

SSB 6639 - H COMM AMD  
By Committee on Human Services

ADOPTED 03/03/2010

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read  
4 as follows:

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

7 (1) "Board" means the indeterminate sentence review board created  
8 under chapter 9.95 RCW.

9 (2) "Collect," or any derivative thereof, "collect and remit," or  
10 "collect and deliver," when used with reference to the department,  
11 means that the department, either directly or through a collection  
12 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
13 and enforcing the offender's sentence with regard to the legal  
14 financial obligation, receiving payment thereof from the offender, and,  
15 consistent with current law, delivering daily the entire payment to the  
16 superior court clerk without depositing it in a departmental account.

17 (3) "Commission" means the sentencing guidelines commission.

18 (4) "Community corrections officer" means an employee of the  
19 department who is responsible for carrying out specific duties in  
20 supervision of sentenced offenders and monitoring of sentence  
21 conditions.

22 (5) "Community custody" means that portion of an offender's  
23 sentence of confinement in lieu of earned release time or imposed as  
24 part of a sentence under this chapter and served in the community  
25 subject to controls placed on the offender's movement and activities by  
26 the department.

27 (6) "Community protection zone" means the area within eight hundred  
28 eighty feet of the facilities and grounds of a public or private  
29 school.

1 (7) "Community restitution" means compulsory service, without  
2 compensation, performed for the benefit of the community by the  
3 offender.

4 (8) "Confinement" means total or partial confinement.

5 (9) "Conviction" means an adjudication of guilt pursuant to Title  
6 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
7 acceptance of a plea of guilty.

8 (10) "Crime-related prohibition" means an order of a court  
9 prohibiting conduct that directly relates to the circumstances of the  
10 crime for which the offender has been convicted, and shall not be  
11 construed to mean orders directing an offender affirmatively to  
12 participate in rehabilitative programs or to otherwise perform  
13 affirmative conduct. However, affirmative acts necessary to monitor  
14 compliance with the order of a court may be required by the department.

15 (11) "Criminal history" means the list of a defendant's prior  
16 convictions and juvenile adjudications, whether in this state, in  
17 federal court, or elsewhere.

18 (a) The history shall include, where known, for each conviction (i)  
19 whether the defendant has been placed on probation and the length and  
20 terms thereof; and (ii) whether the defendant has been incarcerated and  
21 the length of incarceration.

22 (b) A conviction may be removed from a defendant's criminal history  
23 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or  
24 a similar out-of-state statute, or if the conviction has been vacated  
25 pursuant to a governor's pardon.

26 (c) The determination of a defendant's criminal history is distinct  
27 from the determination of an offender score. A prior conviction that  
28 was not included in an offender score calculated pursuant to a former  
29 version of the sentencing reform act remains part of the defendant's  
30 criminal history.

31 (12) "Criminal street gang" means any ongoing organization,  
32 association, or group of three or more persons, whether formal or  
33 informal, having a common name or common identifying sign or symbol,  
34 having as one of its primary activities the commission of criminal  
35 acts, and whose members or associates individually or collectively  
36 engage in or have engaged in a pattern of criminal street gang  
37 activity. This definition does not apply to employees engaged in

1 concerted activities for their mutual aid and protection, or to the  
2 activities of labor and bona fide nonprofit organizations or their  
3 members or agents.

4 (13) "Criminal street gang associate or member" means any person  
5 who actively participates in any criminal street gang and who  
6 intentionally promotes, furthers, or assists in any criminal act by the  
7 criminal street gang.

8 (14) "Criminal street gang-related offense" means any felony or  
9 misdemeanor offense, whether in this state or elsewhere, that is  
10 committed for the benefit of, at the direction of, or in association  
11 with any criminal street gang, or is committed with the intent to  
12 promote, further, or assist in any criminal conduct by the gang, or is  
13 committed for one or more of the following reasons:

14 (a) To gain admission, prestige, or promotion within the gang;

15 (b) To increase or maintain the gang's size, membership, prestige,  
16 dominance, or control in any geographical area;

17 (c) To exact revenge or retribution for the gang or any member of  
18 the gang;

19 (d) To obstruct justice, or intimidate or eliminate any witness  
20 against the gang or any member of the gang;

21 (e) To directly or indirectly cause any benefit, aggrandizement,  
22 gain, profit, or other advantage for the gang, its reputation,  
23 influence, or membership; or

24 (f) To provide the gang with any advantage in, or any control or  
25 dominance over any criminal market sector, including, but not limited  
26 to, manufacturing, delivering, or selling any controlled substance  
27 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
28 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
29 RCW); human trafficking (RCW 9A.40.100); or promoting pornography  
30 (chapter 9.68 RCW).

31 (15) "Day fine" means a fine imposed by the sentencing court that  
32 equals the difference between the offender's net daily income and the  
33 reasonable obligations that the offender has for the support of the  
34 offender and any dependents.

35 (16) "Day reporting" means a program of enhanced supervision  
36 designed to monitor the offender's daily activities and compliance with  
37 sentence conditions, and in which the offender is required to report

1 daily to a specific location designated by the department or the  
2 sentencing court.

3 (17) "Department" means the department of corrections.

4 (18) "Determinate sentence" means a sentence that states with  
5 exactitude the number of actual years, months, or days of total  
6 confinement, of partial confinement, of community custody, the number  
7 of actual hours or days of community restitution work, or dollars or  
8 terms of a legal financial obligation. The fact that an offender  
9 through earned release can reduce the actual period of confinement  
10 shall not affect the classification of the sentence as a determinate  
11 sentence.

12 (19) "Disposable earnings" means that part of the earnings of an  
13 offender remaining after the deduction from those earnings of any  
14 amount required by law to be withheld. For the purposes of this  
15 definition, "earnings" means compensation paid or payable for personal  
16 services, whether denominated as wages, salary, commission, bonuses, or  
17 otherwise, and, notwithstanding any other provision of law making the  
18 payments exempt from garnishment, attachment, or other process to  
19 satisfy a court-ordered legal financial obligation, specifically  
20 includes periodic payments pursuant to pension or retirement programs,  
21 or insurance policies of any type, but does not include payments made  
22 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
23 or Title 74 RCW.

24 (20) "Drug offender sentencing alternative" is a sentencing option  
25 available to persons convicted of a felony offense other than a violent  
26 offense or a sex offense and who are eligible for the option under RCW  
27 9.94A.660.

28 (21) "Drug offense" means:

29 (a) Any felony violation of chapter 69.50 RCW except possession of  
30 a controlled substance (RCW 69.50.4013) or forged prescription for a  
31 controlled substance (RCW 69.50.403);

32 (b) Any offense defined as a felony under federal law that relates  
33 to the possession, manufacture, distribution, or transportation of a  
34 controlled substance; or

35 (c) Any out-of-state conviction for an offense that under the laws  
36 of this state would be a felony classified as a drug offense under (a)  
37 of this subsection.

1 (22) "Earned release" means earned release from confinement as  
2 provided in RCW 9.94A.728.

3 (23) "Escape" means:

4 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
5 first degree (RCW 9A.76.110), escape in the second degree (RCW  
6 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
7 willful failure to return from work release (RCW 72.65.070), or willful  
8 failure to be available for supervision by the department while in  
9 community custody (RCW 72.09.310); or

10 (b) Any federal or out-of-state conviction for an offense that  
11 under the laws of this state would be a felony classified as an escape  
12 under (a) of this subsection.

13 (24) "Felony traffic offense" means:

14 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
15 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
16 run injury-accident (RCW 46.52.020(4)), felony driving while under the  
17 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or  
18 felony physical control of a vehicle while under the influence of  
19 intoxicating liquor or any drug (RCW 46.61.504(6)); or

20 (b) Any federal or out-of-state conviction for an offense that  
21 under the laws of this state would be a felony classified as a felony  
22 traffic offense under (a) of this subsection.

23 (25) "Fine" means a specific sum of money ordered by the sentencing  
24 court to be paid by the offender to the court over a specific period of  
25 time.

26 (26) "First-time offender" means any person who has no prior  
27 convictions for a felony and is eligible for the first-time offender  
28 waiver under RCW 9.94A.650.

29 (27) "Home detention" means a program of partial confinement  
30 available to offenders wherein the offender is confined in a private  
31 residence subject to electronic surveillance.

32 (28) "Legal financial obligation" means a sum of money that is  
33 ordered by a superior court of the state of Washington for legal  
34 financial obligations which may include restitution to the victim,  
35 statutorily imposed crime victims' compensation fees as assessed  
36 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,  
37 court-appointed attorneys' fees, and costs of defense, fines, and any  
38 other financial obligation that is assessed to the offender as a result

1 of a felony conviction. Upon conviction for vehicular assault while  
2 under the influence of intoxicating liquor or any drug, RCW  
3 46.61.522(1)(b), or vehicular homicide while under the influence of  
4 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial  
5 obligations may also include payment to a public agency of the expense  
6 of an emergency response to the incident resulting in the conviction,  
7 subject to RCW 38.52.430.

8 (29) "Minor child" means a biological or adopted child of the  
9 offender who is under age eighteen at the time of the offender's  
10 current offense.

11 (30) "Most serious offense" means any of the following felonies or  
12 a felony attempt to commit any of the following felonies:

13 (a) Any felony defined under any law as a class A felony or  
14 criminal solicitation of or criminal conspiracy to commit a class A  
15 felony;

16 (b) Assault in the second degree;

17 (c) Assault of a child in the second degree;

18 (d) Child molestation in the second degree;

19 (e) Controlled substance homicide;

20 (f) Extortion in the first degree;

21 (g) Incest when committed against a child under age fourteen;

22 (h) Indecent liberties;

23 (i) Kidnapping in the second degree;

24 (j) Leading organized crime;

25 (k) Manslaughter in the first degree;

26 (l) Manslaughter in the second degree;

27 (m) Promoting prostitution in the first degree;

28 (n) Rape in the third degree;

29 (o) Robbery in the second degree;

30 (p) Sexual exploitation;

31 (q) Vehicular assault, when caused by the operation or driving of  
32 a vehicle by a person while under the influence of intoxicating liquor  
33 or any drug or by the operation or driving of a vehicle in a reckless  
34 manner;

35 (r) Vehicular homicide, when proximately caused by the driving of  
36 any vehicle by any person while under the influence of intoxicating  
37 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
38 any vehicle in a reckless manner;

1 (s) Any other class B felony offense with a finding of sexual  
2 motivation;

3 (t) Any other felony with a deadly weapon verdict under RCW  
4 9.94A.825;

5 (u) Any felony offense in effect at any time prior to December 2,  
6 1993, that is comparable to a most serious offense under this  
7 subsection, or any federal or out-of-state conviction for an offense  
8 that under the laws of this state would be a felony classified as a  
9 most serious offense under this subsection;

10 (v)(i) A prior conviction for indecent liberties under RCW  
11 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
12 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
13 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
14 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

15 (ii) A prior conviction for indecent liberties under RCW  
16 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
17 if: (A) The crime was committed against a child under the age of  
18 fourteen; or (B) the relationship between the victim and perpetrator is  
19 included in the definition of indecent liberties under RCW  
20 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
21 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
22 through July 27, 1997;

23 (w) Any out-of-state conviction for a felony offense with a finding  
24 of sexual motivation if the minimum sentence imposed was ten years or  
25 more; provided that the out-of-state felony offense must be comparable  
26 to a felony offense under Title 9 or 9A RCW and the out-of-state  
27 definition of sexual motivation must be comparable to the definition of  
28 sexual motivation contained in this section.

29 ~~((+30+))~~ (31) "Nonviolent offense" means an offense which is not a  
30 violent offense.

31 ~~((+31+))~~ (32) "Offender" means a person who has committed a felony  
32 established by state law and is eighteen years of age or older or is  
33 less than eighteen years of age but whose case is under superior court  
34 jurisdiction under RCW 13.04.030 or has been transferred by the  
35 appropriate juvenile court to a criminal court pursuant to RCW  
36 13.40.110. In addition, for the purpose of community custody  
37 requirements under this chapter, "offender" also means a misdemeanor or  
38 gross misdemeanor probationer convicted of an offense included in RCW

1 9.94A.501(1) and ordered by a superior court to probation under the  
2 supervision of the department pursuant to RCW 9.92.060, 9.95.204, or  
3 9.95.210. Throughout this chapter, the terms "offender" and  
4 "defendant" are used interchangeably.

5 ~~((+32+))~~ (33) "Partial confinement" means confinement for no more  
6 than one year in a facility or institution operated or utilized under  
7 contract by the state or any other unit of government, or, if home  
8 detention or work crew has been ordered by the court or home detention  
9 has been ordered by the department as part of the parenting program, in  
10 an approved residence, for a substantial portion of each day with the  
11 balance of the day spent in the community. Partial confinement  
12 includes work release, home detention, work crew, and a combination of  
13 work crew and home detention.

14 ~~((+33+))~~ (34) "Pattern of criminal street gang activity" means:

15 (a) The commission, attempt, conspiracy, or solicitation of, or any  
16 prior juvenile adjudication of or adult conviction of, two or more of  
17 the following criminal street gang-related offenses:

18 (i) Any "serious violent" felony offense as defined in this  
19 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a  
20 Child 1 (RCW 9A.36.120);

21 (ii) Any "violent" offense as defined by this section, excluding  
22 Assault of a Child 2 (RCW 9A.36.130);

23 (iii) Deliver or Possession with Intent to Deliver a Controlled  
24 Substance (chapter 69.50 RCW);

25 (iv) Any violation of the firearms and dangerous weapon act  
26 (chapter 9.41 RCW);

27 (v) Theft of a Firearm (RCW 9A.56.300);

28 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

29 (vii) Malicious Harassment (RCW 9A.36.080);

30 (viii) Harassment where a subsequent violation or deadly threat is  
31 made (RCW 9A.46.020(2)(b));

32 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

33 (x) Any felony conviction by a person eighteen years of age or  
34 older with a special finding of involving a juvenile in a felony  
35 offense under RCW 9.94A.833;

36 (xi) Residential Burglary (RCW 9A.52.025);

37 (xii) Burglary 2 (RCW 9A.52.030);

38 (xiii) Malicious Mischief 1 (RCW 9A.48.070);



1 (xiv) Malicious Mischief 2 (RCW 9A.48.080);  
2 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);  
3 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);  
4 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);  
5 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
6 9A.56.075);  
7 (xix) Extortion 1 (RCW 9A.56.120);  
8 (xx) Extortion 2 (RCW 9A.56.130);  
9 (xxi) Intimidating a Witness (RCW 9A.72.110);  
10 (xxii) Tampering with a Witness (RCW 9A.72.120);  
11 (xxiii) Reckless Endangerment (RCW 9A.36.050);  
12 (xxiv) Coercion (RCW 9A.36.070);  
13 (xxv) Harassment (RCW 9A.46.020); or  
14 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);  
15 (b) That at least one of the offenses listed in (a) of this  
16 subsection shall have occurred after July 1, 2008;  
17 (c) That the most recent committed offense listed in (a) of this  
18 subsection occurred within three years of a prior offense listed in (a)  
19 of this subsection; and  
20 (d) Of the offenses that were committed in (a) of this subsection,  
21 the offenses occurred on separate occasions or were committed by two or  
22 more persons.  
23 (~~(+34+)~~) (35) "Persistent offender" is an offender who:  
24 (a)(i) Has been convicted in this state of any felony considered a  
25 most serious offense; and  
26 (ii) Has, before the commission of the offense under (a) of this  
27 subsection, been convicted as an offender on at least two separate  
28 occasions, whether in this state or elsewhere, of felonies that under  
29 the laws of this state would be considered most serious offenses and  
30 would be included in the offender score under RCW 9.94A.525; provided  
31 that of the two or more previous convictions, at least one conviction  
32 must have occurred before the commission of any of the other most  
33 serious offenses for which the offender was previously convicted; or  
34 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
35 of a child in the first degree, child molestation in the first degree,  
36 rape in the second degree, rape of a child in the second degree, or  
37 indecent liberties by forcible compulsion; (B) any of the following  
38 offenses with a finding of sexual motivation: Murder in the first

1 degree, murder in the second degree, homicide by abuse, kidnapping in  
2 the first degree, kidnapping in the second degree, assault in the first  
3 degree, assault in the second degree, assault of a child in the first  
4 degree, assault of a child in the second degree, or burglary in the  
5 first degree; or (C) an attempt to commit any crime listed in this  
6 subsection (~~(34)~~) (35)(b)(i); and

7 (ii) Has, before the commission of the offense under (b)(i) of this  
8 subsection, been convicted as an offender on at least one occasion,  
9 whether in this state or elsewhere, of an offense listed in (b)(i) of  
10 this subsection or any federal or out-of-state offense or offense under  
11 prior Washington law that is comparable to the offenses listed in  
12 (b)(i) of this subsection. A conviction for rape of a child in the  
13 first degree constitutes a conviction under (b)(i) of this subsection  
14 only when the offender was sixteen years of age or older when the  
15 offender committed the offense. A conviction for rape of a child in  
16 the second degree constitutes a conviction under (b)(i) of this  
17 subsection only when the offender was eighteen years of age or older  
18 when the offender committed the offense.

19 (~~(35)~~) (36) "Predatory" means: (a) The perpetrator of the crime  
20 was a stranger to the victim, as defined in this section; (b) the  
21 perpetrator established or promoted a relationship with the victim  
22 prior to the offense and the victimization of the victim was a  
23 significant reason the perpetrator established or promoted the  
24 relationship; or (c) the perpetrator was: (i) A teacher, counselor,  
25 volunteer, or other person in authority in any public or private school  
26 and the victim was a student of the school under his or her authority  
27 or supervision. For purposes of this subsection, "school" does not  
28 include home-based instruction as defined in RCW 28A.225.010; (ii) a  
29 coach, trainer, volunteer, or other person in authority in any  
30 recreational activity and the victim was a participant in the activity  
31 under his or her authority or supervision; or (iii) a pastor, elder,  
32 volunteer, or other person in authority in any church or religious  
33 organization, and the victim was a member or participant of the  
34 organization under his or her authority.

35 (~~(36)~~) (37) "Private school" means a school regulated under  
36 chapter 28A.195 or 28A.205 RCW.

37 (~~(37)~~) (38) "Public school" has the same meaning as in RCW  
38 28A.150.010.

1       (~~(38)~~) (39) "Restitution" means a specific sum of money ordered  
2 by the sentencing court to be paid by the offender to the court over a  
3 specified period of time as payment of damages. The sum may include  
4 both public and private costs.

5       (~~(39)~~) (40) "Risk assessment" means the application of the risk  
6 instrument recommended to the department by the Washington state  
7 institute for public policy as having the highest degree of predictive  
8 accuracy for assessing an offender's risk of reoffense.

9       (~~(40)~~) (41) "Serious traffic offense" means:

10       (a) Nonfelony driving while under the influence of intoxicating  
11 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
12 while under the influence of intoxicating liquor or any drug (RCW  
13 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
14 attended vehicle (RCW 46.52.020(5)); or

15       (b) Any federal, out-of-state, county, or municipal conviction for  
16 an offense that under the laws of this state would be classified as a  
17 serious traffic offense under (a) of this subsection.

18       (~~(41)~~) (42) "Serious violent offense" is a subcategory of violent  
19 offense and means:

20       (a)(i) Murder in the first degree;

21       (ii) Homicide by abuse;

22       (iii) Murder in the second degree;

23       (iv) Manslaughter in the first degree;

24       (v) Assault in the first degree;

25       (vi) Kidnapping in the first degree;

26       (vii) Rape in the first degree;

27       (viii) Assault of a child in the first degree; or

28       (ix) An attempt, criminal solicitation, or criminal conspiracy to  
29 commit one of these felonies; or

30       (b) Any federal or out-of-state conviction for an offense that  
31 under the laws of this state would be a felony classified as a serious  
32 violent offense under (a) of this subsection.

33       (~~(42)~~) (43) "Sex offense" means:

34       (a)(i) A felony that is a violation of chapter 9A.44 RCW other than  
35 RCW 9A.44.130(12);

36       (ii) A violation of RCW 9A.64.020;

37       (iii) A felony that is a violation of chapter 9.68A RCW other than  
38 RCW 9.68A.080; or

1 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,  
2 criminal solicitation, or criminal conspiracy to commit such crimes;

3 (b) Any conviction for a felony offense in effect at any time prior  
4 to July 1, 1976, that is comparable to a felony classified as a sex  
5 offense in (a) of this subsection;

6 (c) A felony with a finding of sexual motivation under RCW  
7 9.94A.835 or 13.40.135; or

8 (d) Any federal or out-of-state conviction for an offense that  
9 under the laws of this state would be a felony classified as a sex  
10 offense under (a) of this subsection.

11 ~~((43))~~ (44) "Sexual motivation" means that one of the purposes  
12 for which the defendant committed the crime was for the purpose of his  
13 or her sexual gratification.

14 ~~((44))~~ (45) "Standard sentence range" means the sentencing  
15 court's discretionary range in imposing a nonappealable sentence.

16 ~~((45))~~ (46) "Statutory maximum sentence" means the maximum length  
17 of time for which an offender may be confined as punishment for a crime  
18 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining  
19 the crime, or other statute defining the maximum penalty for a crime.

20 ~~((46))~~ (47) "Stranger" means that the victim did not know the  
21 offender twenty-four hours before the offense.

22 ~~((47))~~ (48) "Total confinement" means confinement inside the  
23 physical boundaries of a facility or institution operated or utilized  
24 under contract by the state or any other unit of government for twenty-  
25 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

26 ~~((48))~~ (49) "Transition training" means written and verbal  
27 instructions and assistance provided by the department to the offender  
28 during the two weeks prior to the offender's successful completion of  
29 the work ethic camp program. The transition training shall include  
30 instructions in the offender's requirements and obligations during the  
31 offender's period of community custody.

32 ~~((49))~~ (50) "Victim" means any person who has sustained  
33 emotional, psychological, physical, or financial injury to person or  
34 property as a direct result of the crime charged.

35 ~~((50))~~ (51) "Violent offense" means:

36 (a) Any of the following felonies:

37 (i) Any felony defined under any law as a class A felony or an  
38 attempt to commit a class A felony;

1 (ii) Criminal solicitation of or criminal conspiracy to commit a  
2 class A felony;

3 (iii) Manslaughter in the first degree;

4 (iv) Manslaughter in the second degree;

5 (v) Indecent liberties if committed by forcible compulsion;

6 (vi) Kidnapping in the second degree;

7 (vii) Arson in the second degree;

8 (viii) Assault in the second degree;

9 (ix) Assault of a child in the second degree;

10 (x) Extortion in the first degree;

11 (xi) Robbery in the second degree;

12 (xii) Drive-by shooting;

13 (xiii) Vehicular assault, when caused by the operation or driving  
14 of a vehicle by a person while under the influence of intoxicating  
15 liquor or any drug or by the operation or driving of a vehicle in a  
16 reckless manner; and

17 (xiv) Vehicular homicide, when proximately caused by the driving of  
18 any vehicle by any person while under the influence of intoxicating  
19 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
20 any vehicle in a reckless manner;

21 (b) Any conviction for a felony offense in effect at any time prior  
22 to July 1, 1976, that is comparable to a felony classified as a violent  
23 offense in (a) of this subsection; and

24 (c) Any federal or out-of-state conviction for an offense that  
25 under the laws of this state would be a felony classified as a violent  
26 offense under (a) or (b) of this subsection.

27 ((+51+)) (52) "Work crew" means a program of partial confinement  
28 consisting of civic improvement tasks for the benefit of the community  
29 that complies with RCW 9.94A.725.

30 ((+52+)) (53) "Work ethic camp" means an alternative incarceration  
31 program as provided in RCW 9.94A.690 designed to reduce recidivism and  
32 lower the cost of corrections by requiring offenders to complete a  
33 comprehensive array of real-world job and vocational experiences,  
34 character-building work ethics training, life management skills  
35 development, substance abuse rehabilitation, counseling, literacy  
36 training, and basic adult education.

37 ((+53+)) (54) "Work release" means a program of partial confinement

1 available to offenders who are employed or engaged as a student in a  
2 regular course of study at school.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW  
4 to read as follows:

5 (1) An offender is eligible for the parenting sentencing  
6 alternative if:

7 (a) The high end of the standard sentence range for the current  
8 offense is greater than one year;

9 (b) The offender has no prior or current conviction for a felony  
10 that is a sex offense or a violent offense;

11 (c) The offender has not been found by the United States attorney  
12 general to be subject to a deportation detainer or order and does not  
13 become subject to a deportation order during the period of the  
14 sentence;

15 (d) The offender signs any release of information waivers required  
16 to allow information regarding current or prior child welfare cases to  
17 be shared with the department and the court; and

18 (e) The offender has physical custody of his or her minor child or  
19 is a legal guardian or custodian with physical custody of a child under  
20 the age of eighteen at the time of the current offense.

21 (2) To assist the court in making its determination, the court may  
22 order the department to complete either a risk assessment report or a  
23 chemical dependency screening report as provided in RCW 9.94A.500, or  
24 both reports prior to sentencing.

25 (3) If the court is considering this alternative, the court shall  
26 request that the department contact the children's administration of  
27 the Washington state department of social and health services to  
28 determine if the agency has an open child welfare case or prior  
29 substantiated referral of abuse or neglect involving the offender or if  
30 the agency is aware of any substantiated case of abuse or neglect with  
31 a tribal child welfare agency involving the offender.

32 (a) If the offender has an open child welfare case, the department  
33 will provide the release of information waiver and request that the  
34 children's administration or the tribal child welfare agency provide a  
35 report to the court. The children's administration shall provide a  
36 report within seven business days of the request that includes, at the  
37 minimum, the following:

1 (i) Legal status of the child welfare case;  
2 (ii) Length of time the children's administration has been involved  
3 with the offender;  
4 (iii) Legal status of the case and permanent plan;  
5 (iv) Any special needs of the child;  
6 (v) Whether or not the offender has been cooperative with services  
7 ordered by a juvenile court under a child welfare case; and  
8 (vi) If the offender has been convicted of a crime against a child.  
9 (b) If a report is required from a tribal child welfare agency, the  
10 department shall attempt to obtain information that is similar to what  
11 is required for the report provided by the children's administration in  
12 a timely manner.  
13 (c) If the offender does not have an open child welfare case with  
14 the children's administration or with a tribal child welfare agency but  
15 has prior involvement, the department will obtain information from the  
16 children's administration on the number and type of past substantiated  
17 referrals of abuse or neglect and report that information to the court.  
18 If the children's administration has never had any substantiated  
19 referrals or an open case with the offender, the department will inform  
20 the court.  
21 (4) If the sentencing court determines that the offender is  
22 eligible for a sentencing alternative under this section and that the  
23 sentencing alternative is appropriate and should be imposed, the court  
24 shall waive imposition of a sentence within the standard sentence range  
25 and impose a sentence consisting of twelve months of community custody.  
26 The court shall consider the offender's criminal history when  
27 determining if the alternative is appropriate.  
28 (5) When a court imposes a sentence of community custody under this  
29 section:  
30 (a) The court may impose conditions as provided in RCW 9.94A.703  
31 and may impose other affirmative conditions as the court considers  
32 appropriate.  
33 (b) The department may impose conditions as authorized in RCW  
34 9.94A.704 that may include, but are not limited to:  
35 (i) Parenting classes;  
36 (ii) Chemical dependency treatment;  
37 (iii) Mental health treatment;  
38 (iv) Vocational training;

1 (v) Offender change programs;

2 (vi) Life skills classes.

3 (c) The department shall report to the court if the offender  
4 commits any violations of his or her sentence conditions.

5 (6) The department shall provide the court with quarterly progress  
6 reports regarding the offender's progress in required programming,  
7 treatment, and other supervision conditions. When an offender has an  
8 open child welfare case, the department will seek to coordinate  
9 services with the children's administration.

10 (7)(a) The court may bring any offender sentenced under this  
11 section back into court at any time during the period of community  
12 custody on its own initiative to evaluate the offender's progress in  
13 treatment, or to determine if any violations of the conditions of the  
14 sentence have occurred.

15 (b) If the offender is brought back to court, the court may modify  
16 the conditions of community custody or impose sanctions under (c) of  
17 this subsection.

18 (c) The court may order the offender to serve a term of total  
19 confinement within the standard range of the offender's current offense  
20 at any time during the period of community custody, if the offender  
21 violates the conditions or requirements of the sentence or if the  
22 offender is failing to make satisfactory progress in treatment.

23 (d) An offender ordered to serve a term of total confinement under  
24 (c) of this subsection shall receive credit for any time previously  
25 served in confinement under this section.

26 **Sec. 3.** RCW 9.94A.501 and 2009 c 376 s 2 are each amended to read  
27 as follows:

28 (1) The department shall supervise every offender convicted of a  
29 misdemeanor or gross misdemeanor offense who is sentenced to probation  
30 in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, for  
31 an offense included in (a) and (b) of this subsection. The superior  
32 court shall order probation for:

33 (a) Offenders convicted of fourth degree assault, violation of a  
34 domestic violence court order pursuant to RCW 10.99.040, 10.99.050,  
35 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145,  
36 and who also have a prior conviction for one or more of the following:

37 (i) A violent offense;



- 1 (ii) A sex offense;  
2 (iii) A crime against a person as provided in RCW 9.94A.411;  
3 (iv) Fourth degree assault; or  
4 (v) Violation of a domestic violence court order; and

5 (b) Offenders convicted of:

- 6 (i) Sexual misconduct with a minor second degree;  
7 (ii) Custodial sexual misconduct second degree;  
8 (iii) Communication with a minor for immoral purposes; and  
9 (iv) Failure to register pursuant to RCW 9A.44.130.

10 (2) Misdemeanor and gross misdemeanor offenders supervised by the  
11 department pursuant to this section shall be placed on community  
12 custody.

13 (3) The department shall supervise every felony offender sentenced  
14 to community custody whose risk assessment, conducted pursuant to  
15 subsection (6) of this section, classifies the offender as one who is  
16 at a high risk to reoffend.

17 (4) Notwithstanding any other provision of this section, the  
18 department shall supervise an offender sentenced to community custody  
19 regardless of risk classification if the offender:

20 (a) Has a current conviction for a sex offense or a serious violent  
21 offense as defined in RCW 9.94A.030;

22 (b) Has been identified by the department as a dangerous mentally  
23 ill offender pursuant to RCW 72.09.370;

24 (c) Has an indeterminate sentence and is subject to parole pursuant  
25 to RCW 9.95.017;

26 (d) Was sentenced under RCW 9.94A.650, 9.94A.660, section 2 of this  
27 act, or 9.94A.670; or

28 (e) Is subject to supervision pursuant to RCW 9.94A.745.

29 (5) The department is not authorized to, and may not, supervise any  
30 offender sentenced to a term of community custody or any probationer  
31 unless the offender or probationer is one for whom supervision is  
32 required under subsection (1), (2), (3), or (4) of this section.

33 (6) The department shall conduct a risk assessment for every felony  
34 offender sentenced to a term of community custody who may be subject to  
35 supervision under this section.

36 **Sec. 4.** RCW 9.94A.505 and 2009 c 389 s 1 are each amended to read  
37 as follows:

1 (1) When a person is convicted of a felony, the court shall impose  
2 punishment as provided in this chapter.

3 (2)(a) The court shall impose a sentence as provided in the  
4 following sections and as applicable in the case:

5 (i) Unless another term of confinement applies, a sentence within  
6 the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

7 (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

8 (iii) RCW 9.94A.570, relating to persistent offenders;

9 (iv) RCW 9.94A.540, relating to mandatory minimum terms;

10 (v) RCW 9.94A.650, relating to the first-time offender waiver;

11 (vi) RCW 9.94A.660, relating to the drug offender sentencing  
12 alternative;

13 (vii) RCW 9.94A.670, relating to the special sex offender  
14 sentencing alternative;

15 (viii) Section 2 of this act, relating to the parenting sentencing  
16 alternative;

17 (ix) RCW 9.94A.507, relating to certain sex offenses;

18 ~~((ix))~~ (x) RCW 9.94A.535, relating to exceptional sentences;

19 ~~((x))~~ (xi) RCW 9.94A.589, relating to consecutive and concurrent  
20 sentences;

21 ~~((xi))~~ (xii) RCW 9.94A.603, relating to felony driving while  
22 under the influence of intoxicating liquor or any drug and felony  
23 physical control of a vehicle while under the influence of intoxicating  
24 liquor or any drug.

25 (b) If a standard sentence range has not been established for the  
26 offender's crime, the court shall impose a determinate sentence which  
27 may include not more than one year of confinement; community  
28 restitution work; a term of community custody under RCW 9.94A.702 not  
29 to exceed one year; and/or other legal financial obligations. The  
30 court may impose a sentence which provides more than one year of  
31 confinement and a community custody term under RCW 9.94A.701 if the  
32 court finds reasons justifying an exceptional sentence as provided in  
33 RCW 9.94A.535.

34 (3) If the court imposes a sentence requiring confinement of thirty  
35 days or less, the court may, in its discretion, specify that the  
36 sentence be served on consecutive or intermittent days. A sentence  
37 requiring more than thirty days of confinement shall be served on

1 consecutive days. Local jail administrators may schedule court-ordered  
2 intermittent sentences as space permits.

3 (4) If a sentence imposed includes payment of a legal financial  
4 obligation, it shall be imposed as provided in RCW 9.94A.750,  
5 9.94A.753, 9.94A.760, and 43.43.7541.

6 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a  
7 court may not impose a sentence providing for a term of confinement or  
8 community custody that exceeds the statutory maximum for the crime as  
9 provided in chapter 9A.20 RCW.

10 (6) The sentencing court shall give the offender credit for all  
11 confinement time served before the sentencing if that confinement was  
12 solely in regard to the offense for which the offender is being  
13 sentenced.

14 (7) The court shall order restitution as provided in RCW 9.94A.750  
15 and 9.94A.753.

16 (8) As a part of any sentence, the court may impose and enforce  
17 crime-related prohibitions and affirmative conditions as provided in  
18 this chapter.

19 (9) In any sentence of partial confinement, the court may require  
20 the offender to serve the partial confinement in work release, in a  
21 program of home detention, on work crew, or in a combined program of  
22 work crew and home detention.

23 **Sec. 5.** RCW 9.94A.701 and 2009 c 375 s 5 are each amended to read  
24 as follows:

25 (1) If an offender is sentenced to the custody of the department  
26 for one of the following crimes, the court shall, in addition to the  
27 other terms of the sentence, sentence the offender to community custody  
28 for three years:

29 (a) A sex offense not sentenced under RCW 9.94A.507;

30 (b) A serious violent offense; or

31 (c) A violation of RCW 9A.44.130(11)(a) committed on or after June  
32 7, 2006, when a court sentences the person to a term of confinement of  
33 one year or less.

34 (2) A court shall, in addition to the other terms of the sentence,  
35 sentence an offender to community custody for eighteen months when the  
36 court sentences the person to the custody of the department for a  
37 violent offense that is not considered a serious violent offense.

1 (3) A court shall, in addition to the other terms of the sentence,  
2 sentence an offender to community custody for one year when the court  
3 sentences the person to the custody of the department for:

4 (a) Any crime against persons under RCW 9.94A.411(2);

5 (b) An offense involving the unlawful possession of a firearm under  
6 RCW 9.41.040, where the offender is a criminal street gang member or  
7 associate; or

8 (c) A felony offense under chapter 69.50 or 69.52 RCW, committed on  
9 or after July 1, 2000.

10 (4) If an offender is sentenced under the drug offender sentencing  
11 alternative, the court shall impose community custody as provided in  
12 RCW 9.94A.660.

13 (5) If an offender is sentenced under the special (~~(sexual-[sex])~~)  
14 sex offender sentencing alternative, the court shall impose community  
15 custody as provided in RCW 9.94A.670.

16 (6) If an offender is sentenced to a work ethic camp, the court  
17 shall impose community custody as provided in RCW 9.94A.690.

18 (7) If an offender is sentenced under the parenting sentencing  
19 alternative, the court shall impose a term of community custody as  
20 provided in section 2 of this act.

21 (8) If a sex offender is sentenced as a nonpersistent offender  
22 pursuant to RCW 9.94A.507, the court shall impose community custody as  
23 provided in that section.

24 ~~((+8))~~ (9) The term of community custody specified by this section  
25 shall be reduced by the court whenever an offender's standard range  
26 term of confinement in combination with the term of community custody  
27 exceeds the statutory maximum for the crime as provided in RCW  
28 9A.20.021.

29 **Sec. 6.** RCW 9.94A.728 and 2009 c 455 s 2, 2009 c 441 s 1, and 2009  
30 c 399 s 1 are each reenacted and amended to read as follows:

31 No person serving a sentence imposed pursuant to this chapter and  
32 committed to the custody of the department shall leave the confines of  
33 the correctional facility or be released prior to the expiration of the  
34 sentence except as follows:

35 (1) An offender may earn early release time as authorized by RCW  
36 9.94A.729;

1 (2) An offender may leave a correctional facility pursuant to an  
2 authorized furlough or leave of absence. In addition, offenders may  
3 leave a correctional facility when in the custody of a corrections  
4 officer or officers;

5 (3)(a) The secretary may authorize an extraordinary medical  
6 placement for an offender when all of the following conditions exist:

7 (i) The offender has a medical condition that is serious and is  
8 expected to require costly care or treatment;

9 (ii) The offender poses a low risk to the community because he or  
10 she is currently physically incapacitated due to age or the medical  
11 condition or is expected to be so at the time of release; and

12 (iii) It is expected that granting the extraordinary medical  
13 placement will result in a cost savings to the state.

14 (b) An offender sentenced to death or to life imprisonment without  
15 the possibility of release or parole is not eligible for an  
16 extraordinary medical placement.

17 (c) The secretary shall require electronic monitoring for all  
18 offenders in extraordinary medical placement unless the electronic  
19 monitoring equipment interferes with the function of the offender's  
20 medical equipment or results in the loss of funding for the offender's  
21 medical care, in which case, an alternative type of monitoring shall be  
22 utilized. The secretary shall specify who shall provide the monitoring  
23 services and the terms under which the monitoring shall be performed.

24 (d) The secretary may revoke an extraordinary medical placement  
25 under this subsection at any time.

26 (e) Persistent offenders are not eligible for extraordinary medical  
27 placement;

28 (4) The governor, upon recommendation from the clemency and pardons  
29 board, may grant an extraordinary release for reasons of serious health  
30 problems, senility, advanced age, extraordinary meritorious acts, or  
31 other extraordinary circumstances;

32 (5) No more than the final six months of the offender's term of  
33 confinement may be served in partial confinement designed to aid the  
34 offender in finding work and reestablishing himself or herself in the  
35 community or no more than the final twelve months of the offender's  
36 term of confinement may be served in partial confinement as part of the  
37 parenting program in section 8 of this act. This is in addition to

1 that period of earned early release time that may be exchanged for  
2 partial confinement pursuant to RCW 9.94A.729(5)(d);

3 (6) The governor may pardon any offender;

4 (7) The department may release an offender from confinement any  
5 time within ten days before a release date calculated under this  
6 section;

7 (8) An offender may leave a correctional facility prior to  
8 completion of his or her sentence if the sentence has been reduced as  
9 provided in RCW 9.94A.870; and

10 (9) Notwithstanding any other provisions of this section, an  
11 offender sentenced for a felony crime listed in RCW 9.94A.540 as  
12 subject to a mandatory minimum sentence of total confinement shall not  
13 be released from total confinement before the completion of the listed  
14 mandatory minimum sentence for that felony crime of conviction unless  
15 allowed under RCW 9.94A.540.

16 **Sec. 7.** RCW 9.94A.729 and 2009 c 455 s 3 are each amended to read  
17 as follows:

18 (1)(a) The term of the sentence of an offender committed to a  
19 correctional facility operated by the department may be reduced by  
20 earned release time in accordance with procedures that shall be  
21 developed and adopted by the correctional agency having jurisdiction in  
22 which the offender is confined. The earned release time shall be for  
23 good behavior and good performance, as determined by the correctional  
24 agency having jurisdiction. The correctional agency shall not credit  
25 the offender with earned release credits in advance of the offender  
26 actually earning the credits.

27 (b) Any program established pursuant to this section shall allow  
28 an offender to earn early release credits for presentence  
29 incarceration. If an offender is transferred from a county jail to the  
30 department, the administrator of a county jail facility shall certify  
31 to the department the amount of time spent in custody at the facility  
32 and the amount of earned release time. The department may approve a  
33 jail certification from a correctional agency that calculates earned  
34 release time based on the actual amount of confinement time served by  
35 the offender before sentencing when an erroneous calculation of  
36 confinement time served by the offender before sentencing appears on  
37 the judgment and sentence.

1 (2) An offender who has been convicted of a felony committed after  
2 July 23, 1995, that involves any applicable deadly weapon enhancements  
3 under RCW 9.94A.533 (3) or (4), or both, shall not receive any good  
4 time credits or earned release time for that portion of his or her  
5 sentence that results from any deadly weapon enhancements.

6 (3) An offender may earn early release time as follows:

7 (a) In the case of an offender convicted of a serious violent  
8 offense, or a sex offense that is a class A felony, committed on or  
9 after July 1, 1990, and before July 1, 2003, the aggregate earned  
10 release time may not exceed fifteen percent of the sentence.

11 (b) In the case of an offender convicted of a serious violent  
12 offense, or a sex offense that is a class A felony, committed on or  
13 after July 1, 2003, the aggregate earned release time may not exceed  
14 ten percent of the sentence.

15 (c) An offender is qualified to earn up to fifty percent of  
16 aggregate earned release time if he or she:

17 (i) Is not classified as an offender who is at a high risk to  
18 reoffend as provided in subsection (4) of this section;

19 (ii) Is not confined pursuant to a sentence for:

20 (A) A sex offense;

21 (B) A violent offense;

22 (C) A crime against persons as defined in RCW 9.94A.411;

23 (D) A felony that is domestic violence as defined in RCW 10.99.020;

24 (E) A violation of RCW 9A.52.025 (residential burglary);

25 (F) A violation of, or an attempt, solicitation, or conspiracy to  
26 violate, RCW 69.50.401 by manufacture or delivery or possession with  
27 intent to deliver methamphetamine; or

28 (G) A violation of, or an attempt, solicitation, or conspiracy to  
29 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

30 (iii) Has no prior conviction for the offenses listed in (c)(ii) of  
31 this subsection;

32 (iv) Participates in programming or activities as directed by the  
33 offender's individual reentry plan as provided under RCW 72.09.270 to  
34 the extent that such programming or activities are made available by  
35 the department; and

36 (v) Has not committed a new felony after July 22, 2007, while under  
37 community custody.

1 (d) In no other case shall the aggregate earned release time exceed  
2 one-third of the total sentence.

3 (4) The department shall perform a risk assessment of each offender  
4 who may qualify for earned early release under subsection (3)(c) of  
5 this section utilizing the risk assessment tool recommended by the  
6 Washington state institute for public policy. Subsection (3)(c) of  
7 this section does not apply to offenders convicted after July 1, 2010.

8 (5)(a) A person who is eligible for earned early release as  
9 provided in this section and who is convicted of a sex offense, a  
10 violent offense, any crime against persons under RCW 9.94A.411(2), or  
11 a felony offense under chapter 69.50 or 69.52 RCW, shall be transferred  
12 to community custody in lieu of earned release time;

13 (b) The department shall, as a part of its program for release to  
14 the community in lieu of earned release, require the offender to  
15 propose a release plan that includes an approved residence and living  
16 arrangement. All offenders with community custody terms eligible for  
17 release to community custody in lieu of earned release shall provide an  
18 approved residence and living arrangement prior to release to the  
19 community;

20 (c) The department may deny transfer to community custody in lieu  
21 of earned release time if the department determines an offender's  
22 release plan, including proposed residence location and living  
23 arrangements, may violate the conditions of the sentence or conditions  
24 of supervision, place the offender at risk to violate the conditions of  
25 the sentence, place the offender at risk to reoffend, or present a risk  
26 to victim safety or community safety. The department's authority under  
27 this section is independent of any court-ordered condition of sentence  
28 or statutory provision regarding conditions for community custody;

29 (d) If the department is unable to approve the offender's release  
30 plan, the department may do one or more of the following:

31 (i) Transfer an offender to partial confinement in lieu of earned  
32 early release for a period not to exceed three months. The three  
33 months in partial confinement is in addition to that portion of the  
34 offender's term of confinement that may be served in partial  
35 confinement as provided in RCW 9.94A.728(5);

36 (ii) Provide rental vouchers to the offender for a period not to  
37 exceed three months if rental assistance will result in an approved  
38 release plan. The voucher must be provided in conjunction with



1 additional transition support programming or services that enable an  
2 offender to participate in services including, but not limited to,  
3 substance abuse treatment, mental health treatment, sex offender  
4 treatment, educational programming, or employment programming;

5 (e) For each offender who is the recipient of a rental voucher, the  
6 department shall include, concurrent with the data that the department  
7 otherwise obtains and records, the housing status of the offender for  
8 the duration of the offender's supervision.

9 (6) An offender serving a term of confinement imposed under RCW  
10 9.94A.670(5)(a) is not eligible for earned release credits under this  
11 section.

12 NEW SECTION. **Sec. 8.** A new section is added to chapter 9.94A RCW  
13 to read as follows:

14 For offenders not sentenced under section 2 of this act, but  
15 otherwise eligible under this section, no more than the final twelve  
16 months of the offender's term of confinement may be served in partial  
17 confinement as home detention as part of the parenting program  
18 developed by the department.

19 (1) The secretary may transfer an offender from a correctional  
20 facility to home detention in the community if it is determined that  
21 the parenting program is an appropriate placement and when all of the  
22 following conditions exist:

23 (a) The offender is serving a sentence in which the high end of the  
24 range is greater than one year;

25 (b) The offender has no current conviction for a felony that is a  
26 sex offense or a violent offense;

27 (c) The offender has not been found by the United States attorney  
28 general to be subject to a deportation detainer or order and does not  
29 become subject to a deportation order during the period of the  
30 sentence;

31 (d) The offender signs any release of information waivers required  
32 to allow information regarding current or prior child welfare cases to  
33 be shared with the department and the court;

34 (e) The offender:

35 (i) Has physical or legal custody of a minor child;

36 (ii) Has a proven, established, ongoing, and substantial

1 relationship with his or her minor child that existed prior to the  
2 commission of the current offense; or

3 (iii) Is a legal guardian of a child that was under the age of  
4 eighteen at the time of the current offense; and

5 (f) The department determines that such a placement is in the best  
6 interests of the child.

7 (2) When the department is considering partial confinement as part  
8 of the parenting program for an offender, the department shall inquire  
9 of the individual and the children's administration with the Washington  
10 state department of social and health services whether the agency has  
11 an open child welfare case or prior substantiated referral for abuse or  
12 neglect involving the offender. If the children's administration or a  
13 tribal jurisdiction has an open child welfare case, the department will  
14 seek input from the children's administration or the involved tribal  
15 jurisdiction as to: (a) The status of the child welfare case; and (b)  
16 recommendations regarding placement of the offender and services  
17 required of the department and the court governing the individual's  
18 child welfare case. The department and its officers, agents, and  
19 employees are not liable for the acts of offenders participating in the  
20 parenting program unless the department or its officers, agents, and  
21 employees acted with willful and wanton disregard.

22 (3) All offenders placed on home detention as part of the parenting  
23 program shall provide an approved residence and living arrangement  
24 prior to transfer to home detention.

25 (4) While in the community on home detention as part of the  
26 parenting program, the department shall:

27 (a) Require the offender to be placed on electronic home  
28 monitoring;

29 (b) Require the offender to participate in programming and  
30 treatment that the department determines is needed;

31 (c) Assign a community corrections officer who will monitor the  
32 offender's compliance with conditions of partial confinement and  
33 programming requirements; and

34 (d) If the offender has an open child welfare case with the  
35 children's administration, collaborate and communicate with the  
36 identified social worker in the provision of services.

37 (5) The department has the authority to return any offender serving

1 partial confinement in the parenting program to total confinement if  
2 the offender is not complying with sentence requirements.

3 **Sec. 9.** RCW 9.94A.734 and 2007 c 199 s 9 are each amended to read  
4 as follows:

5 (1) Home detention may not be imposed for offenders convicted of  
6 the following offenses, unless imposed as partial confinement in the  
7 department's parenting program under section 8 of this act:

8 (a) A violent offense;

9 (b) Any sex offense;

10 (c) Any drug offense;

11 (d) Reckless burning in the first or second degree as defined in  
12 RCW 9A.48.040 or 9A.48.050;

13 (e) Assault in the third degree as defined in RCW 9A.36.031;

14 (f) Assault of a child in the third degree;

15 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or

16 (h) Harassment as defined in RCW 9A.46.020.

17 Home detention may be imposed for offenders convicted of possession of  
18 a controlled substance under RCW 69.50.4013 or forged prescription for  
19 a controlled substance under RCW 69.50.403 if the offender fulfills the  
20 participation conditions set forth in this section and is monitored for  
21 drug use by a treatment alternatives to street crime program or a  
22 comparable court or agency-referred program.

23 (2) Home detention may be imposed for offenders convicted of  
24 burglary in the second degree as defined in RCW 9A.52.030 or  
25 residential burglary conditioned upon the offender:

26 (a) Successfully completing twenty-one days in a work release  
27 program;

28 (b) Having no convictions for burglary in the second degree or  
29 residential burglary during the preceding two years and not more than  
30 two prior convictions for burglary or residential burglary;

31 (c) Having no convictions for a violent felony offense during the  
32 preceding two years and not more than two prior convictions for a  
33 violent felony offense;

34 (d) Having no prior charges of escape; and

35 (e) Fulfilling the other conditions of the home detention program.

36 (3) Home detention may be imposed for offenders convicted of taking  
37 a motor vehicle without permission in the second degree as defined in

1 RCW 9A.56.075, theft of a motor vehicle as defined under RCW 9A.56.065,  
2 or possession of a stolen motor vehicle as defined under RCW 9A.56.068  
3 conditioned upon the offender:

4 (a) Having no convictions for taking a motor vehicle without  
5 permission, theft of a motor vehicle or possession of a stolen motor  
6 vehicle during the preceding five years and not more than two prior  
7 convictions for taking a motor vehicle without permission, theft of a  
8 motor vehicle or possession of a stolen motor vehicle;

9 (b) Having no convictions for a violent felony offense during the  
10 preceding two years and not more than two prior convictions for a  
11 violent felony offense;

12 (c) Having no prior charges of escape; and

13 (d) Fulfilling the other conditions of the home detention program.

14 (4) Participation in a home detention program shall be conditioned  
15 upon:

16 (a) The offender obtaining or maintaining current employment or  
17 attending a regular course of school study at regularly defined hours,  
18 or the offender performing parental duties to offspring or minors  
19 normally in the custody of the offender;

20 (b) Abiding by the rules of the home detention program; and

21 (c) Compliance with court-ordered legal financial obligations. The  
22 home detention program may also be made available to offenders whose  
23 charges and convictions do not otherwise disqualify them if medical or  
24 health-related conditions, concerns or treatment would be better  
25 addressed under the home detention program, or where the health and  
26 welfare of the offender, other inmates, or staff would be jeopardized  
27 by the offender's incarceration. Participation in the home detention  
28 program for medical or health-related reasons is conditioned on the  
29 offender abiding by the rules of the home detention program and  
30 complying with court-ordered restitution.

31 **Sec. 10.** RCW 9.94A.190 and 2009 c 28 s 5 are each amended to read  
32 as follows:

33 (1) A sentence that includes a term or terms of confinement  
34 totaling more than one year shall be served in a facility or  
35 institution operated, or utilized under contract, by the state, or in  
36 home detention pursuant to section 8 of this act. Except as provided  
37 in subsection (3) or (5) of this section, a sentence of not more than

1 one year of confinement shall be served in a facility operated,  
2 licensed, or utilized under contract, by the county, or if home  
3 detention or work crew has been ordered by the court, in the residence  
4 of either the offender or a member of the offender's immediate family.

5 (2) If a county uses a state partial confinement facility for the  
6 partial confinement of a person sentenced to confinement for not more  
7 than one year, the county shall reimburse the state for the use of the  
8 facility as provided in this subsection. The office of financial  
9 management shall set the rate of reimbursement based upon the average  
10 per diem cost per offender in the facility. The office of financial  
11 management shall determine to what extent, if any, reimbursement shall  
12 be reduced or eliminated because of funds provided by the legislature  
13 to the department for the purpose of covering the cost of county use of  
14 state partial confinement facilities. The office of financial  
15 management shall reestablish reimbursement rates each even-numbered  
16 year.

17 (3) A person who is sentenced for a felony to a term of not more  
18 than one year, and who is committed or returned to incarceration in a  
19 state facility on another felony conviction, either under the  
20 indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter  
21 shall serve all terms of confinement, including a sentence of not more  
22 than one year, in a facility or institution operated, or utilized under  
23 contract, by the state, consistent with the provisions of RCW  
24 9.94A.589.

25 (4) Notwithstanding any other provision of this section, a sentence  
26 imposed pursuant to RCW 9.94A.660 which has a standard sentence range  
27 of over one year, regardless of length, shall be served in a facility  
28 or institution operated, or utilized under contract, by the state.

29 (5) Sentences imposed pursuant to RCW 9.94A.507 shall be served in  
30 a facility or institution operated, or utilized under contract, by the  
31 state.

32 **Sec. 11.** RCW 9.94A.6332 and 2009 c 375 s 14 are each amended to  
33 read as follows:

34 The procedure for imposing sanctions for violations of sentence  
35 conditions or requirements is as follows:

36 (1) If the offender was sentenced under the drug offender

1 sentencing alternative, any sanctions shall be imposed by the  
2 department or the court pursuant to RCW 9.94A.660.

3 (2) If the offender was sentenced under the special (~~sexual~~  
4 ~~{sex}~~) sex offender sentencing alternative, any sanctions shall be  
5 imposed by the department or the court pursuant to RCW 9.94A.670.

6 (3) If the offender was sentenced under the parenting sentencing  
7 alternative, any sanctions shall be imposed by the department or by the  
8 court pursuant to section 2 of this act.

9 (4) If a sex offender was sentenced pursuant to RCW 9.94A.507, any  
10 sanctions shall be imposed by the board pursuant to RCW 9.95.435.

11 (~~(+4)~~) (5) In any other case, if the offender is being supervised  
12 by the department, any sanctions shall be imposed by the department  
13 pursuant to RCW 9.94A.737. If a probationer is being supervised by the  
14 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon  
15 receipt of a violation hearing report from the department, the court  
16 retains any authority that those statutes provide to respond to a  
17 probationer's violation of conditions.

18 (~~(+5)~~) (6) If the offender is not being supervised by the  
19 department, any sanctions shall be imposed by the court pursuant to RCW  
20 9.94A.6333.

21 **Sec. 12.** RCW 9.94A.633 and 2009 c 375 s 12 are each amended to  
22 read as follows:

23 (1)(a) An offender who violates any condition or requirement of a  
24 sentence may be sanctioned with up to sixty days' confinement for each  
25 violation.

26 (b) In lieu of confinement, an offender may be sanctioned with work  
27 release, home detention with electronic monitoring, work crew,  
28 community restitution, inpatient treatment, daily reporting, curfew,  
29 educational or counseling sessions, supervision enhanced through  
30 electronic monitoring, or any other sanctions available in the  
31 community.

32 (2) If an offender was under community custody pursuant to one of  
33 the following statutes, the offender may be sanctioned as follows:

34 (a) If the offender was transferred to community custody in lieu of  
35 earned early release in accordance with RCW 9.94A.728(2), the offender  
36 may be transferred to a more restrictive confinement status to serve up

1 to the remaining portion of the sentence, less credit for any period  
2 actually spent in community custody or in detention awaiting  
3 disposition of an alleged violation.

4 (b) If the offender was sentenced under the drug offender  
5 sentencing alternative set out in RCW 9.94A.660, the offender may be  
6 sanctioned in accordance with that section.

7 (c) If the offender was sentenced under the parenting sentencing  
8 alternative set out in section 2 of this act, the offender may be  
9 sanctioned in accordance with that section.

10 (d) If the offender was sentenced under the special (~~sexual~~  
11 ~~{sex}~~) sex offender sentencing alternative set out in RCW 9.94A.670,  
12 the suspended sentence may be revoked and the offender committed to  
13 serve the original sentence of confinement.

14 (~~(d)~~) (e) If the offender was sentenced to a work ethic camp  
15 pursuant to RCW 9.94A.690, the offender may be reclassified to serve  
16 the unexpired term of his or her sentence in total confinement.

17 (~~(e)~~) (f) If a sex offender was sentenced pursuant to RCW  
18 9.94A.507, the offender may be transferred to a more restrictive  
19 confinement status to serve up to the remaining portion of the  
20 sentence, less credit for any period actually spent in community  
21 custody or in detention awaiting disposition of an alleged violation.

22 (3) If a probationer is being supervised by the department pursuant  
23 to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be  
24 sanctioned pursuant to subsection (1) of this section. The department  
25 shall have authority to issue a warrant for the arrest of an offender  
26 who violates a condition of community custody, as provided in RCW  
27 9.94A.716. Any sanctions shall be imposed by the department pursuant  
28 to RCW 9.94A.737. The department shall provide a copy of the violation  
29 hearing report to the sentencing court in a timely manner. Nothing in  
30 this subsection is intended to limit the power of the sentencing court  
31 to respond to a probationer's violation of conditions."

32 Correct the title.

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