or hereafter amended, shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

Any disposition other than community supervision may be appealed as provided in RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition of community supervision may not be appealed under RCW 13.40.230 as now or hereafter amended.

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

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

(a) The court shall impose a determinate disposition within the standard range(s) for such offense, as indicated in option A of schedule D-2, section 7 of this act: PROVIDED, That if the standard range includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement; or

(b) The court shall impose a determinate disposition of community supervision and/or up to thirty days confinement, as indicated in option B of schedule D-2, section 7 of this act in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150 as now or hereafter amended.

(c) Only if the court concludes, and enters reasons for its conclusions, that disposition as provided in subsection (4) (a) or (b) of this section would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(5), as now or hereafter amended, shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

(d) A disposition pursuant to subsection (4)(c) of this section is appealable under RCW 13.40.230, as now or hereafter amended, by the state or the respondent. A disposition pursuant to subsection (4) (a) or (b) of this section is not appealable under RCW 13.40.230 as now or hereafter amended.

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

(6) In its dispositional order, the court shall not suspend or defer the imposition or the execution of the disposition.

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

NEW SECTION. Sec. 5. A new section is added to chapter 13.40 RCW to read as follows:

The sentencing guidelines and prosecuting standards apply equally to juvenile offenders in all parts of the state, without discrimination as to any element that does not relate to the crime or the previous record of the offender.

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

The total current offense points for use in the standards range matrix of schedules D-1, D-2, and D-3 are computed as follows:

(1) The disposition offense category is determined by the offense of conviction. Offenses are divided into ten levels of seriousness, ranging from low (seriousness level E) to high (seriousness level A+), see schedule A, section 7 of this act.

(2) The prior offense increase factor is summarized in schedule B, section 7 of this act. The increase factor is determined for each prior offense by using the time span and the offense category in the prior offense increase factor grid. Time span is computed from the date of the prior offense to the date of the current offense. The total increase factor is determined by totaling the increase factors for each prior offense and adding a constant factor of 1.0.

(3) The current offense points are summarized in schedule C, section 7 of this act. The current offense points are determined for each current offense by locating the juvenile's age on the horizontal axis and using the offense category on the vertical axis. The juvenile's age is determined as of the time of the current offense and is rounded down to the nearest whole number.

(4) The total current offense points are determined for each current offense by multiplying the total increase factor by the current offense points. The total current offense points are rounded down to the nearest whole number.

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

SCHEDULE A
DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPTED BAILJUMP, CONSPIRACY OR SOLICITATION
<u>Arson and Malicious Mischief</u>		
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is E class) (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
A	Possession of Incendiary Device (9.40.120)	B+
<u>Assault and Other Crimes Involving Physical Harm</u>		
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+
<u>Burglary and Trespass</u>		
B+	Burglary 1 (9A.52.020)	C+
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
D	Vehicle Prowling (9A.52.100)	E
<u>Drugs</u>		

SCHEDULE A
DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT BAILJUMP, CONSPIRACY, OR SOLICITATION
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030)	D+
E	Possession of Legend Drug (69.41.030)	E
B+	Violation of Uniform Controlled Substances Act – Narcotic Sale (69.50.401(a)(1)(i))	B+
C	Violation of Uniform Controlled Substances Act – Nonnarcotic Sale (69.50.401(a)(1)(ii))	C
E	Possession of Marihuana <40 grams (69.50.401(e))	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Glue Sniffing (9.47A.050)	E
B	Violation of Uniform Controlled Substances Act – Narcotic Counterfeit Substances (69.50.401(b)(1)(i))	B
C	Violation of Uniform Controlled Substances Act – Nonnarcotic Counterfeit Substances (69.50.401(b)(1) (ii), (iii), (iv))	C
C	Violation of Uniform Controlled Substances Act – Possession of a Controlled Substance (69.50.401(d))	C
C	Violation of Uniform Controlled Substances Act – Possession of a Controlled Substance (69.50.401(c))	C
<u>Firearms and Weapons</u>		
C+	Committing Crime When Armed (9.41.025)	D+

SCHEDULE A
DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
E	Use of Firearms by Minor (<14) (9.41.240)	E
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
<u>Homicide</u>		
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
<u>Kidnapping</u>		
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
D	Custodial Interference (9A.40.050)	E
<u>Obstructing Governmental Operation</u>		
E	Obstructing a Public Servant (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
E	Criminal Contempt (9.23.010)	E
<u>Public Disturbance</u>		
C+	Riot with Weapon (9A.84.010)	D+
D+	Riot Without Weapon (9A.84.010)	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
<u>Sex Crimes</u>		

SCHEDULE A
DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPTED BAILJUMP, CONSPIRACY OR SOLICITATION
A	Rape 1 (9A.44.040)	B+
A-	Rape 2 (9A.44.050)	B+
C+	Rape 3 (9A.44.060)	D+
A-	Rape of a Child 1 (9A.44.073)	B+
B	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Public Indecency (Victim <14) (9A.88.010)	E
E	Public Indecency (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
B+	Child Molestation 1 (9A.44.083)	C+
C+	Child Molestation 2 (9A.44.086)	C
	<u>Theft, Robbery, Extortion, and Forgery</u>	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock (9A.56.080)	C
C	Forgery (9A.56.020)	D
A	Robbery 1 (9A.56.200)	B+
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)	D
	<u>Motor Vehicle Related Crimes</u>	
E	Driving Without a License (46.20.021)	E

SCHEDULE A
DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPTED BAILJUMP, CONSPIRACY OR SOLICITATION
C	Hit and Run – Injury (46.52.020(4))	D
D	Hit and Run–Attended (46.52.020(5))	E
E	Hit and Run–Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.515)	E
B+	Negligent Homicide by Motor Vehicle (46.61.520)	C+
D	Vehicle Prowling (9A.52.100)	E
C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)	D
	<u>Other</u>	
B	Bomb Threat (9.61.160)	C
C	Escape 1* (9A.76.110)	C
C	Escape 2* (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
C	Failure to Appear in Court (10.19.130)	D
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D
D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)**	V

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

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

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

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

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

**SCHEDULE B
PRIOR OFFENSE INCREASE FACTOR**

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

OFFENSE CATEGORY	<u>TIME SPAN</u>		
	0-12 Months	13-24 Months	25 Months or More
A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
C+	.6	.3	.2
C	.5	.2	.2
D+	.3	.2	.1
D	.2	.1	.1
E	.1	.1	.1

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

**SCHEDULE C
CURRENT OFFENSE POINTS**

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

AGE

OFFENSE 12 &
CATEGORY Under

13 14 15 16 17

A+	STANDARD RANGE					180-224	WEEKS
A	250	300	350	375	375	375	375
A-	150	150	150	200	200	200	200
B+	110	110	120	130	140	140	150
B	45	45	50	50	57	57	57
C+	44	44	49	49	55	55	55
C	40	40	45	45	50	50	50
D+	16	18	20	22	24	24	26
D	14	16	18	20	22	22	24
E	4	4	4	6	8	8	10

JUVENILE SENTENCING STANDARDS
SCHEDULE D-1

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

MINOR/FIRST OFFENDER

OPTION A
STANDARD RANGE

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

OR

OPTION B
STATUTORY OPTION

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

0-100 Fine

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

OR

OPTION C
MANIFEST INJUSTICE

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

JUVENILE SENTENCING STANDARDS
SCHEDULE D-2

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

MIDDLE OFFENDER

OPTION A
STANDARD RANGE

Points	Community Supervision	Community	Fine	Confinement
		Service Hours		Days Weeks
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
110-129				8-12
130-149				13-16
150-199				21-28
200-249				30-40
250-299				52-65
300-374				80-100
375+				103-129

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

OR

OPTION B
STATUTORY OPTION

- 0–12 Months Community Supervision
- 0–150 Hours Community Service
- 0–100 Fine

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

OR

OPTION C
MANIFEST INJUSTICE

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

JUVENILE SENTENCING STANDARDS
SCHEDULE D–3

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

SERIOUS OFFENDER
OPTION A
STANDARD RANGE

<u>Points</u>	<u>Institution Time</u>
0–129	8–12 weeks
130–149	13–16 weeks
150–199	21–28 weeks
200–249	30–40 weeks
250–299	52–65 weeks
300–374	80–100 weeks
375+	103–129 weeks
All A+ Offenses	180–224 weeks

OR

OPTION B
MANIFEST INJUSTICE

A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(5), as now or hereafter amended, shall be used to determine the range.

Sec. 8. Section 22, chapter 191, Laws of 1983 and RCW 13.40.280 are each amended to read as follows:

(1) ~~((Notwithstanding the provisions of RCW 13.04.115,))~~ The secretary, with the consent of the secretary of the department of corrections, has the authority to transfer a juvenile presently or hereafter committed to the department of social and health services to the department of corrections for appropriate institutional placement in accordance with this section.

(2) The secretary of the department of social and health services may, with the consent of the secretary of the department of corrections, transfer a juvenile offender to the department of corrections if it is established at a hearing before a review board that continued placement of the juvenile offender in an institution for juvenile offenders presents a continuing and serious threat to the safety of others in the institution. The department of social and health services shall establish rules for the conduct of the hearing, including provision of counsel for the juvenile offender.

(3) A juvenile offender transferred to an institution operated by the department of corrections shall not remain in such an institution beyond the maximum term of confinement imposed by the juvenile court.

(4) A juvenile offender who has been transferred to the department of corrections under this section may, in the discretion of the secretary of the department of social and health services and with the consent of the secretary of the department of corrections, be transferred from an institution operated by the department of corrections to a facility for juvenile offenders deemed appropriate by the secretary.

Sec. 9. Section 61, chapter 291, Laws of 1977 ex. sess. as last amended by section 18, chapter 191, Laws of 1983 and RCW 13.40.070 are each amended to read as follows:

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

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

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

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

(3) If the requirements of subsections (1) (a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and (7) of this section. If the prosecutor ~~((neither files nor diverts the case, he))~~ finds that the requirements of subsection (1) (a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

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

(a) An alleged offender is accused of a class A felony, a class B felony, an attempt to commit a class B felony, assault in the third degree, rape in the third degree, or any other offense listed in RCW 13.40.020(1) (b) or (c); or

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

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

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

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

(7) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor shall be guided

only by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

(8) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversionary interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile.

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

NEW SECTION. Sec. 10. The following acts or parts of acts are each repealed:

- (1) Section 56, chapter 155, Laws of 1979 and RCW 13.40.035; and
- (2) Section 10, chapter 288, Laws of 1986 and RCW 13.40.036.

Passed the Senate April 22, 1989.

Passed the House April 21, 1989.

Approved by the Governor May 13, 1989.

Filed in Office of Secretary of State May 13, 1989.

CHAPTER 408

[Substitute Senate Bill No. 5947]

ABUSE SUFFERED BY DEFENDANT—CONSIDERATION AS MITIGATING CIRCUMSTANCE

AN ACT Relating to establishing a procedure for considering abuse suffered by a defendant as a mitigating circumstance for an exceptional sentence; and amending RCW 9.94A.390.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 10, chapter 115, Laws of 183 as last amended by section 2, chapter 131, Laws of 1987 and RCW 9.94A.390 are each amended to read as follows:

If the sentencing court finds that an exceptional sentence outside the standard range should be imposed in accordance with RCW 9.94A.120(2), the sentence is subject to review only as provided for in RCW 9.94A.210(4).

The following are illustrative factors which the court may consider in the exercise of its discretion to impose an exceptional sentence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

- (1) Mitigating Circumstances