

## CHAPTER 291

[Third Substitute House Bill No. 371]

## JUVENILES

AN ACT Relating to juveniles; amending section 2, chapter 160, Laws of 1913 as last amended by section 1, chapter 65, Laws of 1937 and RCW 13.04.030; amending section 3, chapter 160, Laws of 1913 as last amended by section 9, chapter 331, Laws of 1959 and RCW 13.04.040; amending section 3, chapter 30, Laws of 1965 as last amended by section 3, chapter 71, Laws of 1975-'76 2nd ex. sess. and RCW 74.13.020; amending section 17, chapter 172, Laws of 1967 as last amended by section 4, chapter 71, Laws of 1975-'76 2nd ex. sess. and RCW 74.13.031; amending section 5, chapter 160, Laws of 1913 and RCW 13.04.060; amending section 6, chapter 160, Laws of 1913 and RCW 13.04.070; amending section 7, chapter 160, Laws of 1913 as amended by section 4, chapter 302, Laws of 1961 and RCW 13.04.080; amending section 5, chapter 302, Laws of 1961 and RCW 13.04.091; amending section 15, chapter 160, Laws of 1913 and RCW 13.04.150; amending section 8, chapter 160, Laws of 1913 as last amended by section 1, chapter 138, Laws of 1969 ex. sess. and RCW 13.04.100; amending section 1, chapter 188, Laws of 1955 as amended by section 8, chapter 302, Laws of 1961 and RCW 13.04.105; amending section 5, chapter 13, Laws of 1965 as last amended by section 28, chapter 80, Laws of 1977 1st ex. sess. and RCW 26.44.050; amending section 28A.27.070, chapter 223, Laws of 1969 ex. sess. and RCW 28A.27.070; amending section 9A.76.010, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.76.010; adding new chapters to Title 13 RCW; adding new sections to chapter 13.04 RCW; creating new sections; repealing section 1, chapter 160, Laws of 1913, section 1, chapter 302, Laws of 1961 and RCW 13.04.010; repealing section 2, chapter 302, Laws of 1961, section 1, chapter 101, Laws of 1973 1st ex. sess. and RCW 13.04.053; repealing section 3, chapter 302, Laws of 1961 and RCW 13.04.056; repealing section 6, chapter 302, Laws of 1961, section 1, chapter 137, Laws of 1967, section 2, chapter 71, Laws of 1975-'76 2nd ex. sess. and RCW 13.04.095; repealing section 9, chapter 160, Laws of 1913 and RCW 13.04.110; repealing section 12, chapter 160, Laws of 1913, section 1, chapter 132, Laws of 1945, section 1, chapter 58, Laws of 1959 and RCW 13.04.120; repealing section 14, chapter 160, Laws of 1913 and RCW 13.04.140; repealing section 1, chapter 116, Laws of 1953 and RCW 13.04.170; repealing section 10, chapter 302, Laws of 1961 and RCW 13.04.190; repealing section 4, chapter 297, Laws of 1957, section 2, chapter 251, Laws of 1959, section 12, chapter 302, Laws of 1961, section 16, chapter 80, Laws of 1977 1st ex. sess. and RCW 13.04.200; repealing section 13, chapter 302, Laws of 1961 and RCW 13.04.210; repealing section 14, chapter 302, Laws of 1961, section 54, chapter 81, Laws of 1971 and RCW 13.04.220; repealing section 15, chapter 302, Laws of 1961 and RCW 13.04.230; repealing section 1, chapter 93, Laws of 1967 and RCW 13.04.250; prescribing penalties; making an appropriation; declaring an emergency; and providing effective dates.

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

## PART A

NEW SECTION. Section 1. This chapter shall be known as the "basic juvenile court act".

NEW SECTION. Sec. 2. For purposes of this chapter:

- (1) "Juvenile", "youth", and "child" shall mean any individual who is under the chronological age of eighteen years;
- (2) "Juvenile offender" and "juvenile offense" shall have the meaning ascribed in sections 55 through 78 of this 1977 amendatory act; and
- (3) "Court" when used without further qualification shall mean the juvenile court.

NEW SECTION. Sec. 3. (1) The juvenile court shall be a division of the superior court. In judicial districts having more than one judge of the superior court, the judges of such court shall annually, in the month of January, assign one or more of their number to the juvenile court division. In any judicial district having a court commissioner, the court commissioner shall have the power, authority, and

jurisdiction, concurrent with a juvenile court judge, to hear all cases under this chapter and to enter judgment and make orders with the same power, force, and effect as any judge of the juvenile court, subject to motion or demand by any party within ten days from the entry of the order or judgment by the court commissioner as provided in RCW 2.24.050.

(2) Cases in the juvenile court shall be tried without a jury.

Sec. 4. Section 2, chapter 160, Laws of 1913 as last amended by section 1, chapter 65, Laws of 1937 and RCW 13.04.030 are each amended to read as follows:

The ~~((superior))~~ juvenile courts in the several counties of this state, shall have exclusive original jurisdiction ~~((in all cases coming within the terms of this chapter))~~ over all proceedings:

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

(2) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in sections 31 through 45 of this 1977 amendatory act;

(3) Relating to the termination of a parent and child relationship as provided in sections 46 through 49 of this 1977 amendatory act;

(4) To approve or disapprove alternative residential placement as provided in sections 24 through 27 of this 1977 amendatory act;

(5) Relating to children alleged to be or found to be in need of involuntary civil commitment as provided in chapter 72.23 RCW;

(6) Relating to youth alleged or found to be a juvenile offender as provided in sections 56 through 77 of this 1977 amendatory act, unless:

(a) The juvenile court transfers jurisdiction to adult criminal court; or

(b) The period of limitations of actions applicable to adult prosecution for the offense alleged in the petition has expired; or

(c) The alleged offense involves a violation of the traffic laws, which is not a misdemeanor, by juveniles over fifteen years of age; and

(7) Under the interstate compact on juveniles as provided in chapter 13.24 RCW.

NEW SECTION. Sec. 5. Any person aggrieved by a final order of the juvenile court may appeal said order as provided by this section. All appeals in matters other than those related to commission of a juvenile offense shall be taken in the same manner as in other civil cases. Except as otherwise provided in this title, all appeals in matters related to the commission of a juvenile offense shall be taken in the same manner as criminal cases and the right to collateral relief shall be the same as in criminal cases. The order of the juvenile court shall stand pending the disposition of the appeal: PROVIDED, That the juvenile court or the appellate court may upon application stay said order.

If the final order from which an appeal is taken grants the custody of the child to, or withholds it from, any of the parties, or if the child is committed as provided under this chapter, the appeal shall be given priority in hearing.

NEW SECTION. Sec. 6. Juvenile court, probation counselor, and detention services shall be administered by the superior court, except that by local court rule

and agreement with the legislative authority of the county they may be administered by the legislative authority of the county in the manner prescribed by RCW 13.20.060: PROVIDED, That in any class AA county such services shall be administered in accordance with chapter 13.20 RCW. The administrative body shall appoint an administrator of juvenile court, probation counselor, and detention services who shall be responsible for day-to-day administration of such services, and who may also serve in the capacity of a probation counselor.

NEW SECTION. Sec. 7. The administrator shall after consultation with the state planning agency established under Title II of the federal juvenile justice and delinquency prevention act of 1974 (P.L. No. 93-415; 42 U.S.C. 5611 et seq.) following a public hearing, and after approval of the body responsible for administering the juvenile court, and no later than one hundred eighty days after the effective date of this 1977 amendatory act, adopt standards for the regulation and government of detention facilities for juveniles. Such standards may be revised from time to time, according to the procedure outlined in this section. Each detention facility shall keep a copy of such standards available for inspection at all times. Such standards shall be reviewed and the detention facilities shall be inspected annually by the administrator.

Sec. 8. Section 3, chapter 160, Laws of 1913 as last amended by section 9, chapter 331, Laws of 1959 and RCW 13.04.040 are each amended to read as follows:

The ~~((court))~~ administrator shall, in any county or judicial district in the state, appoint or designate one or more persons of good character to serve as probation counselors during the pleasure of the ~~((court))~~ administrator. ~~((In case a probation counselor shall be appointed by any court, the clerk of the court, if practicable, shall notify him in advance when a child is to be brought before said court.))~~ The probation counselor shall ~~((make such investigations as may be required by the court. The probation counselor shall inquire into the antecedents, character, family history, environments and cause of dependency or delinquency of every alleged dependent or delinquent child brought before the juvenile court and shall make his report in writing to the judge thereof. He shall be present in order to represent the interests of the child when the case is heard; he shall furnish the court such information and assistance as it may require, and shall take charge of the child before and after the trial as may be directed by the court))~~;

(1) Receive and examine referrals to the juvenile court for the purpose of considering the filing of a petition pursuant to sections 24, 32, 46, and 61 of this 1977 amendatory act;

(2) Make recommendations to the court regarding the need for continued detention or shelter care of a child unless otherwise provided in this title;

(3) Arrange and supervise diversion agreements as provided in section 62 of this 1977 amendatory act and ensure that the requirements of such agreements are met except as otherwise provided in this title;

(4) Prepare predisposition studies as required in sections 40 and 67 of this 1977 amendatory act and be present at the disposition hearing to respond to questions

regarding the predisposition study: PROVIDED, That such duties shall be performed by the department of social and health services for cases relating to dependency or to the termination of a parent and child relationship in any class A or AA county; and

(5) Supervise court orders of disposition to ensure that all requirements of the order are met.

All probation counselors shall possess all the powers conferred upon sheriffs and police officers to serve process and make arrests of juveniles under their supervision for the violation of any state law or county or city ordinance(~~(, relative to the care, custody, and control of delinquent and dependent children)~~).

The ~~((court))~~ administrator may, in any county or judicial district in the state, appoint one or more persons who shall have charge of detention rooms or house of detention.

The probation counselors and persons appointed to have charge of detention facilities shall each receive compensation which shall be fixed by the board of county commissioners, or ~~((fin))~~ in cases of joint counties, judicial districts of more than one county, or joint judicial districts such sums as shall be agreed upon by the boards of county commissioners of the counties affected, and such persons shall be paid as other county officers are paid.

The administrator is hereby authorized, and to the extent possible is encouraged to, contract with private agencies existing within the community for the provision of services to youthful offenders and youth who have entered into diversion agreements pursuant to section 62 of this 1977 amendatory act.

NEW SECTION. Sec. 9. It shall be the duty of the prosecuting attorney or the prosecuting attorney's deputy to present the evidence supporting any petition where the facts are contested, except in petitions to approve or disapprove alternative residential placement: PROVIDED, That it shall be the duty of the attorney general or the attorney general's assistant to present the evidence supporting any petition alleging dependency, or any petition seeking the termination of a parent and child relationship, which is filed in a class A or AA county, where the facts are contested: PROVIDED FURTHER, That the responsibility of the prosecuting attorney for proceedings relating to the commission of a juvenile offense shall be as provided in sections 61 and 63 of this 1977 amendatory act.

NEW SECTION. Sec. 10. (1) The following records shall be confidential and shall be released only pursuant to this chapter:

(a) The official juvenile court file: PROVIDED, That the official juvenile court file shall be open to public inspection in cases involving the commission of a juvenile offense;

(b) The social file;

(c) The records of public agencies, private agencies, or persons with respect to children committed to their custody; and

(d) All records pertaining to and in any way identifying juveniles subject to dependency or juvenile offender proceedings, such records having been produced or retained by any juvenile justice or care agency which shall include the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, or the department of social and health services and its contracting agencies.

(2) The official juvenile court file for a proceeding shall include the petition or information, motions, memorandums, briefs, findings of the court, court orders, and other reports and papers filed in juvenile court.

(3) The social file is the records and reports of the probation counselor and shall be filed separate from the official juvenile court file.

(4) Each petition or information filed with the court shall include only one child and each petition or information shall be filed under a separate docket number.

**NEW SECTION.** Sec. 11. (1) Where a specific provision of this chapter controls the use of information, then that specific provision governs, and in all other cases release and use of information will be governed by the provisions set forth in this section and section 12 of this 1977 amendatory act.

(2) It shall be the duty of any juvenile justice or care agency providing information to insure the accuracy of that information. To this end:

(a) An agency shall never knowingly record or provide inaccurate information;

(b) An agency shall take steps to insure the security of its records and to prevent tampering therewith; and

(c) An agency shall not supply any record which is not complete, i.e., does not contain information as to all action taken to date with respect to any incident, even if that action has been taken by another agency.

(3) Records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by such other participant or when such other participant is assigned the responsibility of supervising the juvenile. This section shall permit, in accordance with the laws on discovery of evidence applicable in adult criminal cases, counsel for the prosecution and defense and an accused juvenile full access to the records of other juveniles alleged to have committed offenses connected with the offense with which the accused juvenile is charged, and any juvenile witnesses involved in the case. The juvenile court and prosecutor may set up and maintain a central record keeping system which may receive information on all alleged juvenile offenders whether or not their cases are currently pending before the court, except as limited by subsection (2) of this section. The central record keeping system may be computerized and shall have adequate safeguards to protect against improper disclosure of information.

(4) Upon request of a juvenile or such juvenile's parents or attorney, information concerning such juvenile shall be released to the juvenile, or to such juvenile's parents or attorney, for purposes of checking its accuracy.

(5) Information which could not reasonably be expected to identify the youth or the youth's family may be released to the public.

(6) Upon request of the victim of the crime or the victim's immediate family, the identity of an alleged or proven juvenile offender and his or her parent, guardian, or custodian and the circumstances of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.

(7) Information which is necessary to the preparation of an accused juvenile's defense or to protect a juvenile's interests in a dependency proceeding shall be released to such juvenile or to such juvenile's parents or attorney.

(8) Information which has not been destroyed pursuant to section 12 of this 1977 amendatory act shall be released to participants in the adult criminal justice and corrections system including prosecutors, defendants, defense counsel, and probation or parole officers, concerning the juvenile record of an adult criminal defendant or witness in an adult criminal proceeding after a charge has actually been filed in court.

(9) Nothing in this chapter shall be construed as preventing a crime victim or a member of the victim's family from divulging the identity of the juvenile offender or the juvenile's family where necessary in a civil proceeding.

**NEW SECTION.** Sec. 12. (1) Any person who believes that he or she may be the subject of any juvenile justice or care record keeping shall have the right, in person or through a parent or attorney, to inquire as to whether a record exists and to be shown such record if it exists. If that record is properly in the possession of the agency maintaining it, the subject shall have the right to challenge the information therein and to have it corrected if it is in error. If that record is not properly in the possession of the agency maintaining it, the subject shall have the right to have it destroyed. Any agency maintaining such records shall promulgate administrative procedures to facilitate such inquiries, and the subject of any record shall have the right to enforce the provisions of this section by equitable or legal proceedings in the superior court.

(2) On motion on the part of a person who has been the subject of an information alleging a juvenile offense or the subject of a dependency petition, or on the court's own motion, the court shall vacate its order and findings, if any, and order the sealing of the legal and social files and records of the court and of any other agency in the case if it finds that:

(a) Two years have elapsed since the final discharge of the person from legal custody or since the entry of any other court order not involving custody; and

(b) The person has not entered into a diversion agreement nor has been found to have committed a crime prior to the filing of the motion, and no proceeding is pending seeking such conviction or adjudication. The motion and the order may include the files and records specified in subsections (3) and (4) of this section.

(3) Reasonable notice of the motion shall be given to:

(a) The prosecutor;

(b) Defense counsel of record;

(c) The department of social and health services, if custody of the child has ever been transferred to the department; and

(d) The law enforcement officers, department, and central depository having custody of the files and records if the files and records specified in section 11 of this 1977 amendatory act are included in the motion.

(4) Upon the entry of the order, the proceedings in the case shall be treated as if they never occurred, and the court and law enforcement officers and departments shall reply and the subject person may reply to any inquiry that juvenile records are confidential.

Inspection of the files and records included in the order may thereafter be permitted by the court only upon motion of the person who is the subject of such records or the prosecuting attorney, and only by those persons named in such motion.

However, the court in its discretion may by special order in an individual case permit inspection by or release of information in the records to any clinic, hospital, or agency which has the subject person under care or treatment, or individuals or agencies engaged in research.

(5) Any adjudication of the commission of a crime subsequent to sealing shall have the effect of nullifying the sealing order.

(6) A person who has been the subject of an information alleging a juvenile offense and has met the conditions stipulated in subsection (2)(b) of this section may, five years after reaching the age of majority, file a motion requesting the destruction of all records pertaining to his or her case. If the court grants the motion, copies of the order shall be sent to all offices or agencies that are repositories of such records and all such offices and agencies shall comply with the order.

(7) A person who has been the subject of an information alleging a juvenile offense shall be notified of his or her rights under this section at the time of his or her final discharge.

**NEW SECTION.** Sec. 13. Nothing in this chapter shall be construed to prevent the expungement of any juvenile record ordered expunged by a court to preserve the due process rights of its subject.

**NEW SECTION.** Sec. 14. Notwithstanding any other provision of this chapter, whenever a child is arrested for a violation of any law, including municipal ordinances, regulating the operation of vehicles on the public highways, a copy of the traffic citation and a record of the action taken by the juvenile court shall be forwarded by the court to the director of licenses in the same manner as provided in RCW 46.20.280.

**NEW SECTION.** Sec. 15. Sections 1, 2, 3, 5, 6, 7, and 9 through 14 of this 1977 amendatory act shall be added to chapter 13.04 RCW.

## PART B

**NEW SECTION.** Sec. 16. This chapter shall be known as the "Runaway Youth Act".

**NEW SECTION.** Sec. 17. A law enforcement officer may take a juvenile into limited custody subject to the limitations of this chapter if (1) a law enforcement agency has been contacted by the parent, guardian, or custodian of the child that their child is absent from home without their consent, or (2) if the officer reasonably believes that a juvenile is in circumstances which constitute a substantial and immediate danger to the juvenile's physical safety. In no event shall limited custody extend more than twelve hours from the time of the juvenile's initial contact with the law enforcement officer.

**NEW SECTION.** Sec. 18. (1) An officer taking a juvenile into limited custody shall inform the juvenile of the reason for such custody and shall, if the juvenile consents, transport the juvenile to his or her home or to a relative or other responsible person, or arrange for such transportation.

(2) The officer so releasing a juvenile from limited custody shall inform the parent, custodian, relative, or other responsible person of the reason for taking the juvenile into limited custody and shall, if he or she believes further services may be needed, inform the juvenile and the person to whom the juvenile is released of the

nature and location of appropriate services and shall offer to assist in establishing contact between the family and the service agency.

(3) Where a parent or custodian cannot be reached and release is made to a relative or other responsible person, the officer shall notify the parent or custodian as soon as practicable of the fact and circumstances of the limited custody, the release of the juvenile, and any information given respecting further services.

(4) Where a juvenile is released from limited custody to a person other than a parent or custodian, such person shall reasonably establish that he or she is willing and able to be responsible for the safety of the juvenile.

(5) If the law enforcement officer is unable by all reasonable efforts to contact a parent, custodian, relative, or other responsible person; or if the person contacted lives at an unreasonable distance; or if the juvenile refuses to be taken to his or her home or other appropriate residence; or if the officer is otherwise unable despite all reasonable efforts to make arrangements for the safe release of the juvenile taken into limited custody, the law enforcement officer shall take the juvenile to a designated temporary nonsecure residential facility licensed by the department of social and health services and established pursuant to chapter 74.13 RCW.

**NEW SECTION.** Sec. 19. A law enforcement officer acting reasonably and in good faith pursuant to this chapter in releasing a juvenile to a person other than a parent or custodian of such juvenile shall be immune from civil or criminal liability for such action.

**NEW SECTION.** Sec. 20. Sections 16 through 19 of this 1977 amendatory act shall constitute a new chapter in Title 13 RCW.

Sec. 21. Section 3, chapter 30, Laws of 1965 as last amended by section 3, chapter 71, Laws of 1975-'76 2nd ex. sess. and RCW 74.13.020 are each amended to read as follows:

As used in Title 74 RCW, child welfare services shall be defined as public social services including adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(1) Preventing or remedying, or assisting in the solution of problems which may result in the neglect, abuse, exploitation, or delinquency of children;

(2) Protecting and caring for homeless, dependent, ~~((incorrigible as defined in RCW 13.04.010(7)))~~ or neglected children;

(3) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children with services designed to resolve such conflicts;

(4) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

~~((4))~~ (5) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

As used in this chapter, child means a person less than eighteen years of age.

Sec. 22. Section 17, chapter 172, Laws of 1967 as last amended by section 4, chapter 71, Laws of 1975-'76 2nd ex. sess. and RCW 74.13.031 are each amended to read as follows:

The department shall have the duty to provide child welfare services as defined in RCW 74.13.020, and shall:



(1) Develop, administer, and supervise a plan that establishes, extends aid to, and strengthens services for the protection and care of homeless, dependent children, ~~((incorrigible children as defined by RCW 13.04.010(7).))~~ neglected children, or ~~((children in danger of becoming delinquent))~~ juvenile offenders.

(2) Investigate complaints of neglect, abuse, or abandonment of children by parents, guardians, custodians, or persons serving in loco parentis, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, guardians, custodians or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. If the investigation reveals that a crime may have been committed, notify the appropriate law enforcement agency.

(3) Offer, on a voluntary basis, crisis intervention to families who are in conflict.

Crisis intervention services (a) shall consist of an interview or series of interviews with the child or his or her family, as needed, conducted within a brief period of time by qualified professional persons, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the child or the family; and (b) may include, but are not limited to, the provision of or referral to services for suicide prevention, psychiatric or other medical care, or psychological, welfare, legal, educational, or other social services, as appropriate to the needs of the child and the family.

Nothing in this section shall prohibit an officer of the child welfare services from referring any child who, as a result of a mental or emotional disorder, or intoxication by alcohol or other drugs, is suicidal, seriously assaultive or seriously destructive towards others, or otherwise similarly evidences an immediate need for emergency medical evaluation and possible care, to a community mental health center pursuant to RCW 72.23.070.

(4) Have authority to accept for temporary residential care in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW a child who has been taken into limited custody pursuant to section 17 of this 1977 amendatory act: PROVIDED, That a juvenile shall in no event remain in temporary residential care for a period longer than seventy-two hours from the time of the juvenile's initial contact with the law enforcement officer except as otherwise provided in this section. Upon accepting the child, the staff of the facility shall notify the child's parents or custodian of his or her whereabouts, physical and emotional condition, and the circumstances surrounding his or her placement and shall undertake to make arrangements for the child's return home.

In every case crisis intervention services shall be provided as needed and the staff of the temporary facility shall seek to effect the child's return home or alternative living arrangement agreeable to the child and the parent or custodian as soon as practicable.

(a) If, after his or her admission to a temporary residential facility, a child who is absent from home without permission and his or her parent or custodian agrees to the child's return home, the staff of the facility shall arrange transportation for the juvenile, as soon as practicable, to the county of residence of the parent or custodian, at the latter's expense to the extent of his or her ability to pay.

(b) If the child refuses to return home and if no other living arrangements agreeable to the child and the parent or custodian can be made, the staff of the facility shall arrange transportation for the child to a temporary nonsecure residential facility in the county of residence of the parent or custodian, at the expense of the latter to the extent of his or her ability to pay. If there is no such facility in the county of that residence, the nearest such facility to that residence shall be used.

(c) If a child's legal residence is outside the state of Washington and such child refuses to return home, the provisions of RCW 13.24.010 shall apply.

(d) If the parent or custodian refuses to permit the child to return home, and no other living arrangement agreeable to the child and the parent or custodian can be made, staff of the child welfare services section shall notify the juvenile court to appoint legal counsel for the child and shall file a dependency petition in the juvenile court in the jurisdiction of the residence of the parent or custodian.

(e) If a child and his or her parent or guardian agree to an arrangement for alternative residential placement, such placement may continue as long as there is agreement. During any alternative residential placement, there shall be provided to the child and to his or her family such services as may be appropriate to the particular case, to the end that the child may be reunited with the family as soon as practicable.

(f) If such child and his or her parent or custodian cannot agree to an arrangement for alternative residential placement in the first instance, or cannot agree to the continuation of such placement, the child or his or her parent or custodian may file with the juvenile court a petition to approve alternative residential placement pursuant to section 24 of this 1977 amendatory act. The child shall remain in the placement where he or she is located at the time a petition to approve alternative residential placement is filed until a placement decision is made pursuant to section 26 of this 1977 amendatory act.

(g) In no event shall alternative residential placement for a child in conflict with his or her family be arranged in a secure detention facility or in a secure institution except as provided in this subsection and section 42 of this 1977 amendatory act. A child in conflict with his or her parents may be detained in a secure detention facility operated by a county for a maximum of seventy-two hours if:

(i) The staff of the child welfare services section find that the child taken into limited custody has previously been placed in alternative residential care and has run away from such placement and that it is likely that the child will run away from another and different residential placement; or

(ii) The child refuses to return home and refuses to be placed in alternative residential care.

During such detention, efforts shall be continued to the end that the child may be returned home or other living arrangements agreeable to the child and his or her parent, guardian, or custodian are made. If an agreement concerning living arrangements for the child cannot be reached a petition shall be filed within forty-eight hours after initial detention of the child, pursuant to subsection (4)(f) of this section. The hearing on the petition shall be held within seventy-two hours, excluding Sundays and holidays, of the initial detention of the child. If the hearing on the petition is not held within these time limits the child shall be released from detention.

(5) Cooperate with other public and voluntary agencies and organizations in the development and coordination of programs and activities in behalf of children including but not limited to contracting with private and public entities to provide basic education and vocational training and crisis intervention services.

~~((4))~~ (6) Have authority to accept custody of children from parents, guardians, and/or juvenile courts, to provide child welfare services including placement for adoption, and to provide for the physical care of such children and to make payment of maintenance costs if needed. ~~((A child in need of detention, whether alleged to be dependent or delinquent, shall, prior to findings and disposition by the court pursuant to RCW 13.04.095 as now or hereafter amended, be the responsibility of and provided for by the juvenile court.))~~

~~((5))~~ (7) Have authority to purchase care for children and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

~~((6))~~ (8) Establish a child welfare and day care advisory committee who shall act as an advisory committee to the state advisory committee and to the secretary in the development of policy on all matters pertaining to child welfare, day care, licensing of child care agencies, and services related thereto.

(9) Notwithstanding any other provision of sections 16 through 19, 21, and 22 of this 1977 amendatory act, all services to be provided by the department of social and health services under subsections (3) and (4) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Title II of the federal juvenile justice and delinquency prevention act of 1974 (P.L. No. 93-415; 42 U.S.C. 5634 et seq.).

NEW SECTION. Sec. 23. This chapter shall be known as the "Juvenile Court Procedure for Families In Conflict".

NEW SECTION. Sec. 24. A child or a child's parent or custodian may file with the juvenile court a petition to approve alternative residential placement as provided in RCW 74.13.031(4)(f) as now or hereafter amended. The filing of a petition to approve such placement is not dependent upon the court's having obtained any prior jurisdiction over the child or his or her parent or custodian, and confers upon the court a special jurisdiction to approve or disapprove alternative residential placement or its continuation.

NEW SECTION. Sec. 25. The juvenile court shall promptly appoint legal counsel for the child whether or not the child is the moving party, schedule a hearing date, and notify the child and his or her parent or custodian of the hearing date, the legal consequences of an approval or disapproval of alternative residential placement, the right of both parties to present evidence at the hearing, and the right of the parent or custodian to be represented by legal counsel at the hearing.

NEW SECTION. Sec. 26. The hearing shall be upon the question of the child's placement. Prior to approving an alternative residential placement, the court shall find by a preponderance of the evidence that the reasons for request of alternative residential placement are not capricious and that there is a conflict between the

parent and the child that cannot be remedied by counseling, crisis intervention, or continued placement in the parental home.

After making such a finding the court may approve the placement in which the child resides or wishes to reside or the court may place the child in such nonsecure licensed care as is deemed appropriate taking into account the interests of the parents and the best interests of the child.

NEW SECTION. Sec. 27. Upon approving an alternative residential placement pursuant to this section, the court shall schedule the matter on the calendar for review within six months, advise the parties of the date thereof, appoint legal counsel to represent the child at the review hearing, and notify the parties of their rights to present evidence at the review hearing and of the right of the parent or custodian to be represented by legal counsel. At each review hearing, the juvenile court: (1) Shall approve or disapprove the continuation of the alternative residential placement according to the same standards and limitations as governed the initial approval; (2) shall determine that such interim services as may be appropriate have been offered the child and his or her family, pursuant to RCW 74.13.031 as now or hereafter amended; and (3) shall again set the matter on the calendar for further review in six months, notifying the parties as before.

NEW SECTION. Sec. 28. Sections 23 through 27 of this 1977 amendatory act shall constitute a new chapter in Title 13 RCW.

## PART C

NEW SECTION. Sec. 29. This chapter shall be known as the "Juvenile Court Act in Cases Relating to Dependency of a Child and the Termination of a Parent and Child Relationship".

NEW SECTION. Sec. 30. The legislature declares that the family unit is a fundamental resource of American life which should be nurtured. Toward the continuance of this principle, the legislature declares that the family unit should remain intact in the absence of compelling evidence to the contrary.

NEW SECTION. Sec. 31. For purposes of this chapter:

(1) "Child" and "juvenile" shall mean any individual under the age of eighteen years;

(2) "Dependent child" shall mean any child:

(a) Who has been abandoned; that is, left by his or her parents, guardian, or other custodian without parental care and support; or

(b) Who is abused or neglected as defined in chapter 26.44 RCW; or

(c) Who has no parent, guardian, or custodian; or

(d) Any child:

(i) Who is in conflict with his or her parent, guardian, or custodian;

(ii) Who refuses to remain in any nonsecure residential placement ordered by a court pursuant to section 26 of this 1977 amendatory act;

(iii) Whose conduct evidences a substantial likelihood of degenerating into serious delinquent behavior if not corrected; and

(iv) Who is in need of custodial treatment in a diagnostic and treatment facility.

Sec. 32. Section 5, chapter 160, Laws of 1913 and RCW 13.04.060 are each amended to read as follows:

Any person may file with the clerk of the superior court a petition showing that there is within the county, or residing within the county, a dependent (~~(or delinquent)~~) child and praying that the superior court deal with such child as provided in this chapter: PROVIDED, That in counties having paid probation officers, such officers shall, as far as possible, first determine if such petition is reasonably justifiable. Such petition shall be verified and shall contain a statement of facts constituting such dependency (~~(or delinquency)~~), as defined in (~~(RCW 13.04.010)~~) this chapter, and the names and residence, if known to the petitioner, of the parents, guardian, or custodian of such dependent (~~(or delinquent)~~) child. There shall be no fee for filing such petitions.

**NEW SECTION.** Sec. 33. The juvenile court may enter an order directing a law enforcement officer, probation counselor, or child protective services official to take a child into custody if a petition is filed with the juvenile court alleging that the child is dependent and the court finds reasonable grounds to believe the child is dependent and that the child's health, safety, and welfare will be seriously endangered if not taken into custody.

**NEW SECTION.** Sec. 34. (1) A child taken into custody pursuant to section 33 or 51 of this 1977 amendatory act shall be immediately placed in shelter care. "Shelter care" means temporary physical care in a foster family home or receiving home licensed pursuant to RCW 74.15.030. In no case shall a child who is taken into custody pursuant to section 33 or 51 of this 1977 amendatory act be detained in a secure detention facility. No child may be held longer than seventy-two hours, excluding Sundays and holidays, after such child is taken into custody unless a court order has been entered for continued shelter care. The child and his or her parent, guardian, or custodian shall be informed that they have a right to a preliminary shelter care hearing. The court shall hold a preliminary shelter care hearing if one is requested.

(2) The juvenile court counselor assigned to the matter shall advise the parents, guardian, or legal custodian of the time and place of any shelter care hearing, request that they be present, and inform them of their basic rights as provided in section 37 of this 1977 amendatory act.

(3) At the commencement of the shelter care hearing the court shall advise the parties of their basic rights as provided in section 37 of this 1977 amendatory act and shall appoint counsel pursuant to section 37 of this 1977 amendatory act if counsel has not been retained by the parent or guardian or if the parent or guardian is indigent, unless the court finds that the right to counsel has been expressly and voluntarily waived.

(4) The court shall take testimony concerning the circumstances for taking the child into custody and the need for shelter care. The court shall give the child and the child's parent or guardian and the parent's or guardian's counsel an opportunity to introduce evidence, to be heard in their own behalf, and to examine witnesses.

(5) In class A and AA counties the department of social and health services (and in all other counties the juvenile court probation counselor) shall submit a recommendation to the court as to the further need for shelter care.

(6) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or custodian or other suitable person able and willing to provide supervision and care for such child unless the court finds there is reasonable cause to believe that:

(a) The child has no parent, guardian, custodian, or other suitable person to provide supervision and care for such child; or

(b) The release of such child would present a serious threat of substantial harm to such child.

If continued shelter care is ordered, the court shall set forth its reasons for continued shelter care.

(7) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(8) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. No child shall be detained for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

Sec. 35. Section 6, chapter 160, Laws of 1913 and RCW 13.04.070 are each amended to read as follows:

(1) Upon the filing of ((an information, or)) the petition, the clerk of the court shall issue a summons ((requiring the person having custody or control of the child, or with whom the child may be, to appear with the child at a place and time stated in the summons, which time shall not be less than twenty-four hours after service. The parents of the child, if living, and their residence is known, or its legal guardian, if there be one or if there is neither parent nor guardian, or if his or her residence is not known, then some relative, if there be one, and his residence is known, shall be notified of the proceedings; and in any case the judge shall appoint some suitable person or association to act in behalf of the child)), one directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the petition. Where the custodian is summoned, the parent or guardian or both shall also be served with a summons.

(2) A copy of the petition shall be attached to each summons.

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

(4) The judge may endorse upon the summons an order directing any parent, guardian, or custodian having the custody or control of the child to bring the child to the hearing.

(5) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the child needs to be taken into custody pursuant to section 33 of this 1977 amendatory act, the judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody and take him to the place of shelter designated by the court.

(6) If a party to be served with a summons can be found within the state, the summons shall be served upon the party personally at least five court days before

the fact-finding hearing, or such time as set by the court. If the party is within the state and cannot be personally served, but the party's address is known or can with reasonable diligence be ascertained, the summons may be served upon the party by mailing a copy thereof by certified mail at least ten court days before the hearing, or such time as set by the court. If a party other than the child is without the state but can be found or the address is known, or can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy thereof to the party personally or by mailing a copy thereof to the party by certified mail at least ten court days before the fact-finding hearing, or such time as set by the court.

(7) Service of summons may be made under the direction of the court by any person twenty-one years of age or older who is not a party to the proceedings or by any law enforcement officer, probation counselor, or department of social and health services social worker.

(8) If the person summoned as herein provided, shall fail without reasonable cause to appear and abide the order of the court, ((or bring the child;)) he ((shall)) may be proceeded against as for contempt of court. ((In case the summons cannot be served or the parties served fail to obey [the] same, and in any case when it shall be made to appear to the court that said summons will be ineffectual, a warrant may issue on the order of the court, either against the parent or guardian or the person having custody of the child, or with whom the child may be, or against the child itself. On return of the summons or other process, or as soon thereafter as may be, the court shall proceed to hear and dispose of the case in a summary manner. Pending the final disposition of the case, the child may be retained in the possession of the person having charge of same, or may be kept in some suitable place provided by the city or county authorities, or by any association having for one of its objects the care of delinquent and dependent children:))

Sec. 36. Section 7, chapter 160, Laws of 1913 as amended by section 4, chapter 302, Laws of 1961 and RCW 13.04.080 are each amended to read as follows:

In ((any)) a dependency case where it shall appear by the petition or verified statement, that the person standing in the position of natural or legal guardian of the person of any child, is a nonresident of this state, or that the name or place of residence or whereabouts of such person is unknown, as well as in all cases where, after due diligence, the officer has been unable to make service of the summons or notice provided for in ((RCW 13.04.070)) section 35 of this 1977 amendatory act, and a copy of said notice has been deposited in the post office, postage prepaid, directed to such person at his last known place of residence, the court may order said notice published in a legal newspaper printed in the county, qualified to publish summons, once a week for three consecutive weeks, the first publication of said notice to be at least twenty-five days prior to the date fixed for the hearing. Such notice shall be directed to the parent, parents, or other person claiming the right to the custody of the child, if their names are known, or if unknown, the phrase "To whom it may concern" shall be used and apply to, and be binding upon, any such persons whose names are unknown. The name of the court, the name of the child (or children if of one family), the date of the filing of the petition and the date of hearing and the object of the proceeding in general terms, shall be set forth and the

whole shall be subscribed by the clerk. There shall be filed with the clerk an affidavit showing due publication of the notice and the cost of publication shall be paid by the county at not to exceed the rate paid by the county for other legal notices. The publication of notice shall be deemed equivalent to personal service upon all persons, known or unknown, who have been designated as provided in this section.

**NEW SECTION.** Sec. 37. Any party has a right to be represented by an attorney of his or her own choosing in all proceedings under this chapter, to introduce evidence, to be heard in his or her own behalf, to examine witnesses, to receive a decision based solely on the evidence adduced at the hearing, and to an unbiased fact-finder.

At all stages of a proceeding in which a child is alleged to be dependent pursuant to section 31 (2) (a), (b), or (c) of this 1977 amendatory act, the child's parent or guardian shall have the right to be represented by counsel, and if indigent, to have counsel appointed for him or her by the court.

A child alleged to be dependent pursuant to section 31(2)(d) of this 1977 amendatory act shall have the right to appointed counsel.

**NEW SECTION.** Sec. 38. The court, at any stage of a proceeding under this chapter, may appoint a guardian ad litem for a child who is a party to the proceedings. A party to the proceeding or the party's employee or representative shall not be so appointed. Such guardian ad litem shall receive all notice contemplated for a parent in all proceedings under this chapter.

Sec. 39. Section 5, chapter 302, Laws of 1961 and RCW 13.04.091 are each amended to read as follows:

The court shall hold a fact-finding hearing on the petition and, unless the court dismisses the petition, shall make written findings of fact, stating the reasons therefor, and after it has announced its findings of fact shall hold a hearing to consider disposition of the case immediately following the fact-finding hearing or at a continued hearing within fourteen days. No social file or social study shall be considered by the court in connection with the fact-finding hearing or prior to factual determination. Notice of the time and place of the continued hearing may be given in open court. If notice in open court is not given to a party, that party shall be notified by mail of the time and place of any continued hearing.

All hearings may be conducted at any time or place within the limits of the county, and such cases shall not be heard in conjunction with other business of any other division of the superior court. The general public shall be excluded and only such persons shall be admitted who are found by the judge to have a direct interest in the case or in the work of the court.

Stenographic notes or any device which accurately records the proceedings may be required as provided in other civil cases pursuant to RCW 2.32.200.

**NEW SECTION.** Sec. 40. (1) To aid the court in its decision on disposition, a social study, consisting of a written evaluation of matters relevant to the disposition of the case, shall be made. The study shall include all social records and shall be made available to the court. The court shall consider the social file and social study at the disposition hearing in addition to evidence produced at the fact-finding hearing.



(2) In addition to the requirements set forth in subsection (1) of this section, a predisposition study to the court in cases of dependency alleged pursuant to section 31(2)(b) of this 1977 amendatory act shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific programs, for both the parents and child, that are needed in order to prevent further harm to the child; the reasons why such programs are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs which have been considered and rejected; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal. This section should include an exploration of the nature of the parent-child attachment and the meaning of separation and loss to both the parents and the child;

(e) A description of the steps that will be taken to minimize harm to the child that may result if separation occurs; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

**NEW SECTION.** Sec. 41. If, after a fact-finding hearing pursuant to section 39 of this 1977 amendatory act, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of section 31(2) (a), (b), or (c) of this 1977 amendatory act; after consideration of the predisposition report prepared pursuant to section 39 of this 1977 amendatory act and after a disposition hearing has been held pursuant to section 39 of this 1977 amendatory act, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be placed in foster care. Such an order may be made only if:

(i) There is no parent or guardian available to care for such child; or

(ii) The child is unwilling to reside in the custody of the child's parent or guardian; or

(iii) The parent or guardian is not willing to take custody of the child; or

(iv) A manifest danger would exist that the child will suffer further abuse or neglect if the child is not removed from the home.

(2) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties.

(a) The agency plan shall specify what services the parents will receive in order to enable them to resume custody and what actions the parents must take in order to resume custody.

(b) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement.

(c) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(d) The agency charged with supervising a child in placement shall be responsible for assuming that all services are provided. It shall report to the court if it is unable to provide such services.

(3) The status of all children found to be dependent shall be reviewed by the court at least every six months at a hearing in which it shall be determined whether court supervision should continue.

(a) A child shall be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section still exists. When a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) What services have been provided to or offered to the parents to facilitate reunion;

(ii) The extent to which the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(iii) Whether the agency is satisfied with the cooperation given to it by the parents;

(iv) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order such services; and

(v) When return of the child can be expected.

(c) If a child is not returned to the child's home, at such review hearing the court shall advise the parents that a petition to seek termination of parental rights may be ordered at the next review hearing.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

**NEW SECTION.** Sec. 42. If after a fact-finding hearing it has been proven beyond a reasonable doubt that a child is dependent within the meaning of section 31(2)(d) of this 1977 amendatory act, and after consideration of the predisposition report and after a disposition hearing, the court may order one of the following dispositions of the child:

(a) Placement of the child in an alternative nonsecure residential facility pursuant to section 26 of this 1977 amendatory act;

(b) Commitment to the department of social and health services for placement in a custodial diagnostic and treatment facility for not more than thirty days only if other less restrictive alternatives have failed, if such a treatment facility is available, and if the diagnosis and treatment is reasonably expected to prevent degeneration of the child's conduct into serious delinquent behavior: **PROVIDED, That**

such housing and treatment shall be entirely separate from that of youth who have been found guilty of committing a felony or misdemeanor.

Sec. 43. Section 15, chapter 160, Laws of 1913 and RCW 13.04.150 are each amended to read as follows:

Any order made by the court in the case of a dependent (~~(or delinquent)~~) child may at any time be changed, modified or set aside, as to the judge may seem meet and proper.

Sec. 44. Section 8, chapter 160, Laws of 1913 as last amended by section 1, chapter 138, Laws of 1969 ex. sess. and RCW 13.04.100 are each amended to read as follows:

~~((An order of commitment may be temporary or permanent in the discretion of the court, and may be revoked or modified as the circumstances of the case may thereafter require.))~~ In any case in which the court shall find the child dependent (~~(or delinquent)~~), it may in the same or subsequent proceeding upon the parent or parents, guardian, or other person having custody of said child, being duly summoned or voluntarily appearing, proceed to inquire into the ability of such persons or person to support the child or contribute to its support, and if the court shall find such person or persons able to support the child or contribute thereto, the court may enter such order or decree as shall be according to equity in the premises, and may enforce the same by execution, or in any way in which a court of equity may enforce its decrees: PROVIDED, That no support payments shall be required of a parent who, throughout a dependence proceeding pursuant to section 31 (2) (d) of this 1977 amendatory act, has continuously sought reconciliation with, and the return of, his or her child, unless such parent has been found to have abused or neglected such children.

Sec. 45. Section 1, chapter 188, Laws of 1955 as amended by section 8, chapter 302, Laws of 1961 and RCW 13.04.105 are each amended to read as follows:

In any case in which an order or decree of the juvenile court requiring a parent or parents, guardian, or other person having custody of a child to pay for (~~(detention)~~) shelter care and/or support of such child is not complied with, the court may, upon such person or persons being duly summoned or voluntarily appearing, proceed to inquire into the amount due upon said order or decree and enter judgment for such amount against the defaulting party or parties, and such judgment shall be docketed as are other judgments for the payment of money.

In such judgments, the county in which the same are entered shall be denominated the judgment creditor, or the state may be the judgment creditor where the child is in the custody of a state agency and said judgments may be enforced by the prosecuting attorney of such county, or the attorney general where the state is the judgment creditor and any moneys recovered thereon shall be paid into the registry of the juvenile court and shall be disbursed to such person, persons, agency, or governmental department as the court shall find to be entitled thereto.

Such judgments shall remain as valid and enforceable judgments for a period of six years subsequent to the entry thereof.

NEW SECTION. Sec. 46. A petition seeking termination of a parent and child relationship may be filed in juvenile court. Such petition shall conform to the requirements of RCW 13.04.060 as now or hereafter amended and shall allege:

(1) That the child has been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under section 31(2)(a) or (b) of this 1977 amendatory act; and

(2) That the conditions which led to the removal still persist; and

(3) That there is little likelihood that those conditions will be remedied so that the child can be returned to the parent in the near future; and

(4) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home; and

(5) That, if the finding of dependency has been pursuant to section 31(2)(b) of this 1977 amendatory act, necessary services have been provided or offered to the parent to facilitate a reunion; and

(6) That the parent has substantially failed to accept such services; and

(7) That if the parent is subject to an order of disposition pursuant to the finding of dependency, the parent has substantially failed to comply with the order.

NEW SECTION. Sec. 47. After hearings pursuant to RCW 13.04.091, the court may enter an order terminating all parental rights to a child if the court finds that:

(1) The allegations contained in the petition as provided in section 46 of this 1977 amendatory act are established by clear, cogent, and convincing evidence; and

(2) Such an order is in the best interests of the child.

NEW SECTION. Sec. 48. (1) Upon the termination of parental rights pursuant to section 46 of this 1977 amendatory act, all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, visitation, or support existing between the child and parent shall be severed and terminated and the parent shall have no standing to appear at any further legal proceedings concerning the child: PROVIDED, That any support obligation existing prior to the effective date of the order terminating parental rights shall not be severed or terminated. The rights of one parent may be terminated without affecting the rights of the other parent and the order shall so state.

(2) An order terminating the parent and child relationship shall not disentitle a child to any benefit due the child from any third person, agency, state, or the United States, nor shall any action under this chapter be deemed to affect any rights and benefits that a native American child derives from the child's descent from a member of a federally recognized Indian tribe.

NEW SECTION. Sec. 49. If, upon entering an order terminating the parental rights of a parent, there remains no parent having parental rights, the court shall commit the child to the custody of the department of social and health services or to a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption, or in the absence thereof in a licensed foster home, or take other suitable measures for the care and welfare of the child. The custodian shall have authority to consent to the adoption of the child, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child, and to consent to such other matters as might normally be required of the parent of the child.

If a child has not been adopted within two years after the date of the order and a general guardian of the child has not been appointed by the court, the child shall

be returned to the court for entry of further orders for his or her care, custody, and control.

NEW SECTION. Sec. 50. Sections 29, 30, 31, 33, 34, 37, 38, 40, 41, 42, and 46 through 49 of this 1977 amendatory act shall constitute a new chapter in Title 13 RCW. The following sections of the Revised Code of Washington, as now or hereafter amended, are hereby decodified and shall be recodified as part of said new chapter: RCW 13.04.060, 13.04.070, 13.04.080, 13.04.091, 13.04.100, 13.04.105, and 13.04.150.

Sec. 51. Section 5, chapter 13, Laws of 1965 as last amended by section 28, chapter 80, Laws of 1977 1st ex. sess. and RCW 26.44.050 are each amended to read as follows:

Upon the receipt of a report concerning the possible occurrence of abuse or neglect, it shall be the duty of the law enforcement agency or the department of social and health services to investigate and provide the protective services section with a report in accordance with the provision of chapter 74.13 RCW, and where necessary to refer such report to the court.

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that the child is abused or neglected and that the child would be injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to section 33 of this 1977 amendatory act. Notwithstanding the provisions of RCW 13.04.130 as now or hereafter amended, the law enforcement agency or the department of social and health services investigating such a report is hereby authorized to photograph such a child or adult developmentally disabled person for the purpose of providing documentary evidence of the physical condition of the child or disabled person at the time the child or disabled person was taken into custody.

Sec. 52. Section 28A.27.070, chapter 223, Laws of 1969 ex. sess. and RCW 28A.27.070 are each amended to read as follows:

Any attendance officer, sheriff, deputy sheriff, marshal, policeman, or any other officer authorized to make arrests, shall take into custody without a warrant a child who is required under the provisions of RCW 28A.27.010 through 28A.27.130 to attend school, such child then being a truant from instruction at the school which he is lawfully required to attend, and shall forthwith deliver a child so detained either (1) to the custody of a person in parental relation to the child or (2) to the ~~((teacher from whom))~~ school from which the child is then a truant~~((, or, if after consulting the teacher or other school officials it appears such child be an habitual or incorrigible truant, shall deliver such child into the hands of a juvenile probation officer as provided for in chapter 13.04 RCW for such further action thereon as such officer shall determine under chapter 13.04 RCW))~~. A designated school official may inform an habitual truant and such child's parents, and shall inform any student who has been expelled from school in accordance with procedures provided by law and such child's parents, of the nature and location of services provided for in RCW 74.13.020(3) if such services may be appropriate to the needs of the child, and shall offer to assist in establishing contact between such family and such services. An habitual ~~((or incorrigible))~~ truant for the purposes of this section is one who absents himself with frequency from the school he is required to attend~~((, or is~~

~~guilty of wilful and continued disobedience to the school rules and regulations or laws, or whose conduct is pernicious and injurious to the school)).~~

Sec. 53. Section 9A.76.010, chapter 260, Laws of 1975 1st ex. sess. and RCW 9A.76.010 are each amended to read as follows:

The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Custody" means restraint pursuant to a lawful arrest or an order of a court: PROVIDED, That custody pursuant to sections 16 through 19, 21 through 27, and 29 through 49 of this 1977 amendatory act shall not be deemed custody for purposes of this chapter;

(2) "Detention facility" means any place used for the confinement of a person (a) arrested for, charged with or convicted of an offense, or (b) charged with being or adjudicated to be a ~~((dependent or delinquent child))~~ juvenile offender as defined in ~~((RCW 13.04.010))~~ section 56 of this 1977 amendatory act as now existing or hereafter amended, or (c) held for extradition or as a material witness, or (d) otherwise confined pursuant to an order of a court, except an order under sections 23 through 27 and 29 through 49 of this 1977 amendatory act, or (e) in any work release, furlough, or other such facility or program;

(3) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, rule, regulation, or order of a court.

NEW SECTION. Sec. 54. Any child taken into custody or receiving services under sections 16 through 52 of this 1977 amendatory act may not be delivered to or placed with a parent who has not been awarded temporary or permanent custody of such child, pursuant to a child custody order under chapter 26.09 RCW, unless such child has been found by the juvenile court to be a dependent child as provided in section 31 of this 1977 amendatory act.

#### PART D

NEW SECTION. Sec. 55. (1) This chapter shall be known and cited as the Juvenile Justice Act of 1977.

(2) It is the intent of the legislature that a system capable of having primary responsibility for, being accountable for, and responding to the needs of youthful offenders, as defined by this chapter, be established. It is the further intent of the legislature that youth, in turn, be held accountable for their offenses and that both communities and the juvenile courts carry out their functions consistent with this intent. To effectuate these policies, it shall be the purpose of this chapter to:

- (a) Protect the citizenry from criminal behavior;
- (b) Provide for determining whether accused juveniles have committed offenses as defined by this chapter;
- (c) Make the juvenile offender accountable for his or her criminal behavior;
- (d) Provide for punishment commensurate with the age, crime, and criminal history of the juvenile offender;
- (e) Provide due process for juveniles alleged to have committed an offense;
- (f) Provide necessary treatment, supervision, and custody for juvenile offenders;
- (g) Provide for the handling of juvenile offenders by communities whenever consistent with public safety;

- (h) Provide for restitution to victims of crime;
- (i) Develop effective standards and goals for the operation, funding, and evaluation of all components of the juvenile justice system and related services at the state and local levels; and
- (j) Provide for a clear policy to determine what types of offenders shall receive punishment, treatment, or both, and to determine the jurisdictional limitations of the courts, institutions, and community services.

**NEW SECTION.** Sec. 56. 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, rape in the first degree, or rape in the second degree; or
- (c) Assault in the second degree, extortion in the first degree, indecent liberties, kidnaping in the second degree, robbery in the second degree, burglary in the second degree, statutory rape in the first degree, or statutory rape in the second degree, where such offenses include the infliction of grievous bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator uses a deadly weapon or firearm as defined in RCW 9A.04.110;

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

(3) "Community supervision" means an order of disposition by the court of an adjudicated youth for a period of time not to exceed one year. Such an order may 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 partial confinement or confinement;

(4) "Confinement" means any commitment to a facility operated by or pursuant to a contract with the state, or by or pursuant to a contract with any county;

(5) "Court", when used without further qualification, means the juvenile department of the superior court;

(6) "Criminal history" shall include all criminal complaints against the respondent where:

(a) The allegations were found correct by a juvenile court. In any judgment where a respondent is convicted of two or more charges arising out of the same course of conduct, where one charge is included within the other, then 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 section 8 of this 1977 amendatory act 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" shall mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court, or who is over the age of eighteen years but remaining under the jurisdiction of the court as provided in RCW 13.04.260 as recodified by this 1977 amendatory act;
- (11) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense;
- (12) "Manifest injustice" means a disposition that would impose an excessive penalty on the juvenile or a clear danger to society in light of the purposes of this chapter;
- (13) "Minor or first offender" means a person sixteen years of age or younger who has committed an offense which if committed by an adult would be a class C felony, a gross misdemeanor, or a misdemeanor, and whose prior criminal history, if any, does not include any class A or B felony, more than two class C felonies, or more than one class C felony plus any series of misdemeanors and/or gross misdemeanors totalling three or more, or any series of misdemeanors and/or gross misdemeanors totalling four or more; or who has committed an offense which if committed by an adult would be a class B felony (except for any felony which is listed in subsections (1)(a), (b), or (c) of this section) and who has no prior criminal history;
- (14) "Offense" means an act designated 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;
- (15) "Partial confinement" means confinement in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days of the week spent under community supervision;
- (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; and

(20) "Shelter 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.

**NEW SECTION. Sec. 57.** (1) The secretary shall propose 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 partial 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 shall the period of confinement and supervision exceed that to which an adult may be subjected for the same offense(s). Standards proposed for offenders listed in section 56(1) of this 1977 amendatory act shall include a range of confinement which shall 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 by the department 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 shall relate only to the length of the proposed terms and not to the nature of the security to be imposed. The secretary shall also 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 at the same time the department proposes its disposition standards.

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

(3) If the legislature refers the proposed standards to the secretary for modification on or before February 15th, the secretary 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.

(4) Notwithstanding any other provision of this section, the secretary shall propose standards and submit guidelines to the legislature no later than November 1, 1977. The legislature shall consider the proposed standards and submitted guidelines during the following year in the manner prescribed by subsections (2) and (3) of this section. Such standards shall be in effect for the period July 1, 1978, to June 30, 1979.

(5) Any term of confinement in excess of thirty days shall be served at a facility operated by or pursuant to a contract with the state of Washington.

(6) In developing and promulgating the permissible ranges of confinement under this section the secretary 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 shall 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 shall 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 shall be no less than eighty percent of the maximum term in the range.

(7) In developing and promulgating the permissible ranges of partial confinement under this section, the secretary 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 shall be no less than fifty percent of the maximum term in the range; and

(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 shall be no less than seventy-five percent of the maximum term in the range.

NEW SECTION. Sec. 58. (1) A youth may be taken into custody: .

(a) Pursuant to a court order if a complaint is filed with the court alleging, and the court finds probable cause to believe, that the youth has committed an offense or has violated terms of community supervision;

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

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

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

(2) A youth shall not be held in detention unless:

(a) The youth has been taken into custody and referred to the court for allegedly committing an offense or when the youth has allegedly failed, or has been found to have failed, to meet the terms of his or her community supervision, and that the youth's past conduct or statements give reason to believe that:

(i) The youth will likely fail to appear for further proceedings; or

(ii) Detention is required to protect a youth who is dangerous to himself or herself;

(b) The court has ordered detention as a material witness;

(c) The youth is a fugitive from justice;

(d) The secretary or the secretary's designee has suspended the early release of a juvenile offender;

(e) There is clear and convincing evidence that the youth is dangerous to others; or

(f) The youth will seek to intimidate witnesses or otherwise unlawfully interfere with the administration of justice.

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

(4) A youth detained under this section may be released upon posting bond set by the court. A court authorizing such a release shall issue an order containing a statement of conditions imposed upon the youth and shall set the date of his or her next court appearance. The court shall advise the youth of any conditions specified in the order and may at any time amend such an order in order to impose additional or different conditions of release upon the youth or to return the youth to custody for failing to conform to the conditions imposed. Failure to appear on the date scheduled by the court pursuant to this section shall constitute the crime of bail jumping.

NEW SECTION. Sec. 59. (1) When a youth taken into custody is held in detention:

(a) An information shall be filed within seventy-two hours, Saturdays, Sundays, and holidays excluded, or the youth shall be released; and

(b) A detention hearing shall be held within seventy-two hours, Saturdays, Sundays, and holidays excluded, from the time of filing the information, to determine whether continued detention is necessary under section 58 of this 1977 amendatory act.

(2) Written notice of the detention hearing, stating the time, place, and purpose of the hearing, and stating the right to counsel, shall be given to the parent, guardian, or custodian if such person can be found and shall also be given to the youth if over twelve years of age.

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

(4) The court shall, based upon the allegations in the information, determine whether the case is properly before it or whether the case should be treated as a diversion case under section 62 of this 1977 amendatory act. If the case is not properly before the court the juvenile shall be ordered released.

(5) Notwithstanding a determination that the case is properly before the court and that probable cause exists, a child shall at the detention hearing be ordered released on the child's personal recognizance pending further hearing unless the court finds detention is necessary under section 58 of this 1977 amendatory act.

(6) If detention is not necessary under section 58 of this 1977 amendatory act the court shall impose the most appropriate of the following conditions or, if necessary, any combination of the following conditions:

(a) Place the child in the custody of a designated person agreeing to supervise such child;

(b) Place restrictions on the travel of the child during the period of release;

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

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

(e) Require that the child return to detention during specified hours.

**NEW SECTION.** Sec. 60. (1) Proceedings under this chapter shall be commenced in the county where the child resides. However, proceedings may be commenced in the county where an element of the alleged criminal offense occurred if so requested by the child or by the prosecuting attorney of the county where the incident occurred.

(2) If the hearing takes place in the county where an element of the alleged criminal offense occurred, the case and copies of all legal and social documents pertaining thereto shall be transferred to the county where the child resides for a disposition hearing. All costs and arrangements for care and transportation of the child in custody shall be the responsibility of the receiving county as of the date of the transfer, unless the counties otherwise agree.

(3) The court upon motion of any party or upon its own motion may, at any time, transfer a proceeding to another juvenile court when:

(a) There is reason to believe that an impartial proceeding cannot be held in the county in which the proceeding was begun; or

(b) It appears that venue is incorrect under this section.

**NEW SECTION.** Sec. 61. (1) Complaints referred to the 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 for legal sufficiency. The purpose of such screening shall be 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 youth did commit the offense.

(2) 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.

(3) Where a case is legally sufficient, the prosecutor shall file an information with the juvenile court if the alleged offender is one or more of the following:

(a) An alleged offender accused of a class A felony, an attempt to commit 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 section 56(1)(b) or (c) of this 1977 amendatory act; or

(b) An alleged offender with a criminal history of at least a class A or class B felony, or two class C felony offenses, or at least one class C felony offense and at least one misdemeanor or gross misdemeanor, or at least two gross misdemeanors, or at least one gross misdemeanor and two misdemeanors, or at least three misdemeanors; or

(c) An alleged offender accused of violating his or her diversion agreement or who wishes to be prosecuted rather than enter into a diversion agreement or who has been referred by the diversion unit for prosecution: PROVIDED, That if the prosecutor elects not to file a charge for which there is probable cause, he shall maintain a record, for one year, of such election and the reasons therefor.

(4) If it appears that there is probable cause to believe that an offense has been committed by a youth, the prosecutor may file an information with the juvenile court if the alleged offender is an alleged offender accused of a class C felony.

(5) Whenever the alleged offender is an alleged offender listed in subsection (3) of this section, the prosecutor may file an information on any other criminal complaint regardless of whether or not the other offense is listed in subsection (3)(a) of this section. In lieu of filing an information, the prosecutor may file a motion to modify or revoke community supervision if a criminal complaint alleges a violation of a condition of community supervision.

(6) If an alleged offender does not fall within subsection (3) or (4) of this section, the prosecutor shall refer the complaint to the diversionary unit for the formation of a diversion agreement pursuant to section 62 of this 1977 amendatory act.

(7) 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.

(8) The responsibilities of the prosecutor under subsections (1) through (7) 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. 62. (1) A diversion agreement shall be a contract between a youth accused of an offense and a diversionary unit whereby the youth agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it.

(2) A diversion agreement may include:

(a) Periods of community service not to exceed one hundred fifty hours, but if the youth is attending school, no community service shall be required during normal school hours;

(b) Restitution limited to the amount of actual loss incurred by the victim, and the youth shall be required to make restitution to the victim unless the youth does not have the means and could not acquire the means to do so;

(c) In assessing periods of community service to be performed and restitution to be paid by a youth who has entered into a diversion agreement, the court officer to whom this task is assigned shall to the extent possible involve members of the community. Such members of the community shall meet with the youth and advise the court officer as to the terms of the diversion agreement and shall supervise the youth in carrying out its terms;

(d) A diversion agreement shall not exceed a period of six months for a misdemeanor or one year for a felony. Any restitution assessed during its term shall not exceed an amount which the youth could be reasonably expected to pay during this period. If additional time is necessary for the youth to complete restitution to the victim, the time period limitations of this subsection may be extended by an additional six months; and

(e) An informational, educational, or counseling interview may be required at a community agency.

(3) The youth shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.

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

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

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

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

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

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

(d) The hearing shall include:

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

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

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

(iv) Demonstration by evidence that the diverted youth has substantially violated the terms of his or her diversion agreement.

(5) The diversion unit shall be responsible for advising a youth of his or her rights as provided in this chapter.

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

The youth shall be advised that a diversion agreement shall constitute a part of the youth's criminal history as defined by section 56(6) of this 1977 amendatory act. A signed acknowledgement of such advisement shall be obtained from the youth, and the document shall be maintained by the diversionary unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

(7) When a youth enters into a diversion agreement, the juvenile court may receive only the following information for dispositional purposes:

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

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

(c) The youth's obligations under such agreement;

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

(e) The facts of the alleged offense.

(8) A diversionary unit may refuse to enter into a diversion agreement with a youth. It shall immediately refer such youth to the court for action and shall forward to the court the criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversionary unit shall also immediately refer the case to the prosecuting attorney for action if such youth fails to make restitution or perform community service as required by the diversion agreement.

(9) A diversionary unit may, in instances where it determines that the act or omission of an act for which a youth has been referred to it involved no victim, or where it determines that the youth referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a youth without entering into a diversion agreement: PROVIDED, That any youth so handled shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the youth's criminal history as defined by section 56(6) of this 1977 amendatory act. A signed acknowledgment of such advisement shall be obtained from the youth and the document shall be maintained by the unit and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language: PROVIDED FURTHER, That a youth determined to be eligible by a diversionary unit for such release shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other youth referred to the unit.

**NEW SECTION.** Sec. 63. The county prosecuting attorney shall be a party to all juvenile court proceedings involving juvenile offenders or alleged juvenile offenders.

The prosecuting attorney may, after giving appropriate notice to the juvenile court, decline to represent the state of Washington in juvenile court matters except felonies unless requested by the court on an individual basis to represent the state at an adjudicatory hearing in which case he or she shall participate. When the prosecutor declines to represent the state, then such function may be performed by the juvenile court probation counselor authorized by the court or local court rule to serve as the prosecuting authority.

If the prosecuting attorney elects not to participate, the prosecuting attorney shall file with the county clerk each year by the first Monday in July notice of intent not to participate. In a county wherein the prosecuting attorney has elected not to participate in juvenile court, he or she shall not thereafter until the next filing date participate in juvenile court proceedings unless so requested by the court on an individual basis, in which case the prosecuting attorney shall participate.

**NEW SECTION.** Sec. 64. (1) Upon the filing of an information, the clerk of the court shall issue a summons directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, or custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to hear the

petition. Where the custodian is summoned, the parent or guardian or both shall also be served with a summons.

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

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

(4) The judge may endorse upon the summons an order directing the parents, guardian, or custodian having the custody or control of the child to bring the child to the hearing.

(5) If it appears from affidavit or sworn statement presented to the judge that there is probable cause for the issuance of a warrant of arrest or that the child needs to be taken into custody pursuant to section 33 of this 1977 amendatory act the judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody and take the child to the place of detention or shelter designated by the court.

(6) If a party to be served with a summons can be found within the state, the summons shall be served upon the party personally at least five court days before the fact-finding hearing, or such time as set by the court. If the party is within the state and cannot be personally served, but the party's address is known or can with reasonable diligence be ascertained, the summons may be served upon the party by mailing a copy thereof by certified mail at least ten court days before the hearing, or such time as set by the court. If a party other than the child is without the state but can be found or the party's address is known, or can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy thereof to the party personally or by mailing a copy thereof to the party by certified mail at least ten court days before the fact-finding hearing, or such time as set by the court.

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

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

**NEW SECTION.** Sec. 65. (1) The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be set for a hearing on the question of declining jurisdiction. Unless waived by the court, the parties, and their counsel, a decline hearing shall be held where:

(a) The respondent is sixteen or seventeen years of age and the petition alleges a class A felony or an attempt to commit a class A felony; or

(b) The respondent is seventeen years of age and the petition alleges assault in the second degree, extortion in the first degree, indecent liberties, kidnaping in the second degree, rape in the second degree, or robbery in the second degree.

(2) The court after a decline hearing may order the case transferred for adult criminal prosecution upon a finding that the declination would be in the best interest of the juvenile or the public. The court shall consider the relevant reports, facts, opinions, and arguments presented by the parties and their counsel.



(3) When the respondent is transferred for criminal prosecution or retained for prosecution in juvenile court, the court shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing.

**NEW SECTION.** Sec. 66. The court shall hold an adjudicatory hearing on the information, and, after it has announced its findings of fact and its verdict, shall hold a hearing to consider disposition of the case pursuant to sections 69 and 70 of this 1977 amendatory act immediately following the adjudicatory hearing or at a continued hearing within fourteen days unless good cause is shown for a further continuance. Notice of the time and place of the continued hearing may be given in open court. If notice is not given in open court to a party, that party shall be notified by mail of the time and place of any continued hearing.

All hearings may be conducted at any time or place within the limits of the county, and such cases shall not be heard in conjunction with other business of any other division of the superior court.

**NEW SECTION.** Sec. 67. (1) The respondent shall be advised of the allegations in the information and shall be required to plead guilty or not guilty to the allegation(s). The state or the respondent may make preliminary motions up to the time of the plea.

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

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

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

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

(6) If the respondent is found guilty the court may immediately proceed to disposition or may continue the case for a dispositional hearing.

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

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

**NEW SECTION.** Sec. 68. (1) A youth shall be advised of his or her rights when appearing before the court.

(2) A youth and his or her parent, guardian, or custodian shall be advised by the court or its representative that the youth has a right to be represented by counsel at all critical stages of the proceedings. Unless waived, counsel shall be provided to a youth, who is financially unable to obtain counsel without causing substantial hardship to himself or herself or the youth's family, in any proceeding where the youth may be subject to transfer for criminal prosecution, or in any proceeding where the youth may be in danger of confinement or partial confinement. The ability to pay part of the cost of counsel shall not preclude assignment. In no

case shall a youth be deprived of counsel because of a parent, guardian, or custodian refusing to pay therefor. The youth shall be fully advised of his or her right to an attorney and of the relevant services an attorney can provide.

(3) The right to counsel shall include the right to the appointment of experts necessary and the experts shall be required pursuant to the procedures and requirements established by the supreme court.

(4) Upon application of a party, the clerk of the court shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing, or such subpoenas may be issued by an attorney of record.

(5) All proceedings shall be transcribed verbatim by means which will provide an accurate record.

(6) The general public and press shall be permitted to attend any hearing unless the court, for good cause, orders a particular hearing to be closed. The presumption shall be that all such hearings will be open.

(7) In all adjudicatory proceedings before the court, all parties shall have the right to adequate notice, discovery as provided in criminal cases, opportunity to be heard, confrontation of witnesses except in such cases as this chapter expressly permits the use of hearsay testimony, findings based solely upon the evidence adduced at the hearing, and an unbiased fact-finder.

(8) A juvenile shall be accorded the privilege against self-incrimination. An extra judicial statement which would be constitutionally inadmissible in a criminal proceeding shall not be received in evidence at an adjudicatory hearing over objection. Evidence illegally seized or obtained shall not be received in evidence over objection at an adjudicatory hearing to prove the allegations against the child. An extra judicial admission or confession made by the child out of court is insufficient to support a finding that the child committed the acts alleged in the information unless a corpus delicti is first established.

(9) Waiver of any right which a child has under this chapter must be an express waiver intelligently made by the child after the child has been fully informed of the right being waived.

(10) Whenever this chapter refers to waiver or objection by a child, the word child shall be construed to refer to a child who is at least twelve years of age. If a child is under twelve years of age, the child's parent, guardian, or custodian shall give any waiver or offer any objection contemplated by this chapter.

**NEW SECTION.** Sec. 69. (1) In disposition hearings all relevant and material evidence, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value, even though such evidence may not be admissible in a hearing on the information. The youth or the youth's counsel and the prosecuting attorney shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making reports when such individuals are reasonably available, but sources of confidential information need not be disclosed. The prosecutor and counsel for the juvenile may submit recommendations for disposition.

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

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

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

(c) Consider any predisposition reports;

(d) Afford the respondent and the respondent's parent, guardian, or custodian an opportunity to speak in the respondent's behalf;

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

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

(g) Determine whether the respondent is a serious offender or a minor or first offender;

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

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

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

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

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

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

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

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

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

(iii) The victim or victims were particularly vulnerable;

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

(v) The respondent was the leader of a criminal enterprise involving several persons;

(j) The following factors shall not be considered in determining the punishment to be imposed:

(i) The sex of the respondent;

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

(iii) The creed or religion of the respondent or the respondent's family;

(iv) The economic or social class of the respondent or the respondent's family; and

(v) Factors indicating that the respondent may be or is a dependent child within the meaning of this chapter;

(k) A court shall not commit a youth to a state institution solely because of the lack of facilities, including treatment facilities, existing in the community.

**NEW SECTION. Sec. 70.** (1) When the respondent is found to be a serious offender, the court shall commit the offender to the department for a determinate sentence consisting of the standard range of disposition for the offense.

If the court finds that a disposition within the standard range would effectuate a manifest injustice, the court may impose a disposition outside the range but only after it enters reasons upon which it bases its conclusion that disposition within the standard range would effectuate a manifest injustice. A disposition imposed outside a standard range is appealable under section 77 of this 1977 amendatory act by the state or the respondent. A disposition within the standard range is not appealable under section 77 of this 1977 amendatory act.

(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. If the court determines that a disposition of community supervision would effectuate a manifest injustice the court may impose another disposition. A disposition other than a community supervision shall be imposed only after the court enters reasons upon which it bases its conclusions that imposition of community supervision would effectuate a manifest injustice. Any disposition other than community supervision may be appealed as provided in section 77 of this 1977 amendatory act by the state or the respondent. A disposition of community supervision may not be appealed under section 77 of this 1977 amendatory act.

(3) A juvenile appearing before the court for formal disposition who has declined to enter into a diversion agreement and who would otherwise be so entitled shall, if determined to be a first or minor offender, be referred to a diversionary unit under the supervision of which such youth may only be required to perform the term of community service and, where there is a victim, shall be required to make restitution under the limits specified in this chapter.

(4) Where the respondent is found to have committed an offense and is neither a serious offender nor a minor or first offender, consistent with the purposes of this chapter the court shall: (a)(i) Where the appropriate standard range includes a period of confinement exceeding thirty days, sentence the offender to the department for a term consisting of the appropriate standard range, or (ii) where the appropriate standard range does not include a period of confinement exceeding thirty days, sentence the offender to a determinate term within the appropriate standard range in which case the court shall consider only those aggravating and mitigating factors set forth in section 69 of this 1977 amendatory act and shall state its reasons for selecting the particular punishment imposed, or (b) shall impose a term of community supervision. If the court sentencing pursuant to subsection (a)(i) or (ii) of this section finds that a disposition within the standard range would effectuate a manifest injustice, it may impose a disposition other than community supervision outside the range but only after it enters reasons upon which it bases its conclusion that disposition within the standard range would effectuate a manifest injustice. A disposition so imposed outside the standard range may be appealed as provided in section 77 of this 1977 amendatory act by the state or the respondent. A disposition within the standard range or of community supervision shall not be appealable under section 77 of this 1977 amendatory act.

(5) A court may require a juvenile offender to serve a period of partial confinement not to exceed thirty days or a period of confinement not to exceed the minimum period of confinement included within the standard range for the offense(s)

for which he or she was found guilty, but in no case to exceed thirty days: **PROVIDED**, That such periods of partial confinement and confinement may be required only of youthful offenders who are: (a) Not sentenced to a sentence within a range established by the legislature; (b) not committed to the department; (c) not first and minor offenders; and (d) are serving terms of community supervision: **PROVIDED FURTHER**, That all such terms of partial confinement and confinement shall be served in a facility operated by or pursuant to a contract with a county or city.

**NEW SECTION.** Sec. 71. The fingerprints and photograph may be taken of any serious offender.

**NEW SECTION.** Sec. 72. Where a disposition is imposed on a youth for two or more offenses, the terms shall run consecutively, subject to the following limitations: (1) Where the offenses were committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was an element of the other, the aggregate of all the terms shall not exceed one hundred fifty percent of the term imposed for the most serious offense; and (2) in all other cases, the aggregate of all consecutive terms shall not exceed three hundred percent of the term imposed for the most serious offense.

**NEW SECTION.** Sec. 73. (1) In its dispositional order, the court shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent. The payment of restitution shall be in addition to any punishment which is imposed pursuant to the other provisions of this chapter. The court may determine the amount, terms, and conditions of the restitution. If the respondent participated in the crime with another person or other persons, all such participants shall be jointly and severally responsible for the payment of restitution: **PROVIDED**, That the court shall not require the respondent to pay full or partial restitution if the respondent reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay such restitution.

(2) When a respondent who has been ordered by a court to pay a fine or restitution, or to perform service for the public good fails to fulfill that order, the court upon the motion of the prosecutor or upon its own motion, shall require the respondent to show cause why the respondent should not be confined in a detention facility for nonfulfillment. The court may issue a summons or a warrant for arrest to compel the respondent's appearance.

(3) The respondent shall have the burden of showing that the nonpayment or nonfulfillment was not a wilful refusal and that he or she did not have the means and could not reasonably acquire the means to pay the fine or restitution or to perform the service for the public good. If the court finds that the default was wilful, it may order the youth detained in a county facility for one day for each twenty-five dollars of restitution or fine on which the youth wilfully defaulted or may order the youth detained in a county facility for one day for each eight hours of community service on which the youth wilfully defaulted.

**NEW SECTION.** Sec. 74. Consistent with the purposes of this chapter, if the respondent violates a condition of his or her community supervision, community

supervision may be revoked or modified and further permissible punishment imposed pursuant to the provisions of this chapter. Such punishment may include a period of confinement and/or partial confinement in a county facility not to exceed thirty days. Community supervision may only be revoked or modified upon the same due process as would be afforded an adult alleged probation violator.

NEW SECTION. Sec. 75. (1) The secretary shall, except in the case of a youth committed by a court to a term of confinement in a state institution outside the appropriate standard range for the offense(s) for which the youth was found to be guilty established pursuant to section 57 of this 1977 amendatory act, set a release or discharge date for each youth committed to its custody which shall be within the prescribed range to which a youth has been committed. Such dates shall be determined prior to the expiration of sixty percent of a youth's minimum term of confinement included within the prescribed range to which the youth has been committed.

(2) Following the youth's release pursuant to subsection (1) of this section, the secretary may require the youth to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months. The secretary shall, for the period of parole, facilitate the youth's reintegration into his or her community and to further this goal may require the youth to: (a) Undergo available medical or psychiatric treatment; (b) report as directed to a parole officer; (c) pursue a course of study or vocational training; (d) remain within prescribed geographical boundaries and notify the department of any change in his or her address; and (e) refrain from committing new offenses. After termination of the parole period, the youth shall be discharged from the department's supervision.

(3) The department may also revoke or modify parole for violation thereof. If, after affording a youth all of the due process rights to which he or she would be entitled if the youth were an adult, the secretary finds that a youth has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: (a) Continued supervision under the same conditions previously imposed; (b) intensified supervision with increased reporting requirements; (c) additional conditions of supervision authorized by this chapter; and (d) imposition of a period of partial confinement not to exceed thirty days.

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

NEW SECTION. Sec. 76. Whenever legal custody of a child is vested in someone other than his or her parents, after due notice to the parents or other persons legally obligated to care for and support the child, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum representing in whole or in part the costs of support, treatment, and confinement of the child after the decree is entered. If the parent or other legally obligated person wilfully fails or refuses to pay such sum, the court may proceed against such person for contempt.

**NEW SECTION.** Sec. 77. (1) Dispositions reviewed pursuant to section 70 of this 1977 amendatory act shall be reviewed in the appropriate division of the court of appeals.

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

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

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

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

(5) Pending appeal, a respondent shall not be committed or detained for a period of time in excess of the standard range for the offense(s) committed and shall not be detained if a first or minor offender: **PROVIDED**, That if the order of the disposition court is below the standard range, the respondent shall be committed or detained for no longer than the term set by the disposition court.

(6) Dispositions imposed by the disposition court shall not be final until either the deadline for appeal pursuant to state law or supreme court rule has passed without an appeal being taken, or the court of appeals has issued its decision on the appeal.

**NEW SECTION.** Sec. 78. All references to juvenile delinquents or juvenile delinquency in other chapters of the Revised Code of Washington shall be construed as meaning juvenile offenders or the commitment of an offense by juveniles as defined by this chapter.

**NEW SECTION.** Sec. 79. (1) There is appropriated for the period July 1, 1978, to June 30, 1979, from the general fund nine hundred eighty-three thousand six hundred dollars to be allocated to counties for the cost of operating diversion units as required by this chapter.

(2) The secretary shall administer the funds and shall promulgate, pursuant to chapter 34.04 RCW, rules establishing a planning process and standards which meet the intent of this chapter. The secretary shall also monitor and evaluate, against established standards, all programs and services funded by this appropriation.

(3) The total sum shall be allocated by the secretary to the counties. Diversion units funded by this section shall be administered and operated separately from the court: **PROVIDED**, That counties of classes other than AA and A may request for an exemption from this requirement. The secretary may grant such exemption if it

is clearly demonstrated that resources do not exist nor can be established in such county to operate diversion units separately from the court.

(4) In meeting the requirements of this chapter, there shall be a maintenance of effort whereby counties shall exhaust existing resources prior to the utilization of funds appropriated by this section.

(5) It is the intent of the legislature that these funds shall be the maximum amount necessary to meet the requirement of this chapter for the stated period. Courts shall be required to provide diversion programs and services to the extent made possible by available sources. In addressing diverted youths, a resource priority continuum shall be developed whereby the highest priority in resource allocation shall be given to diverted youths who have inflicted bodily harm while the lowest priority shall be given to diverting youths who have committed victimless crimes or minor property offenses.

NEW SECTION. Sec. 80. Sections 55 through 78 of this 1977 amendatory act shall constitute a new chapter in Title 13 RCW. RCW 13.04.260 is hereby decodified and shall be recodified as part of that new chapter.

NEW SECTION. Sec. 81. The following acts or parts of acts are each repealed:

(1) Section 1, chapter 160, Laws of 1913, section 1, chapter 302, Laws of 1961 and RCW 13.04.010;

(2) Section 2, chapter 302, Laws of 1961, section 1, chapter 101, Laws of 1973 1st ex. sess. and RCW 13.04.053;

(3) Section 3, chapter 302, Laws of 1961 and RCW 13.04.056;

(4) Section 6, chapter 302, Laws of 1961, section 1, chapter 137, Laws of 1967, section 2, chapter 71, Laws of 1975-'76 2nd ex. sess. and RCW 13.04.095;

(5) Section 9, chapter 160, Laws of 1913 and RCW 13.04.110;

(6) Section 12, chapter 160, Laws of 1913, section 1, chapter 132, Laws of 1945, section 1, chapter 58, Laws of 1959 and RCW 13.04.120;

(7) Section 14, chapter 160, Laws of 1913 and RCW 13.04.140;

(8) Section 1, chapter 116, Laws of 1953 and RCW 13.04.170;

(9) Section 10, chapter 302, Laws of 1961 and RCW 13.04.190;

(10) Section 4, chapter 297, Laws of 1957, section 2, chapter 251, Laws of 1959, section 12, chapter 302, Laws of 1961, section 16, chapter 80, Laws of 1977 1st ex. sess. and RCW 13.04.200;

(11) Section 13, chapter 302, Laws of 1961 and RCW 13.04.210;

(12) Section 14, chapter 302, Laws of 1961, section 54, chapter 81, Laws of 1971 and RCW 13.04.220;

(13) Section 15, chapter 302, Laws of 1961 and RCW 13.04.230; and

(14) Section 1, chapter 93, Laws of 1967 and RCW 13.04.250.

NEW SECTION. Sec. 82. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 83. Section 57 of this 1977 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of state government and its existing public institutions, and shall take effect on July



1, 1977. The remainder of this 1977 amendatory act shall take effect on July 1, 1978.

Passed the House June 10, 1977.

Passed the Senate June 8, 1977.

Approved by the Governor June 18, 1977.

Filed in Office of Secretary of State June 18, 1977.

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## CHAPTER 292

[Engrossed Senate Bill No. 2480]

### UNEMPLOYMENT COMPENSATION

AN ACT Relating to unemployment compensation; amending section 7, chapter 3, Laws of 1971 and RCW 50.04.116; amending section 16, chapter 35, Laws of 1945 as last amended by section 1, chapter 264, Laws of 1957 and RCW 50.04.150; amending section 17, chapter 35, Laws of 1945 as amended by section 4, chapter 215, Laws of 1947 and RCW 50.04.160; amending section 28, chapter 35, Laws of 1945 and RCW 50.04.270; amending section 31, chapter 35, Laws of 1945 as amended by section 10, chapter 3, Laws of 1971 and RCW 50.04.300; amending section 44, chapter 35, Laws of 1945 as last amended by section 11, chapter 3, Laws of 1971 and RCW 50.12.050; amending section 60, chapter 35, Laws of 1945 as last amended by section 4, chapter 73, Laws of 1973 and RCW 50.16.010; amending section 2, chapter 1, Laws of 1971 as amended by section 7, chapter 73, Laws of 1973 and RCW 50.22.010; amending section 104, chapter 35, Laws of 1945 as last amended by section 1, chapter 35, Laws of 1972 ex. sess. and RCW 50.24.160; amending section 19, chapter 3, Laws of 1971 and RCW 50.44.020; amending section 20, chapter 3, Laws of 1971 as amended by section 2, chapter 35, Laws of 1972 ex. sess. and RCW 50.44.030; amending section 21, chapter 3, Laws of 1971 as last amended by section 1, chapter 67, Laws of 1975 1st ex. sess. and RCW 50.44.040; amending section 22, chapter 3, Laws of 1971 as last amended by section 17, chapter 288, Laws of 1975 1st ex. sess. and RCW 50.44.050; amending section 23, chapter 3, Laws of 1971 and RCW 50.44.060; adding new sections to chapter 35, Laws of 1945 and to chapter 50.04 RCW; adding new sections to chapter 35, Laws of 1945 and to chapter 50.20 RCW; adding new sections to chapter 3, Laws of 1971 and to chapter 50.44 RCW; adding new sections to chapter 35, Laws of 1945 and to chapter 50.98 RCW; creating a new section; repealing section 21, chapter 35, Laws of 1945, section 7, chapter 265, Laws of 1951, section 1, chapter 276, Laws of 1953, section 1, chapter 8, Laws of 1953 ex. sess., section 9, chapter 3, Laws of 1971 and RCW 50.04.200; repealing section 26, chapter 35, Laws of 1945 and RCW 50.04.250; repealing section 27, chapter 35, Laws of 1945, section 1, chapter 265, Laws of 1951 and RCW 50.04.260; making an appropriation; providing effective dates; and declaring an emergency.

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

Section 1. Section 7, chapter 3, Laws of 1971 and RCW 50.04.116 are each amended to read as follows:

The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada ((or the Virgin Islands)), and in the case of the Virgin Islands after December 31, 1971 and prior to January 1 of the year following the year in which the United States secretary of labor approves the unemployment compensation law of the Virgin Islands under section 3304(a) of the Internal Revenue Code of 1954) in the employ of an American employer (other than service which is deemed "employment" under the provisions of RCW 50.04.110 or 50.04.120 or the parallel provisions of another state's law), if:

(1) The employer's principal place of business in the United States is located in this state; or

(2) The employer has no place of business in the United States but:

(a) The employer is an individual who is a resident of this state; or