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SECOND SUBSTITUTE HOUSE BILL 3045

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State of Washington                      61st Legislature                      2010 Regular Session

By House Ways & Means (originally sponsored by Representatives Roberts, Dickerson, Seaquist, Goodman, Carlyle, Green, Kagi, Upthegrove, Appleton, and Darneille; by request of Department of Corrections)

READ FIRST TIME 02/09/10.

1            AN ACT Relating to creating alternatives to total confinement for  
2 nonviolent offenders with minor children; amending RCW 9.94A.030,  
3 9.94A.501, 9.94A.505, 9.94A.701, 9.94A.734, 9.94A.190, 9.94A.6332, and  
4 9.94A.633; reenacting and amending RCW 9.94A.728; and adding a new  
5 section to chapter 9.94A RCW.

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

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

9            Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

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

13            (2) "Collect," or any derivative thereof, "collect and remit," or  
14 "collect and deliver," when used with reference to the department,  
15 means that the department, either directly or through a collection  
16 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
17 and enforcing the offender's sentence with regard to the legal  
18 financial obligation, receiving payment thereof from the offender, and,

1 consistent with current law, delivering daily the entire payment to the  
2 superior court clerk without depositing it in a departmental account.

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

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

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

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

16 (7) "Community restitution" means compulsory service, without  
17 compensation, performed for the benefit of the community by the  
18 offender.

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

20 (9) "Conviction" means an adjudication of guilt pursuant to Title  
21 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
22 acceptance of a plea of guilty.

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

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

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

37 (b) A conviction may be removed from a defendant's criminal history

1 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or  
2 a similar out-of-state statute, or if the conviction has been vacated  
3 pursuant to a governor's pardon.

4 (c) The determination of a defendant's criminal history is distinct  
5 from the determination of an offender score. A prior conviction that  
6 was not included in an offender score calculated pursuant to a former  
7 version of the sentencing reform act remains part of the defendant's  
8 criminal history.

9 (12) "Criminal street gang" means any ongoing organization,  
10 association, or group of three or more persons, whether formal or  
11 informal, having a common name or common identifying sign or symbol,  
12 having as one of its primary activities the commission of criminal  
13 acts, and whose members or associates individually or collectively  
14 engage in or have engaged in a pattern of criminal street gang  
15 activity. This definition does not apply to employees engaged in  
16 concerted activities for their mutual aid and protection, or to the  
17 activities of labor and bona fide nonprofit organizations or their  
18 members or agents.

19 (13) "Criminal street gang associate or member" means any person  
20 who actively participates in any criminal street gang and who  
21 intentionally promotes, furthers, or assists in any criminal act by the  
22 criminal street gang.

23 (14) "Criminal street gang-related offense" means any felony or  
24 misdemeanor offense, whether in this state or elsewhere, that is  
25 committed for the benefit of, at the direction of, or in association  
26 with any criminal street gang, or is committed with the intent to  
27 promote, further, or assist in any criminal conduct by the gang, or is  
28 committed for one or more of the following reasons:

- 29 (a) To gain admission, prestige, or promotion within the gang;
- 30 (b) To increase or maintain the gang's size, membership, prestige,  
31 dominance, or control in any geographical area;
- 32 (c) To exact revenge or retribution for the gang or any member of  
33 the gang;
- 34 (d) To obstruct justice, or intimidate or eliminate any witness  
35 against the gang or any member of the gang;
- 36 (e) To directly or indirectly cause any benefit, aggrandizement,  
37 gain, profit, or other advantage for the gang, its reputation,  
38 influence, or membership; or

1 (f) To provide the gang with any advantage in, or any control or  
2 dominance over any criminal market sector, including, but not limited  
3 to, manufacturing, delivering, or selling any controlled substance  
4 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
5 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
6 RCW); human trafficking (RCW 9A.40.100); or promoting pornography  
7 (chapter 9.68 RCW).

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

12 (16) "Day reporting" means a program of enhanced supervision  
13 designed to monitor the offender's daily activities and compliance with  
14 sentence conditions, and in which the offender is required to report  
15 daily to a specific location designated by the department or the  
16 sentencing court.

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

18 (18) "Determinate sentence" means a sentence that states with  
19 exactitude the number of actual years, months, or days of total  
20 confinement, of partial confinement, of community custody, the number  
21 of actual hours or days of community restitution work, or dollars or  
22 terms of a legal financial obligation. The fact that an offender  
23 through earned release can reduce the actual period of confinement  
24 shall not affect the classification of the sentence as a determinate  
25 sentence.

26 (19) "Disposable earnings" means that part of the earnings of an  
27 offender remaining after the deduction from those earnings of any  
28 amount required by law to be withheld. For the purposes of this  
29 definition, "earnings" means compensation paid or payable for personal  
30 services, whether denominated as wages, salary, commission, bonuses, or  
31 otherwise, and, notwithstanding any other provision of law making the  
32 payments exempt from garnishment, attachment, or other process to  
33 satisfy a court-ordered legal financial obligation, specifically  
34 includes periodic payments pursuant to pension or retirement programs,  
35 or insurance policies of any type, but does not include payments made  
36 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
37 or Title 74 RCW.

1 (20) "Drug offender sentencing alternative" is a sentencing option  
2 available to persons convicted of a felony offense other than a violent  
3 offense or a sex offense and who are eligible for the option under RCW  
4 9.94A.660.

5 (21) "Drug offense" means:

6 (a) Any felony violation of chapter 69.50 RCW except possession of  
7 a controlled substance (RCW 69.50.4013) or forged prescription for a  
8 controlled substance (RCW 69.50.403);

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

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

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

17 (23) "Escape" means:

18 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
19 first degree (RCW 9A.76.110), escape in the second degree (RCW  
20 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
21 willful failure to return from work release (RCW 72.65.070), or willful  
22 failure to be available for supervision by the department while in  
23 community custody (RCW 72.09.310); or

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

27 (24) "Felony traffic offense" means:

28 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
29 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
30 run injury-accident (RCW 46.52.020(4)), felony driving while under the  
31 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or  
32 felony physical control of a vehicle while under the influence of  
33 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

37 (25) "Fine" means a specific sum of money ordered by the sentencing

1 court to be paid by the offender to the court over a specific period of  
2 time.

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

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

9 (28) "Legal financial obligation" means a sum of money that is  
10 ordered by a superior court of the state of Washington for legal  
11 financial obligations which may include restitution to the victim,  
12 statutorily imposed crime victims' compensation fees as assessed  
13 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,  
14 court-appointed attorneys' fees, and costs of defense, fines, and any  
15 other financial obligation that is assessed to the offender as a result  
16 of a felony conviction. Upon conviction for vehicular assault while  
17 under the influence of intoxicating liquor or any drug, RCW  
18 46.61.522(1)(b), or vehicular homicide while under the influence of  
19 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial  
20 obligations may also include payment to a public agency of the expense  
21 of an emergency response to the incident resulting in the conviction,  
22 subject to RCW 38.52.430.

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

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

28 (a) Any felony defined under any law as a class A felony or  
29 criminal solicitation of or criminal conspiracy to commit a class A  
30 felony;

31 (b) Assault in the second degree;

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

33 (d) Child molestation in the second degree;

34 (e) Controlled substance homicide;

35 (f) Extortion in the first degree;

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

37 (h) Indecent liberties;

38 (i) Kidnapping in the second degree;

1 (j) Leading organized crime;  
2 (k) Manslaughter in the first degree;  
3 (l) Manslaughter in the second degree;  
4 (m) Promoting prostitution in the first degree;  
5 (n) Rape in the third degree;  
6 (o) Robbery in the second degree;  
7 (p) Sexual exploitation;  
8 (q) Vehicular assault, when caused by the operation or driving of  
9 a vehicle by a person while under the influence of intoxicating liquor  
10 or any drug or by the operation or driving of a vehicle in a reckless  
11 manner;  
12 (r) Vehicular homicide, when proximately caused by the driving of  
13 any vehicle by any person while under the influence of intoxicating  
14 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
15 any vehicle in a reckless manner;  
16 (s) Any other class B felony offense with a finding of sexual  
17 motivation;  
18 (t) Any other felony with a deadly weapon verdict under RCW  
19 9.94A.825;  
20 (u) Any felony offense in effect at any time prior to December 2,  
21 1993, that is comparable to a most serious offense under this  
22 subsection, or any federal or out-of-state conviction for an offense  
23 that under the laws of this state would be a felony classified as a  
24 most serious offense under this subsection;  
25 (v)(i) A prior conviction for indecent liberties under RCW  
26 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
27 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
28 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
29 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;  
30 (ii) A prior conviction for indecent liberties under RCW  
31 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
32 if: (A) The crime was committed against a child under the age of  
33 fourteen; or (B) the relationship between the victim and perpetrator is  
34 included in the definition of indecent liberties under RCW  
35 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
36 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
37 through July 27, 1997;

1 (w) Any out-of-state conviction for a felony offense with a finding  
2 of sexual motivation if the minimum sentence imposed was ten years or  
3 more; provided that the out-of-state felony offense must be comparable  
4 to a felony offense under Title 9 or 9A RCW and the out-of-state  
5 definition of sexual motivation must be comparable to the definition of  
6 sexual motivation contained in this section.

7 ~~((+30+))~~ (31) "Nonviolent offense" means an offense which is not a  
8 violent offense.

9 ~~((+31+))~~ (32) "Offender" means a person who has committed a felony  
10 established by state law and is eighteen years of age or older or is  
11 less than eighteen years of age but whose case is under superior court  
12 jurisdiction under RCW 13.04.030 or has been transferred by the  
13 appropriate juvenile court to a criminal court pursuant to RCW  
14 13.40.110. In addition, for the purpose of community custody  
15 requirements under this chapter, "offender" also means a misdemeanor or  
16 gross misdemeanor probationer convicted of an offense included in RCW  
17 9.94A.501(1) and ordered by a superior court to probation under the  
18 supervision of the department pursuant to RCW 9.92.060, 9.95.204, or  
19 9.95.210. Throughout this chapter, the terms "offender" and  
20 "defendant" are used interchangeably.

21 ~~((+32+))~~ (33) "Partial confinement" means confinement for no more  
22 than one year in a facility or institution operated or utilized under  
23 contract by the state or any other unit of government, or, if home  
24 detention or work crew has been ordered by the court or home detention  
25 has been ordered by the department as part of the parenting program, in  
26 an approved residence, for a substantial portion of each day with the  
27 balance of the day spent in the community. Partial confinement  
28 includes work release, home detention, work crew, and a combination of  
29 work crew and home detention.

30 ~~((+33+))~~ (34) "Pattern of criminal street gang activity" means:

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

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

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



1 (iii) Deliver or Possession with Intent to Deliver a Controlled  
2 Substance (chapter 69.50 RCW);  
3 (iv) Any violation of the firearms and dangerous weapon act  
4 (chapter 9.41 RCW);  
5 (v) Theft of a Firearm (RCW 9A.56.300);  
6 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);  
7 (vii) Malicious Harassment (RCW 9A.36.080);  
8 (viii) Harassment where a subsequent violation or deadly threat is  
9 made (RCW 9A.46.020(2)(b));  
10 (ix) Criminal Gang Intimidation (RCW 9A.46.120);  
11 (x) Any felony conviction by a person eighteen years of age or  
12 older with a special finding of involving a juvenile in a felony  
13 offense under RCW 9.94A.833;  
14 (xi) Residential Burglary (RCW 9A.52.025);  
15 (xii) Burglary 2 (RCW 9A.52.030);  
16 (xiii) Malicious Mischief 1 (RCW 9A.48.070);  
17 (xiv) Malicious Mischief 2 (RCW 9A.48.080);  
18 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);  
19 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);  
20 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);  
21 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
22 9A.56.075);  
23 (xix) Extortion 1 (RCW 9A.56.120);  
24 (xx) Extortion 2 (RCW 9A.56.130);  
25 (xxi) Intimidating a Witness (RCW 9A.72.110);  
26 (xxii) Tampering with a Witness (RCW 9A.72.120);  
27 (xxiii) Reckless Endangerment (RCW 9A.36.050);  
28 (xxiv) Coercion (RCW 9A.36.070);  
29 (xxv) Harassment (RCW 9A.46.020); or  
30 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);  
31 (b) That at least one of the offenses listed in (a) of this  
32 subsection shall have occurred after July 1, 2008;  
33 (c) That the most recent committed offense listed in (a) of this  
34 subsection occurred within three years of a prior offense listed in (a)  
35 of this subsection; and  
36 (d) Of the offenses that were committed in (a) of this subsection,  
37 the offenses occurred on separate occasions or were committed by two or  
38 more persons.

1       (~~(+34+)~~) (35) "Persistent offender" is an offender who:

2       (a)(i) Has been convicted in this state of any felony considered a  
3 most serious offense; and

4       (ii) Has, before the commission of the offense under (a) of this  
5 subsection, been convicted as an offender on at least two separate  
6 occasions, whether in this state or elsewhere, of felonies that under  
7 the laws of this state would be considered most serious offenses and  
8 would be included in the offender score under RCW 9.94A.525; provided  
9 that of the two or more previous convictions, at least one conviction  
10 must have occurred before the commission of any of the other most  
11 serious offenses for which the offender was previously convicted; or

12       (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
13 of a child in the first degree, child molestation in the first degree,  
14 rape in the second degree, rape of a child in the second degree, or  
15 indecent liberties by forcible compulsion; (B) any of the following  
16 offenses with a finding of sexual motivation: Murder in the first  
17 degree, murder in the second degree, homicide by abuse, kidnapping in  
18 the first degree, kidnapping in the second degree, assault in the first  
19 degree, assault in the second degree, assault of a child in the first  
20 degree, assault of a child in the second degree, or burglary in the  
21 first degree; or (C) an attempt to commit any crime listed in this  
22 subsection (~~(+34+)~~) (35)(b)(i); and

23       (ii) Has, before the commission of the offense under (b)(i) of this  
24 subsection, been convicted as an offender on at least one occasion,  
25 whether in this state or elsewhere, of an offense listed in (b)(i) of  
26 this subsection or any federal or out-of-state offense or offense under  
27 prior Washington law that is comparable to the offenses listed in  
28 (b)(i) of this subsection. A conviction for rape of a child in the  
29 first degree constitutes a conviction under (b)(i) of this subsection  
30 only when the offender was sixteen years of age or older when the  
31 offender committed the offense. A conviction for rape of a child in  
32 the second degree constitutes a conviction under (b)(i) of this  
33 subsection only when the offender was eighteen years of age or older  
34 when the offender committed the offense.

35       (~~(+35+)~~) (36) "Predatory" means: (a) The perpetrator of the crime  
36 was a stranger to the victim, as defined in this section; (b) the  
37 perpetrator established or promoted a relationship with the victim  
38 prior to the offense and the victimization of the victim was a

1 significant reason the perpetrator established or promoted the  
2 relationship; or (c) the perpetrator was: (i) A teacher, counselor,  
3 volunteer, or other person in authority in any public or private school  
4 and the victim was a student of the school under his or her authority  
5 or supervision. For purposes of this subsection, "school" does not  
6 include home-based instruction as defined in RCW 28A.225.010; (ii) a  
7 coach, trainer, volunteer, or other person in authority in any  
8 recreational activity and the victim was a participant in the activity  
9 under his or her authority or supervision; or (iii) a pastor, elder,  
10 volunteer, or other person in authority in any church or religious  
11 organization, and the victim was a member or participant of the  
12 organization under his or her authority.

13 ~~((+36+))~~ (37) "Private school" means a school regulated under  
14 chapter 28A.195 or 28A.205 RCW.

15 ~~((+37+))~~ (38) "Public school" has the same meaning as in RCW  
16 28A.150.010.

17 ~~((+38+))~~ (39) "Restitution" means a specific sum of money ordered  
18 by the sentencing court to be paid by the offender to the court over a  
19 specified period of time as payment of damages. The sum may include  
20 both public and private costs.

21 ~~((+39+))~~ (40) "Risk assessment" means the application of the risk  
22 instrument recommended to the department by the Washington state  
23 institute for public policy as having the highest degree of predictive  
24 accuracy for assessing an offender's risk of reoffense.

25 ~~((+40+))~~ (41) "Serious traffic offense" means:

26 (a) Nonfelony driving while under the influence of intoxicating  
27 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
28 while under the influence of intoxicating liquor or any drug (RCW  
29 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
30 attended vehicle (RCW 46.52.020(5)); or

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

34 ~~((+41+))~~ (42) "Serious violent offense" is a subcategory of violent  
35 offense and means:

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

37 (ii) Homicide by abuse;

38 (iii) Murder in the second degree;

1 (iv) Manslaughter in the first degree;  
2 (v) Assault in the first degree;  
3 (vi) Kidnapping in the first degree;  
4 (vii) Rape in the first degree;  
5 (viii) Assault of a child in the first degree; or  
6 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
7 commit one of these felonies; or  
8 (b) 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 serious  
10 violent offense under (a) of this subsection.

11 ~~((42))~~ (43) "Sex offense" means:  
12 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than  
13 RCW 9A.44.130(12);  
14 (ii) A violation of RCW 9A.64.020;  
15 (iii) A felony that is a violation of chapter 9.68A RCW other than  
16 RCW 9.68A.080; or  
17 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,  
18 criminal solicitation, or criminal conspiracy to commit such crimes;  
19 (b) Any conviction for a felony offense in effect at any time prior  
20 to July 1, 1976, that is comparable to a felony classified as a sex  
21 offense in (a) of this subsection;  
22 (c) A felony with a finding of sexual motivation under RCW  
23 9.94A.835 or 13.40.135; or  
24 (d) 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 sex  
26 offense under (a) of this subsection.

27 ~~((43))~~ (44) "Sexual motivation" means that one of the purposes  
28 for which the defendant committed the crime was for the purpose of his  
29 or her sexual gratification.

30 ~~((44))~~ (45) "Standard sentence range" means the sentencing  
31 court's discretionary range in imposing a nonappealable sentence.

32 ~~((45))~~ (46) "Statutory maximum sentence" means the maximum length  
33 of time for which an offender may be confined as punishment for a crime  
34 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining  
35 the crime, or other statute defining the maximum penalty for a crime.

36 ~~((46))~~ (47) "Stranger" means that the victim did not know the  
37 offender twenty-four hours before the offense.

1        ~~((47))~~ (48) "Total confinement" means confinement inside the  
2 physical boundaries of a facility or institution operated or utilized  
3 under contract by the state or any other unit of government for twenty-  
4 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

5        ~~((48))~~ (49) "Transition training" means written and verbal  
6 instructions and assistance provided by the department to the offender  
7 during the two weeks prior to the offender's successful completion of  
8 the work ethic camp program. The transition training shall include  
9 instructions in the offender's requirements and obligations during the  
10 offender's period of community custody.

11        ~~((49))~~ (50) "Victim" means any person who has sustained  
12 emotional, psychological, physical, or financial injury to person or  
13 property as a direct result of the crime charged.

14        ~~((50))~~ (51) "Violent offense" means:

15        (a) Any of the following felonies:

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

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

20        (iii) Manslaughter in the first degree;

21        (iv) Manslaughter in the second degree;

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

23        (vi) Kidnapping in the second degree;

24        (vii) Arson in the second degree;

25        (viii) Assault in the second degree;

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

27        (x) Extortion in the first degree;

28        (xi) Robbery in the second degree;

29        (xii) Drive-by shooting;

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

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

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

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

7 ~~((+51+))~~ (52) "Work crew" means a program of partial confinement  
8 consisting of civic improvement tasks for the benefit of the community  
9 that complies with RCW 9.94A.725.

10 ~~((+52+))~~ (53) "Work ethic camp" means an alternative incarceration  
11 program as provided in RCW 9.94A.690 designed to reduce recidivism and  
12 lower the cost of corrections by requiring offenders to complete a  
13 comprehensive array of real-world job and vocational experiences,  
14 character-building work ethics training, life management skills  
15 development, substance abuse rehabilitation, counseling, literacy  
16 training, and basic adult education.

17 ~~((+53+))~~ (54) "Work release" means a program of partial confinement  
18 available to offenders who are employed or engaged as a student in a  
19 regular course of study at school.

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

22 (1) An offender is eligible for the parenting sentencing  
23 alternative if:

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

26 (b) The offender has no prior or current convictions for a sex  
27 offense or violent offense;

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

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

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

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

5 (3) If the court is considering this alternative, the court shall  
6 request that the department contact the children's administration of  
7 the Washington state department of social and health services to  
8 determine if the agency has any open or prior cases of substantiated  
9 referrals of abuse and/or neglect involving the offender or if the  
10 agency is aware of any substantiated cases of abuse and/or neglect with  
11 a tribal child welfare agency involving the offender.

12 (a) If it is determined the offender has an open case of  
13 substantiated referrals of abuse and/or neglect with the children's  
14 administration or a child welfare agency, the department will provide  
15 the release of information waiver and request that the children's  
16 administration or the tribal child welfare agency provide a report to  
17 the court. The children's administration will provide a report within  
18 seven business days of the request that will include, at the minimum,  
19 the following:

- 20 (i) Legal status of the child welfare case;
- 21 (ii) Length of time the children's administration has been involved  
22 with the offender;
- 23 (iii) Legal status of the case and permanent plan;
- 24 (iv) If the child has special needs;
- 25 (v) Whether or not the offender has been cooperative with services  
26 ordered by a juvenile court under a child welfare case; and
- 27 (vi) If the offender has been convicted of a crime against a child.

28 (b) If a report is required from a tribal child welfare agency, the  
29 department shall attempt to obtain information that is similar to what  
30 is required for the report provided by the children's administration in  
31 a timely manner.

32 (c) If it is determined the offender does not have an open case  
33 with the children's administration or with a tribal child welfare  
34 agency but has prior such involvement, the department will obtain  
35 information from the children's administration on the number and type  
36 of past substantiated referrals of abuse and neglect and report that  
37 information to the court. If the children's administration has never

1 had any substantiated referrals or an open case with the offender, the  
2 department will inform the court.

3 (4) If the sentencing court determines that the offender is  
4 eligible for a sentencing alternative under this section and that the  
5 sentencing alternative is appropriate and should be imposed, the court  
6 shall waive imposition of a sentence within the standard sentence range  
7 and impose a sentence consisting of twelve months of community custody.  
8 The court shall consider the offender's criminal history when  
9 determining if the alternative is appropriate.

10 (5) When a court imposes a sentence of community custody under this  
11 section:

12 (a) The court may impose conditions as provided in RCW 9.94A.703  
13 and may impose other affirmative conditions as the court considers  
14 appropriate.

15 (b) The department may impose conditions as authorized in RCW  
16 9.94A.704 that may include, but are not limited to:

- 17 (i) Parenting classes;
- 18 (ii) Chemical dependency treatment;
- 19 (iii) Mental health treatment;
- 20 (iv) Vocational training;
- 21 (v) Offender change programs;
- 22 (vi) Life skills classes.

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

25 (6) The department shall provide the court with quarterly progress  
26 reports that state the offender's progress in required programming  
27 and/or treatment and other supervision conditions. When an offender  
28 has an open child welfare case, the department will seek to coordinate  
29 services with the children's administration.

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

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



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

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

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

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

16 (a) Offenders convicted of fourth degree assault, violation of a  
17 domestic violence court order pursuant to RCW 10.99.040, 10.99.050,  
18 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145,  
19 and who also have a prior conviction for one or more of the following:

- 20 (i) A violent offense;
- 21 (ii) A sex offense;
- 22 (iii) A crime against a person as provided in RCW 9.94A.411;
- 23 (iv) Fourth degree assault; or
- 24 (v) Violation of a domestic violence court order; and

25 (b) Offenders convicted of:

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

30 (2) Misdemeanor and gross misdemeanor offenders supervised by the  
31 department pursuant to this section shall be placed on community  
32 custody.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1        ~~(ix)~~ RCW 9.94A.507, relating to certain sex offenses;  
2        ~~((+ix+))~~ (x) RCW 9.94A.535, relating to exceptional sentences;  
3        ~~((+x+))~~ (xi) RCW 9.94A.589, relating to consecutive and concurrent  
4 sentences;  
5        ~~((+xi+))~~ (xii) RCW 9.94A.603, relating to felony driving while  
6 under the influence of intoxicating liquor or any drug and felony  
7 physical control of a vehicle while under the influence of intoxicating  
8 liquor or any drug.

9        (b) If a standard sentence range has not been established for the  
10 offender's crime, the court shall impose a determinate sentence which  
11 may include not more than one year of confinement; community  
12 restitution work; a term of community custody under RCW 9.94A.702 not  
13 to exceed one year; and/or other legal financial obligations. The  
14 court may impose a sentence which provides more than one year of  
15 confinement and a community custody term under RCW 9.94A.701 if the  
16 court finds reasons justifying an exceptional sentence as provided in  
17 RCW 9.94A.535.

18        (3) If the court imposes a sentence requiring confinement of thirty  
19 days or less, the court may, in its discretion, specify that the  
20 sentence be served on consecutive or intermittent days. A sentence  
21 requiring more than thirty days of confinement shall be served on  
22 consecutive days. Local jail administrators may schedule court-ordered  
23 intermittent sentences as space permits.

24        (4) If a sentence imposed includes payment of a legal financial  
25 obligation, it shall be imposed as provided in RCW 9.94A.750,  
26 9.94A.753, 9.94A.760, and 43.43.7541.

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

31        (6) The sentencing court shall give the offender credit for all  
32 confinement time served before the sentencing if that confinement was  
33 solely in regard to the offense for which the offender is being  
34 sentenced.

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

37        (8) As a part of any sentence, the court may impose and enforce

1 crime-related prohibitions and affirmative conditions as provided in  
2 this chapter.

3 (9) In any sentence of partial confinement, the court may require  
4 the offender to serve the partial confinement in work release, in a  
5 program of home detention, on work crew, or in a combined program of  
6 work crew and home detention.

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

9 (1) If an offender is sentenced to the custody of the department  
10 for one of the following crimes, the court shall, in addition to the  
11 other terms of the sentence, sentence the offender to community custody  
12 for three years:

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

14 (b) A serious violent offense; or

15 (c) A violation of RCW 9A.44.130(11)(a) committed on or after June  
16 7, 2006, when a court sentences the person to a term of confinement of  
17 one year or less.

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

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

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

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

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

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

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

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

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

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

9 ((+8)) (9) The term of community custody specified by this section  
10 shall be reduced by the court whenever an offender's standard range  
11 term of confinement in combination with the term of community custody  
12 exceeds the statutory maximum for the crime as provided in RCW  
13 9A.20.021.

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

16 No person serving a sentence imposed pursuant to this chapter and  
17 committed to the custody of the department shall leave the confines of  
18 the correctional facility or be released prior to the expiration of the  
19 sentence except as follows:

20 (1) An offender may earn early release time as authorized by RCW  
21 9.94A.729;

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

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

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

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

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

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

1 (c) The secretary shall require electronic monitoring for all  
2 offenders in extraordinary medical placement unless the electronic  
3 monitoring equipment interferes with the function of the offender's  
4 medical equipment or results in the loss of funding for the offender's  
5 medical care, in which case, an alternative type of monitoring shall be  
6 utilized. The secretary shall specify who shall provide the monitoring  
7 services and the terms under which the monitoring shall be performed.

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

10 (e) Persistent offenders are not eligible for extraordinary medical  
11 placement;

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

16 (5) No more than the final six months of the offender's term of  
17 confinement may be served in partial confinement designed to aid the  
18 offender in finding work and reestablishing himself or herself in the  
19 community or no more than the final twelve months of the offender's  
20 term of confinement may be served in partial confinement as part of the  
21 parenting plan in subsection (6) of this section. This is in addition  
22 to that period of earned early release time that may be exchanged for  
23 partial confinement pursuant to RCW 9.94A.729(5)(d);

24 (6) For offenders not sentenced under section 2 of this act, but  
25 otherwise eligible under (a) of this subsection, no more than the final  
26 twelve months of the offender's term of confinement may be served in  
27 partial confinement as home detention as part of the parenting program  
28 developed by the department.

29 (a) The secretary may transfer an offender from a correctional  
30 facility to home detention in the community if it is determined that  
31 the parenting program is an appropriate placement and when all of the  
32 following conditions exist:

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

35 (ii) The offender has no current convictions for a felony that is  
36 a sex offense or a violent offense;

37 (iii) The offender has not been found by the United States attorney

1 general to be subject to a deportation detainer or order and does not  
2 become subject to a deportation order during the period of the  
3 sentence;

4 (iv) The offender signs any release of information waivers required  
5 to allow information regarding current or prior child welfare cases to  
6 be shared with the department and the court;

7 (v) The offender:

8 (A) Has physical or legal custody of a minor child;

9 (B) Has a proven, established, ongoing, and substantial  
10 relationship with his or her minor child that existed prior to the  
11 commission of the current offense; or

12 (C) Is a legal guardian of a child that was under the age of  
13 eighteen at the time of the current offense; and

14 (vi) It is determined by the department that such a placement would  
15 be in the best interests of the child.

16 (b) For those offenders that the department is considering for  
17 partial confinement as part of the parenting program, the department  
18 shall inquire of children's administration and the individual if there  
19 are prior substantiated referrals for abuse or neglect, and if there is  
20 an open case. If there is a current open child welfare case with the  
21 children's administration or a tribal jurisdiction, the department will  
22 seek input from the children's administration or the involved tribal  
23 jurisdiction as to the status of the child welfare case and  
24 recommendations regarding the location of the offender, and services  
25 required of offenders by the department and the court governing the  
26 individual's child welfare case. The department and its officers,  
27 agents, and employees shall not be liable for the acts of offenders  
28 participating in the parenting program unless the department or its  
29 officers, agents, and employees acted with willful and wanton  
30 disregard.

31 (c) All offenders placed on home detention as part of the parenting  
32 program shall provide an approved residence and living arrangement  
33 prior to transfer to home detention.

34 (d) While in the community on home detention as part of the  
35 parenting program, the department shall:

36 (i) Require the offender to be placed on electronic home  
37 monitoring;

1 (ii) Require the offender to participate in programming and  
2 treatment that the supervising community corrections officer determines  
3 is needed;

4 (iii) Assign a community corrections officer who will monitor the  
5 offender's compliance with conditions of partial confinement and  
6 programming requirements; and

7 (iv) If the offender has an open child welfare case with the  
8 children's administration of the Washington state department of social  
9 and health services, collaborate and communicate with the identified  
10 social worker in the provision of services.

11 (e) The department has the authority to return any offender serving  
12 partial confinement in the parenting program to total confinement if  
13 the offender is not complying with sentence requirements;

14 (7) The governor may pardon any offender;

15 ~~((+7))~~ (8) The department may release an offender from confinement  
16 any time within ten days before a release date calculated under this  
17 section;

18 ~~((+8))~~ (9) An offender may leave a correctional facility prior to  
19 completion of his or her sentence if the sentence has been reduced as  
20 provided in RCW 9.94A.870; and

21 ~~((+9))~~ (10) Notwithstanding any other provisions of this section,  
22 an offender sentenced for a felony crime listed in RCW 9.94A.540 as  
23 subject to a mandatory minimum sentence of total confinement shall not  
24 be released from total confinement before the completion of the listed  
25 mandatory minimum sentence for that felony crime of conviction unless  
26 allowed under RCW 9.94A.540.

27 **Sec. 7.** RCW 9.94A.734 and 2007 c 199 s 9 are each amended to read  
28 as follows:

29 (1) Home detention may not be imposed for offenders convicted of  
30 the following offenses, unless imposed as partial confinement in the  
31 department's parenting plan under RCW 9.94A.728(6):

32 (a) A violent offense;

33 (b) Any sex offense;

34 (c) Any drug offense;

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

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



- 1 (f) Assault of a child in the third degree;
- 2 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or
- 3 (h) Harassment as defined in RCW 9A.46.020.

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

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

13 (a) Successfully completing twenty-one days in a work release  
14 program;

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

18 (c) Having no convictions for a violent felony offense during the  
19 preceding two years and not more than two prior convictions for a  
20 violent felony offense;

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

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

23 (3) Home detention may be imposed for offenders convicted of taking  
24 a motor vehicle without permission in the second degree as defined in  
25 RCW 9A.56.075, theft of a motor vehicle as defined under RCW 9A.56.065,  
26 or possession of a stolen motor vehicle as defined under RCW 9A.56.068  
27 conditioned upon the offender:

28 (a) Having no convictions for taking a motor vehicle without  
29 permission, theft of a motor vehicle or possession of a stolen motor  
30 vehicle during the preceding five years and not more than two prior  
31 convictions for taking a motor vehicle without permission, theft of a  
32 motor vehicle or possession of a stolen motor vehicle;

33 (b) Having no convictions for a violent felony offense during the  
34 preceding two years and not more than two prior convictions for a  
35 violent felony offense;

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

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

1 (4) Participation in a home detention program shall be conditioned  
2 upon:

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

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

8 (c) Compliance with court-ordered legal financial obligations. The  
9 home detention program may also be made available to offenders whose  
10 charges and convictions do not otherwise disqualify them if medical or  
11 health-related conditions, concerns or treatment would be better  
12 addressed under the home detention program, or where the health and  
13 welfare of the offender, other inmates, or staff would be jeopardized  
14 by the offender's incarceration. Participation in the home detention  
15 program for medical or health-related reasons is conditioned on the  
16 offender abiding by the rules of the home detention program and  
17 complying with court-ordered restitution.

18 **Sec. 8.** RCW 9.94A.190 and 2009 c 28 s 5 are each amended to read  
19 as follows:

20 (1) A sentence that includes a term or terms of confinement  
21 totaling more than one year shall be served in a facility or  
22 institution operated, or utilized under contract, by the state, or in  
23 home detention pursuant to RCW 9.94A.728(6). Except as provided in  
24 subsection (3) or (5) of this section, a sentence of not more than one  
25 year of confinement shall be served in a facility operated, licensed,  
26 or utilized under contract, by the county, or if home detention or work  
27 crew has been ordered by the court, in the residence of either the  
28 offender or a member of the offender's immediate family.

29 (2) If a county uses a state partial confinement facility for the  
30 partial confinement of a person sentenced to confinement for not more  
31 than one year, the county shall reimburse the state for the use of the  
32 facility as provided in this subsection. The office of financial  
33 management shall set the rate of reimbursement based upon the average  
34 per diem cost per offender in the facility. The office of financial  
35 management shall determine to what extent, if any, reimbursement shall  
36 be reduced or eliminated because of funds provided by the legislature  
37 to the department for the purpose of covering the cost of county use of

1 state partial confinement facilities. The office of financial  
2 management shall reestablish reimbursement rates each even-numbered  
3 year.

4 (3) A person who is sentenced for a felony to a term of not more  
5 than one year, and who is committed or returned to incarceration in a  
6 state facility on another felony conviction, either under the  
7 indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter  
8 shall serve all terms of confinement, including a sentence of not more  
9 than one year, in a facility or institution operated, or utilized under  
10 contract, by the state, consistent with the provisions of RCW  
11 9.94A.589.

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

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

19 **Sec. 9.** RCW 9.94A.6332 and 2009 c 375 s 14 are each amended to  
20 read as follows:

21 The procedure for imposing sanctions for violations of sentence  
22 conditions or requirements is as follows:

23 (1) If the offender was sentenced under the drug offender  
24 sentencing alternative, any sanctions shall be imposed by the  
25 department or the court pursuant to RCW 9.94A.660.

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

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

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

34 (~~(+4)~~) (5) In any other case, if the offender is being supervised  
35 by the department, any sanctions shall be imposed by the department  
36 pursuant to RCW 9.94A.737. If a probationer is being supervised by the  
37 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon

1 receipt of a violation hearing report from the department, the court  
2 retains any authority that those statutes provide to respond to a  
3 probationer's violation of conditions.

4 ((+5)) (6) If the offender is not being supervised by the  
5 department, any sanctions shall be imposed by the court pursuant to RCW  
6 9.94A.6333.

7 **Sec. 10.** RCW 9.94A.633 and 2009 c 375 s 12 are each amended to  
8 read as follows:

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

12 (b) In lieu of confinement, an offender may be sanctioned with work  
13 release, home detention with electronic monitoring, work crew,  
14 community restitution, inpatient treatment, daily reporting, curfew,  
15 educational or counseling sessions, supervision enhanced through  
16 electronic monitoring, or any other sanctions available in the  
17 community.

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

20 (a) If the offender was transferred to community custody in lieu of  
21 earned early release in accordance with RCW 9.94A.728(2), the offender  
22 may be transferred to a more restrictive confinement status to serve up  
23 to the remaining portion of the sentence, less credit for any period  
24 actually spent in community custody or in detention awaiting  
25 disposition of an alleged violation.

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

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

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

36 ((+d)) (e) If the offender was sentenced to a work ethic camp

1 pursuant to RCW 9.94A.690, the offender may be reclassified to serve  
2 the unexpired term of his or her sentence in total confinement.

3 ~~((e))~~ (f) If a sex offender was sentenced pursuant to RCW  
4 9.94A.507, the offender may be transferred to a more restrictive  
5 confinement status to serve up to the remaining portion of the  
6 sentence, less credit for any period actually spent in community  
7 custody or in detention awaiting disposition of an alleged violation.

8 (3) If a probationer is being supervised by the department pursuant  
9 to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be  
10 sanctioned pursuant to subsection (1) of this section. The department  
11 shall have authority to issue a warrant for the arrest of an offender  
12 who violates a condition of community custody, as provided in RCW  
13 9.94A.716. Any sanctions shall be imposed by the department pursuant  
14 to RCW 9.94A.737. The department shall provide a copy of the violation  
15 hearing report to the sentencing court in a timely manner. Nothing in  
16 this subsection is intended to limit the power of the sentencing court  
17 to respond to a probationer's violation of conditions.

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