S-4376.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 6641**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2016 Regular Session**

**By** Senator Hargrove

AN ACT Relating to addressing and mitigating the impacts of property crimes in Washington state; amending RCW 9.94A.506, 9.94A.515, 9.94A.585, 9.94A.702, 9.94A.171, 9.94A.860, and 9.94A.533; reenacting and amending RCW 9.94A.030, 9.94A.501, 9.94A.505, and 9.94A.701; adding a new section to chapter 43.88 RCW; adding new sections to chapter 9.94A RCW; adding new sections to chapter 43.131 RCW; creating new sections; prescribing penalties; and providing an effective date.

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) Washington has the highest property crime rate in the country.

(b) Washington's crime victims' compensation program does not provide victims with financial assistance for expenses associated with property crime.

(c) Funding for programs that notify victims when offenders are released from jail in three large counties is set to expire in 2016.

(d) In recent years, an increasing number of individuals convicted of property crimes have been sentenced to prison. Supervision paired with treatment including, but not limited to, mental health, chemical dependency, and cognitive behavioral treatment and services, which can have a significant impact on reducing the likelihood of reoffending, is not available as a sentencing option for most people convicted of property offenses.

(e) Supervision practices in Washington are promising and the department of corrections continues to refine its approach to community supervision, but there is an opportunity to further strengthen the quality of supervision and extend it to property crime offenders.

(f) Pretrial detainees take up a significant portion of county jail space and a portion of these individuals will be rearrested upon release. Only a fraction of counties in Washington utilize risk assessments to inform decision making regarding pretrial release.

(g) Sustained policy development in juvenile and criminal justice would benefit from a more concerted, consistent, and visible form of governance.

(2) It is the intent of the legislature to respond to the findings of the Washington state justice reinvestment task force, which are outlined in subsection (1) of this section, by changing sentencing policy to require supervision of certain people convicted of property offenses; by providing treatment, if needed, and programs to reduce recidivism; and by providing additional support to local governments and victims of property crime. The legislature adopts this act with the goal of reducing property crime by at least fifteen percent by fiscal year 2026.

**Sec.**  RCW 9.94A.030 and 2015 c 287 s 1 and 2015 c 261 s 12 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) To provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to, manufacturing, delivering, or selling any controlled substance (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

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

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

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

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

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

(20) "Domestic violence" has the same meaning as defined in RCW 10.99.020 and 26.50.010.

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

(22) "Drug offense" means:

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

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

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

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

(24) "Electronic monitoring" means tracking the location of an individual, whether pretrial or posttrial, through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

(a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or

(b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

(25) "Escape" means:

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

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

(26) "Felony traffic offense" means:

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

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

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

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

(29) "Home detention" is a subset of electronic monitoring and means a program of partial confinement available to offenders wherein the offender is confined in a private residence twenty-four hours a day, unless an absence from the residence is approved, authorized, or otherwise permitted in the order by the court or other supervising agency that ordered home detention, and the offender is subject to electronic monitoring.

(30) "Homelessness" or "homeless" means a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is:

(a) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations;

(b) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or

(c) A private residence where the individual stays as a transient invitee.

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

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

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

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

(b) Assault in the second degree;

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

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

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

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

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

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

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

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

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

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

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

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

(34) "Nonviolent offense" means an offense which is not a violent offense.

(35) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case is under superior court jurisdiction under RCW 13.04.030 or has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. In addition, for the purpose of community custody requirements under this chapter, "offender" also means a misdemeanant or gross misdemeanant probationer ordered by a superior court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(36) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention, electronic monitoring, or work crew has been ordered by the court or home detention has been ordered by the department as part of the parenting program, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, electronic monitoring, and a combination of work crew, electronic monitoring, and home detention.

(37) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(xiv) Malicious Mischief 2 (RCW 9A.48.080);

(xv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

(xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

(xviii) Taking a Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xix) Extortion 1 (RCW 9A.56.120);

(xx) Extortion 2 (RCW 9A.56.130);

(xxi) Intimidating a Witness (RCW 9A.72.110);

(xxii) Tampering with a Witness (RCW 9A.72.120);

(xxiii) Reckless Endangerment (RCW 9A.36.050);

(xxiv) Coercion (RCW 9A.36.070);

(xxv) Harassment (RCW 9A.46.020); or

(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

(b) That at least one of the offenses listed in (a) of this subsection shall have occurred after July 1, 2008;

(c) That the most recent committed offense listed in (a) of this subsection occurred within three years of a prior offense listed in (a) of this subsection; and

(d) Of the offenses that were committed in (a) of this subsection, the offenses occurred on separate occasions or were committed by two or more persons.

(38) "Persistent offender" is an offender who:

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

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

(b)(i) Has been convicted of: (A) Rape in the first degree, rape of a child in the first degree, child molestation in the first degree, rape in the second degree, rape of a child in the second degree, or indecent liberties by forcible compulsion; (B) any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or (C) an attempt to commit any crime listed in this subsection (38)(b)(i); and

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

(39) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

(40) "Private school" means a school regulated under chapter 28A.195 or 28A.205 RCW.

(41) "Property offense" means:

(a)(i) Counterfeiting (RCW 9.16.035(4));

(ii) Identity Theft 1 (RCW 9.35.020(2));

(iii) Theft of Livestock 1 (RCW 9A.56.080);

(iv) Trafficking in Stolen Property 1 (RCW 9A.82.050);

(v) Unlawful Factoring of a Credit Card or Payment Card Transaction (RCW 9A.56.290(4)(b));

(vi) Burglary 2 (RCW 9A.52.030);

(vii) Organized Retail Theft 1 (RCW 9A.56.350(2));

(viii) Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2));

(ix) Theft of Livestock 2 (RCW 9A.56.083);

(x) Theft with the Intent to Resell 1 (RCW 9A.56.340(2));

(xi) Trafficking in Stolen Property 2 (RCW 9A.82.055);

(xii) Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b));

(xiii) Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b));

(xiv) Counterfeiting (RCW 9.16.035(3));

(xv) Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3)(b));

(xvi) Health Care False Claims (RCW 48.80.030);

(xvii) Identity Theft 2 (RCW 9.35.020(3));

(xviii) Malicious Mischief 1 (RCW 9A.48.070);

(xix) Organized Retail Theft 2 (RCW 9A.56.350(3));

(xx) Possession of Stolen Property 1 (RCW 9A.56.150);

(xxi) Possession of a Stolen Vehicle (RCW 9A.56.068);

(xxii) Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3));

(xxiii) Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100(2)(b));

(xxiv) Theft 1 (RCW 9A.56.030);

(xxv) Theft of a Motor Vehicle (RCW 9A.56.065);

(xxvi) Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at five thousand dollars or more) (RCW 9A.56.096(5)(a));

(xxvii) Theft with the Intent to Resell 2 (RCW 9A.56.340(3));

(xxviii) Trafficking in Insurance Claims (RCW 48.30A.015);

(xxix) Unlawful Factoring of a Credit Card or Payment Card Transaction (RCW 9A.56.290(4)(a));

(xxx) False Verification for Welfare (RCW 74.08.055);

(xxxi) Forgery (RCW 9A.60.020);

(xxxii) Malicious Mischief 2 (RCW 9A.48.080);

(xxxiii) Possession of Stolen Property 2 (RCW 9A.56.160);

(xxxiv) Reckless Burning 1 (RCW 9A.48.040);

(xxxv) Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075);

(xxxvi) Theft 2 (RCW 9A.56.040);

(xxxvii) Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at seven hundred fifty dollars or more but less than five thousand dollars) (RCW 9A.56.096(5)(b));

(xxxviii) Unlawful Issuance of Checks or Drafts (RCW 9A.56.060);

(xxxix) Unlawful Possession of Fictitious Identification (RCW 9A.56.320(4));

(xl) Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320(5));

(xli) Unlawful Possession of Payment Instruments (RCW 9A.56.320(2));

(xlii) Unlawful Possession of a Personal Identification Device (RCW 9A.56.320(3));

(xliii) Unlawful Production of Payment Instruments (RCW 9A.56.320(1));

(xliv) Unlawful Trafficking in Food Stamps (RCW 9.91.142);

(xlv) Unlawful Use of Food Stamps (RCW 9.91.144);

(xlvi) Taking Motor Vehicle without Permission 1 (RCW 9A.56.070);

(b) An attempt, criminal solicitation, or criminal conspiracy to commit a property offense under (a) of this subsection; or

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

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

((~~(42)~~)) (43) "Repetitive domestic violence offense" means any:

(a)(i) Domestic violence assault that is not a felony offense under RCW 9A.36.041;

(ii) Domestic violence violation of a no-contact order under chapter 10.99 RCW that is not a felony offense;

(iii) Domestic violence violation of a protection order under chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

(iv) Domestic violence harassment offense under RCW 9A.46.020 that is not a felony offense; or

(v) Domestic violence stalking offense under RCW 9A.46.110 that is not a felony offense; or

(b) Any federal, out-of-state, tribal court, military, county, or municipal conviction for an offense that under the laws of this state would be classified as a repetitive domestic violence offense under (a) of this subsection.

((~~(43)~~)) (44) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

((~~(44)~~)) (45) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

((~~(45)~~)) (46) "Serious traffic offense" means:

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

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

((~~(46)~~)) (47) "Serious violent offense" is a subcategory of violent offense and means:

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

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

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

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

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

((~~(47)~~)) (48) "Sex offense" means:

(a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;

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

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

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

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

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

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

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

((~~(48)~~)) (49) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

((~~(49)~~)) (50) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

((~~(50)~~)) (51) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

((~~(51)~~)) (52) "Stranger" means that the victim did not know the offender twenty-four hours before the offense.

((~~(52)~~)) (53) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

((~~(53)~~)) (54) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

((~~(54)~~)) (55) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

((~~(55)~~)) (56) "Violent offense" means:

(a) Any of the following felonies:

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

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

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

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

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

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

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

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

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

((~~(56)~~)) (57) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

((~~(57)~~)) (58) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

((~~(58)~~)) (59) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

**Sec.**  RCW 9.94A.501 and 2015 c 290 s 1 and 2015 c 134 s 1 are each reenacted and amended to read as follows:

(1) The department shall supervise the following offenders who are sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

(a) Offenders convicted of:

(i) Sexual misconduct with a minor second degree;

(ii) Custodial sexual misconduct second degree;

(iii) Communication with a minor for immoral purposes; and

(iv) Violation of RCW 9A.44.132(2) (failure to register); and

(b) Offenders who have:

(i) A current conviction for a repetitive domestic violence offense where domestic violence has been ((~~plead [pleaded]~~)) pleaded and proven after August 1, 2011; and

(ii) A prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been ((~~plead [pleaded]~~)) pleaded and proven after August 1, 2011.

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

(3) The department shall supervise every felony offender sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk assessment classifies the offender as one who is at a high risk to reoffend.

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

(a) Has a current conviction for a sex offense or a serious violent offense and was sentenced to a term of community custody pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

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

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

(d) Has a current conviction for violating RCW 9A.44.132(1) (failure to register) and was sentenced to a term of community custody pursuant to RCW 9.94A.701;

(e)(i) Has a current conviction for a domestic violence felony offense where domestic violence has been ((~~plead [pleaded]~~)) pleaded and proven after August 1, 2011, and a prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence was ((~~plead [pleaded]~~)) pleaded and proven after August 1, 2011. This subsection (4)(e)(i) applies only to offenses committed prior to July 24, 2015;

(ii) Has a conviction for a domestic violence felony offense where domestic violence was ((~~plead [pleaded]~~)) pleaded and proven and that was committed after July 24, 2015. The state and its officers, agents, and employees shall not be held criminally or civilly liable for its supervision of an offender under this subsection (4)(e)(ii) unless the state and its officers, agents, and employees acted with gross negligence;

(f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or 9.94A.670;

(g) Is subject to supervision pursuant to RCW 9.94A.745; ((~~or~~))

(h) Was convicted and sentenced under RCW 46.61.520 (vehicular homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6) (felony DUI), or RCW 46.61.504(6) (felony physical control); or

(i) Has a current conviction for a property offense as defined in RCW 9.94A.030, and has an offender score of four points or more, unless the offender is a habitual property offender as defined in section 18 of this act.

(5) The department shall supervise any offender who is released by the indeterminate sentence review board and who was sentenced to community custody or subject to community custody under the terms of release.

(6) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody or any probationer unless the offender or probationer is one for whom supervision is required under this section or RCW 9.94A.5011.

(7) The department shall conduct a risk assessment for every felony offender sentenced to a term of community custody who may be subject to supervision under this section or RCW 9.94A.5011.

**Sec.**  RCW 9.94A.505 and 2015 c 287 s 10 and 2015 c 81 s 1 are each reenacted and amended to read as follows:

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

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

(i) Unless another term of confinement applies, a sentence within the standard sentence range established in RCW 9.94A.510 ((~~or~~)), 9.94A.517, or section 7 of this act;

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

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

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

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

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

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

(viii) RCW 9.94A.655, relating to the parenting sentencing alternative;

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

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

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

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

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

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

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

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

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

(7) The sentencing court shall not give the offender credit for any time the offender was required to comply with an electronic monitoring program prior to sentencing if the offender was convicted of one of the following offenses:

(a) A violent offense;

(b) Any sex offense;

(c) Any drug offense;

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

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

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

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

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

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

(9) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter. "Crime-related prohibitions" may include a prohibition on the use or possession of alcohol or controlled substances if the court finds that any chemical dependency or substance abuse contributed to the offense.

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

**Sec.**  RCW 9.94A.506 and 2011 1st sp.s. c 40 s 26 are each amended to read as follows:

The standard sentence ranges of total and partial confinement under this chapter, except as provided in RCW 9.94A.517 and section 7 of this act, are subject to the following limitations:

(1) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(2) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range, except that for murder in the second degree in seriousness level XIV under RCW 9.94A.510, the minimum term in the range shall be no less than fifty percent of the maximum term in the range; and

(3) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.021.

**Sec.**  RCW 9.94A.515 and 2015 c 261 s 11 are each amended to read as follows:

|  |  |  |
| --- | --- | --- |
|  | TABLE 2 |  |
|  | CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL |  |
| XVI | Aggravated Murder 1 (RCW 10.95.020) |  |
| XV | Homicide by abuse (RCW 9A.32.055) |  |
|  | Malicious explosion 1 (RCW 70.74.280(1)) |  |
|  | Murder 1 (RCW 9A.32.030) |  |
| XIV | Murder 2 (RCW 9A.32.050) |  |
|  | Trafficking 1 (RCW 9A.40.100(1)) |  |
| XIII | Malicious explosion 2 (RCW 70.74.280(2)) |  |
|  | Malicious placement of an explosive 1 (RCW 70.74.270(1)) |  |
| XII | Assault 1 (RCW 9A.36.011) |  |
|  | Assault of a Child 1 (RCW 9A.36.120) |  |
|  | Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) |  |
|  | Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101) |  |
|  | Rape 1 (RCW 9A.44.040) |  |
|  | Rape of a Child 1 (RCW 9A.44.073) |  |
|  | Trafficking 2 (RCW 9A.40.100(3)) |  |
| XI | Manslaughter 1 (RCW 9A.32.060) |  |
|  | Rape 2 (RCW 9A.44.050) |  |
|  | Rape of a Child 2 (RCW 9A.44.076) |  |
|  | Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520) |  |
| X | Child Molestation 1 (RCW 9A.44.083) |  |
|  | Criminal Mistreatment 1 (RCW 9A.42.020) |  |
|  | Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) |  |
|  | Kidnapping 1 (RCW 9A.40.020) |  |
|  | Leading Organized Crime (RCW 9A.82.060(1)(a)) |  |
|  | Malicious explosion 3 (RCW 70.74.280(3)) |  |
|  | Sexually Violent Predator Escape (RCW 9A.76.115) |  |
| IX | Abandonment of Dependent Person 1 (RCW 9A.42.060) |  |
|  | Assault of a Child 2 (RCW 9A.36.130) |  |
|  | Explosive devices prohibited (RCW 70.74.180) |  |
|  | Hit and Run—Death (RCW 46.52.020(4)(a)) |  |
|  | Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050) |  |
|  | Inciting Criminal Profiteering (RCW 9A.82.060(1)(b)) |  |
|  | Malicious placement of an explosive 2 (RCW 70.74.270(2)) |  |
|  | Robbery 1 (RCW 9A.56.200) |  |
|  | Sexual Exploitation (RCW 9.68A.040) |  |
| VIII | Arson 1 (RCW 9A.48.020) |  |
|  | Commercial Sexual Abuse of a Minor (RCW 9.68A.100) |  |
|  | Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050) |  |
|  | Manslaughter 2 (RCW 9A.32.070) |  |
|  | Promoting Prostitution 1 (RCW 9A.88.070) |  |
|  | Theft of Ammonia (RCW 69.55.010) |  |
|  | Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520) |  |
| VII | Burglary 1 (RCW 9A.52.020) |  |
|  | Child Molestation 2 (RCW 9A.44.086) |  |
|  | Civil Disorder Training (RCW 9A.48.120) |  |
|  | Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1)) |  |
|  | Drive-by Shooting (RCW 9A.36.045) |  |
|  | Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050) |  |
|  | Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c)) |  |
|  | Introducing Contraband 1 (RCW 9A.76.140) |  |
|  | Malicious placement of an explosive 3 (RCW 70.74.270(3)) |  |
|  | Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675) |  |
|  | Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1)) |  |
|  | Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)) |  |
|  | Use of a Machine Gun in Commission of a Felony (RCW 9.41.225) |  |
|  | Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520) |  |
| VI | Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a)) |  |
|  | Bribery (RCW 9A.68.010) |  |
|  | Incest 1 (RCW 9A.64.020(1)) |  |
|  | Intimidating a Judge (RCW 9A.72.160) |  |
|  | Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130) |  |
|  | Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b)) |  |
|  | Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1)) |  |
|  | Rape of a Child 3 (RCW 9A.44.079) |  |
|  | Theft of a Firearm (RCW 9A.56.300) |  |
|  | Unlawful Storage of Ammonia (RCW 69.55.020) |  |
| V | Abandonment of Dependent Person 2 (RCW 9A.42.070) |  |
|  | Advancing money or property for extortionate extension of credit (RCW 9A.82.030) |  |
|  | Bail Jumping with class A Felony (RCW 9A.76.170(3)(b)) |  |
|  | Child Molestation 3 (RCW 9A.44.089) |  |
|  | Criminal Mistreatment 2 (RCW 9A.42.030) |  |
|  | Custodial Sexual Misconduct 1 (RCW 9A.44.160) |  |
|  | Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2)) |  |
|  | Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145) |  |
|  | Driving While Under the Influence (RCW 46.61.502(6)) |  |
|  | Extortion 1 (RCW 9A.56.120) |  |
|  | Extortionate Extension of Credit (RCW 9A.82.020) |  |
|  | Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040) |  |
|  | Incest 2 (RCW 9A.64.020(2)) |  |
|  | Kidnapping 2 (RCW 9A.40.030) |  |
|  | Perjury 1 (RCW 9A.72.020) |  |
|  | Persistent prison misbehavior (RCW 9.94.070) |  |
|  | Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6)) |  |
|  | Possession of a Stolen Firearm (RCW 9A.56.310) |  |
|  | Rape 3 (RCW 9A.44.060) |  |
|  | Rendering Criminal Assistance 1 (RCW 9A.76.070) |  |
|  | Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2)) |  |
|  | Sexual Misconduct with a Minor 1 (RCW 9A.44.093) |  |
|  | Sexually Violating Human Remains (RCW 9A.44.105) |  |
|  | Stalking (RCW 9A.46.110) |  |
|  | ((~~Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)~~)) |  |
| IV | Arson 2 (RCW 9A.48.030) |  |
|  | Assault 2 (RCW 9A.36.021) |  |
|  | Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h)) |  |
|  | Assault by Watercraft (RCW 79A.60.060) |  |
|  | Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100) |  |
|  | Cheating 1 (RCW 9.46.1961) |  |
|  | Commercial Bribery (RCW 9A.68.060) |  |
|  | ((~~Counterfeiting (RCW 9.16.035(4))~~)) |  |
|  | Endangerment with a Controlled Substance (RCW 9A.42.100) |  |
|  | Escape 1 (RCW 9A.76.110) |  |
|  | Hit and Run—Injury (RCW 46.52.020(4)(b)) |  |
|  | Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3)) |  |
|  | ((~~Identity Theft 1 (RCW 9.35.020(2))~~)) |  |
|  | Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010) |  |
|  | Influencing Outcome of Sporting Event (RCW 9A.82.070) |  |
|  | Malicious Harassment (RCW 9A.36.080) |  |
|  | Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2)) |  |
|  | Residential Burglary (RCW 9A.52.025) |  |
|  | Robbery 2 (RCW 9A.56.210) |  |
|  | ((~~Theft of Livestock 1 (RCW 9A.56.080)~~)) |  |
|  | Threats to Bomb (RCW 9.61.160) |  |
|  | ((~~Trafficking in Stolen Property 1 (RCW 9A.82.050)~~ |  |
|  | ~~Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))~~)) |  |
|  | Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3)) |  |
|  | Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3)) |  |
|  | Unlawful transaction of insurance business (RCW 48.15.023(3)) |  |
|  | Unlicensed practice as an insurance professional (RCW 48.17.063(2)) |  |
|  | Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2)) |  |
|  | Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3)) |  |
|  | Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522) |  |
|  | Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1)) |  |
|  | Willful Failure to Return from Furlough (RCW 72.66.060) |  |
| III | Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3)) |  |
|  | Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h)) |  |
|  | Assault of a Child 3 (RCW 9A.36.140) |  |
|  | Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c)) |  |
|  | ((~~Burglary 2 (RCW 9A.52.030)~~)) |  |
|  | Communication with a Minor for Immoral Purposes (RCW 9.68A.090) |  |
|  | Criminal Gang Intimidation (RCW 9A.46.120) |  |
|  | Custodial Assault (RCW 9A.36.100) |  |
|  | Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3)) |  |
|  | Escape 2 (RCW 9A.76.120) |  |
|  | Extortion 2 (RCW 9A.56.130) |  |
|  | Harassment (RCW 9A.46.020) |  |
|  | Intimidating a Public Servant (RCW 9A.76.180) |  |
|  | Introducing Contraband 2 (RCW 9A.76.150) |  |
|  | Malicious Injury to Railroad Property (RCW 81.60.070) |  |
|  | Mortgage Fraud (RCW 19.144.080) |  |
|  | Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674) |  |
|  | ((~~Organized Retail Theft 1 (RCW 9A.56.350(2))~~)) |  |
|  | Perjury 2 (RCW 9A.72.030) |  |
|  | Possession of Incendiary Device (RCW 9.40.120) |  |
|  | Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190) |  |
|  | Promoting Prostitution 2 (RCW 9A.88.080) |  |
|  | ((~~Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))~~)) |  |
|  | Securities Act violation (RCW 21.20.400) |  |
|  | Tampering with a Witness (RCW 9A.72.120) |  |
|  | Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2)) |  |
|  | ((~~Theft of Livestock 2 (RCW 9A.56.083)~~ |  |
|  | ~~Theft with the Intent to Resell 1 (RCW 9A.56.340(2))~~ |  |
|  | ~~Trafficking in Stolen Property 2 (RCW 9A.82.055)~~ |  |
|  | ~~Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))~~)) |  |
|  | Unlawful Imprisonment (RCW 9A.40.040) |  |
|  | Unlawful Misbranding of Food Fish or Shellfish 1 (RCW 69.04.938(3)) |  |
|  | Unlawful possession of firearm in the second degree (RCW 9.41.040(2)) |  |
|  | Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b)) |  |
|  | Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b)) |  |
|  | Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4)) |  |
|  | Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522) |  |
|  | Willful Failure to Return from Work Release (RCW 72.65.070) |  |
| II | ((~~Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))~~)) |  |
|  | Computer Trespass 1 (RCW 9A.52.110) |  |
|  | ((~~Counterfeiting (RCW 9.16.035(3))~~ |  |
|  | ~~Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))~~)) |  |
|  | Escape from Community Custody (RCW 72.09.310) |  |
|  | Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132) |  |
|  | ((~~Health Care False Claims (RCW 48.80.030)~~ |  |
|  | ~~Identity Theft 2 (RCW 9.35.020(3))~~)) |  |
|  | Improperly Obtaining Financial Information (RCW 9.35.010) |  |
|  | ((~~Malicious Mischief 1 (RCW 9A.48.070)~~ |  |
|  | ~~Organized Retail Theft 2 (RCW 9A.56.350(3))~~ |  |
|  | ~~Possession of Stolen Property 1 (RCW 9A.56.150)~~ |  |
|  | ~~Possession of a Stolen Vehicle (RCW 9A.56.068)~~ |  |
|  | ~~Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3))~~ |  |
|  | ~~Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100)~~ |  |
|  | ~~Theft 1 (RCW 9A.56.030)~~ |  |
|  | ~~Theft of a Motor Vehicle (RCW 9A.56.065)~~ |  |
|  | ~~Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(5)(a))~~ |  |
|  | ~~Theft with the Intent to Resell 2 (RCW 9A.56.340(3))~~ |  |
|  | ~~Trafficking in Insurance Claims (RCW 48.30A.015)~~ |  |
|  | ~~Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))~~)) |  |
|  | Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2)) |  |
|  | Unlawful Practice of Law (RCW 2.48.180) |  |
|  | Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b)) |  |
|  | Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a)) |  |
|  | Unlicensed Practice of a Profession or Business (RCW 18.130.190(7)) |  |
|  | Voyeurism (RCW 9A.44.115) |  |
| I | Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024) |  |
|  | ((~~False Verification for Welfare (RCW 74.08.055)~~ |  |
|  | ~~Forgery (RCW 9A.60.020)~~)) |  |
|  | Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060) |  |
|  | ((~~Malicious Mischief 2 (RCW 9A.48.080)~~)) |  |
|  | Mineral Trespass (RCW 78.44.330) |  |
|  | ((~~Possession of Stolen Property 2 (RCW 9A.56.160)~~ |  |
|  | ~~Reckless Burning 1 (RCW 9A.48.040)~~)) |  |
|  | Spotlighting Big Game 1 (RCW 77.15.450(3)(b)) |  |
|  | Suspension of Department Privileges 1 (RCW 77.15.670(3)(b)) |  |
|  | ((~~Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)~~ |  |
|  | ~~Theft 2 (RCW 9A.56.040)~~ |  |
|  | ~~Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(5)(b))~~)) |  |
|  | Transaction of insurance business beyond the scope of licensure (RCW 48.17.063) |  |
|  | Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b)) |  |
|  | ((~~Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)~~ |  |
|  | ~~Unlawful Possession of Fictitious Identification (RCW 9A.56.320)~~ |  |
|  | ~~Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)~~ |  |
|  | ~~Unlawful Possession of Payment Instruments (RCW 9A.56.320)~~ |  |
|  | ~~Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)~~ |  |
|  | ~~Unlawful Production of Payment Instruments (RCW 9A.56.320)~~)) |  |
|  | Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b)) |  |
|  | ((~~Unlawful Trafficking in Food Stamps (RCW 9.91.142)~~ |  |
|  | ~~Unlawful Use of Food Stamps (RCW 9.91.144)~~)) |  |
|  | Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b)) |  |
|  | Unlawful Use of Prohibited Aquatic Animal Species (RCW 77.15.253(3)) |  |
|  | Vehicle Prowl 1 (RCW 9A.52.095) |  |
|  | Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b)) |  |

NEW SECTION. **Sec.**

(1)

TABLE 5 - PROPERTY OFFENSE SENTENCING GRID

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| SeriousnessLevel |  |  |  | Offender Score |  |  |  |
|  | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 or more |
| **4** | 15-180 days | 30-240 days | 30-300 days | 12+-14 months | 12+-16 months | 14-18 months | 16-24 months | 24-30 months | 30-36.5 months | 36.5-42 months |
| **3** | 10-90 days | 15-180 days | 20-180 days | 30-240 days | 30-300 days | 12+-14 months | 12+-16 months | 14-18 months | 16-24 months | 24-30 months |
| **2** | 0-90 days | 10-120 days | 15-180 days | 20-180 days | 30-240 days | 30-300 days | 12+-14 months | 12+-16 months | 14-18 months | 16-20 months |
| **1** | 0-60 days | 0-90 days | 10-120 days | 20-180 days | 30-240 days | 30-300 days | 30-300 days | 12+-14 months | 12+-16 months | 14-18 months |

References to months represent the standard sentence range. 12+ equals one year and one day.

(2) The court may utilize any other sanctions or alternatives as authorized by law, including but not limited to the special drug offender sentencing alternative under RCW 9.94A.660 or drug court under chapter 2.30 RCW.

(3) Nothing in this section creates an entitlement for a criminal defendant to any specific sanction, alternative, sentence option, or substance abuse treatment.

NEW SECTION. **Sec.**

TABLE 6 - PROPERTY OFFENSES

INCLUDED WITHIN EACH SERIOUSNESS LEVEL

|  |  |
| --- | --- |
| IV | Counterfeiting (RCW 9.16.035(4)) |
|  | Identity Theft 1 (RCW 9.35.020(2)) |
|  | Theft of Livestock 1 (RCW 9A.56.080) |
|  | Trafficking in Stolen Property 1 (RCW 9A.82.050) |
|  | Unlawful Factoring of a Credit Card or Payment Card Transaction (RCW 9A.56.290(4)(b)) |
| III | Burglary 2 (RCW 9A.52.030) |
|  | Organized Retail Theft 1 (RCW 9A.56.350(2)) |
|  | Possession of Stolen Vehicle (RCW 9A.56.068) |
|  | Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2)) |
|  | Taking Motor Vehicle without Permission 1 (RCW 9A.56.070) |
|  | Theft of Livestock 2 (RCW 9A.56.083) |
|  | Theft of Motor Vehicle (RCW 9A.56.065) |
|  | Theft with the Intent to Resell 1 (RCW 9A.56.340(2)) |
|  | Trafficking in Stolen Property 2 (RCW 9A.82.055) |
|  | Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b)) |
| II | Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b)) |
|  | Counterfeiting (RCW 9.16.035(3)) |
|  | Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3)(b)) |
|  | Health Care False Claims (RCW 48.80.030) |
|  | Identity Theft 2 (RCW 9.35.020(3)) |
|  | Malicious Mischief 1 (RCW 9A.48.070) |
|  | Organized Retail Theft 2 (RCW 9A.56.350(3)) |
|  | Possession of Stolen Property 1 (RCW 9A.56.150) |
|  | Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3)) |
|  | Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100(2)(b)) |
|  | Theft 1 (RCW 9A.56.030) |
|  | Theft of Rental, Leased, or Lease-purchased, or Loaned Property (valued at five thousand dollars or more) (RCW 9A.56.096(5)(a)) |
|  | Theft with the Intent to Resell 2 (RCW 9A.56.340(3)) |
|  | Trafficking in Insurance Claims (RCW 48.30A.015) |
|  | Unlawful Factoring of a Credit Card or Payment Card Transaction (RCW 9A.56.290(4)(a)) |
| I | False Verification for Welfare (RCW 74.08.055) |
|  | Forgery (RCW 9A.60.020) |
|  | Malicious Mischief 2 (RCW 9A.48.080) |
|  | Possession of Stolen Property 2 (RCW 9A.56.160) |
|  | Reckless Burning 1 (RCW 9A.48.040) |
|  | Taking Motor Vehicle without Permission 2 (RCW 9A.56.075) |
|  | Theft 2 (RCW 9A.56.040) |
|  | Theft of Rental, Leased, Lease-purchased, or Loan Property (valued at seven hundred fifty dollars or more but less than five thousand dollars) (RCW 9A.56.096(5)(b)) |
|  | Unlawful Issuance of Checks or Drafts (RCW 9A.56.060) |
|  | Unlawful Possession of Fictitious Identification (RCW 9A.56.320(4)) |
|  | Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320(5)) |
|  | Unlawful Possession of Payment Instruments (RCW 9A.56.320(2)) |
|  | Unlawful Possession of a Personal Identification Device (RCW 9A.56.320(3)) |
|  | Unlawful Production of Payment Instruments (RCW 9A.56.320(1)) |
|  | Unlawful Trafficking in Food Stamps (RCW 9.91.142) |
|  | Unlawful Use of Food Stamps (RCW 9.91.144) |

**Sec.**  RCW 9.94A.585 and 2002 c 290 s 19 are each amended to read as follows:

(1) A sentence within the standard sentence range, under RCW 9.94A.510 ((~~or~~)), 9.94A.517, or section 7 of this act, for an offense shall not be appealed. For purposes of this section, a sentence imposed on a first-time offender under RCW 9.94A.650 shall also be deemed to be within the standard sentence range for the offense and shall not be appealed.

(2) A sentence outside the standard sentence range for the offense is subject to appeal by the defendant or the state. The appeal shall be to the court of appeals in accordance with rules adopted by the supreme court.

(3) Pending review of the sentence, the sentencing court or the court of appeals may order the defendant confined or placed on conditional release, including bond.

(4) To reverse a sentence which is outside the standard sentence range, the reviewing court must find: (a) Either that the reasons supplied by the sentencing court are not supported by the record which was before the judge or that those reasons do not justify a sentence outside the standard sentence range for that offense; or (b) that the sentence imposed was clearly excessive or clearly too lenient.

(5) A review under this section shall be made solely upon the record that was before the sentencing court. Written briefs shall not be required and the review and decision shall be made in an expedited manner according to rules adopted by the supreme court.

(6) The court of appeals shall issue a written opinion in support of its decision whenever the judgment of the sentencing court is reversed and may issue written opinions in any other case where the court believes that a written opinion would provide guidance to sentencing courts and others in implementing this chapter and in developing a common law of sentencing within the state.

(7) The department may petition for a review of a sentence committing an offender to the custody or jurisdiction of the department. The review shall be limited to errors of law. Such petition shall be filed with the court of appeals no later than ninety days after the department has actual knowledge of terms of the sentence. The petition shall include a certification by the department that all reasonable efforts to resolve the dispute at the superior court level have been exhausted.

**Sec.**  RCW 9.94A.701 and 2010 c 267 s 11 and 2010 c 224 s 5 are each reenacted and amended to read as follows:

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

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

(b) A serious violent offense.

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

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

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

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

(c) A felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000; ((~~or~~))

(d) A felony violation of RCW 9A.44.132(1) (failure to register) that is the offender's first violation for a felony failure to register; or

(e) Any property offense, as defined in RCW 9.94A.030, if the offender has an offender score of four points or more, unless the offender is a habitual property offender as defined in section 18 of this act.

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

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

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

(7) If an offender is sentenced under the parenting sentencing alternative, the court shall impose a term of community custody as provided in RCW 9.94A.655.

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

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

(10) The department is not liable for tortious actions of a supervised offender unless reckless disregard of a known and immediate risk by the department is proven. In any case, the department is liable for only its degree of fault as determined by a fact finder.

**Sec.**  RCW 9.94A.702 and 2010 c 267 s 12 are each amended to read as follows:

(1) If an offender is sentenced to a term of confinement for one year or less for one of the following offenses, the court may impose up to one year of community custody:

(a) A sex offense;

(b) A violent offense;

(c) A crime against a person under RCW 9.94A.411;

(d) A felony violation of chapter 69.50 or 69.52 RCW, or an attempt, conspiracy, or solicitation to commit such a crime; or

(e) A felony violation of RCW 9A.44.132(1) (failure to register).

(2) If an offender is sentenced to a term of confinement for one year or less for a property offense, as defined in RCW 9.94A.030, and the offender has an offender score of four points or more, the court shall impose one year of community custody. An offender found to be a habitual property offender under section 18 of this act is not eligible for community custody.

(3) If an offender is sentenced to a first-time offender waiver, the court may impose community custody as provided in RCW 9.94A.650.

**Sec.**  RCW 9.94A.171 and 2011 1st sp.s. c 40 s 1 are each amended to read as follows:

(1) A term of confinement ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented himself or herself from confinement without the prior approval of the entity in whose custody the offender has been placed. A term of partial confinement shall be tolled during any period of time spent in total confinement pursuant to a new conviction.

(2) Any term of community custody shall be tolled by any period of time during which the offender has absented himself or herself from supervision without prior approval of the entity under whose supervision the offender has been placed.

(3)(a) For offenders other than sex offenders serving a sentence for a sex offense as defined in RCW 9.94A.030, any period of community custody shall be tolled during any period of time the offender is in confinement for any reason unless the offender is detained pursuant to RCW 9.94A.740 or 9.94A.631 for the period of time prior to the hearing or for confinement pursuant to sanctions imposed for violation of sentence conditions, in which case, the period of community custody shall not toll. However, sanctions that result in the imposition of the remaining sentence or the original sentence will continue to toll the period of community custody. In addition, inpatient treatment ordered by the court in lieu of jail time shall not toll the period of community custody.

(b) For sex offenders serving a sentence for a sex offense as defined in RCW 9.94A.030, any period of community custody shall be tolled during any period of time the sex offender is in confinement for any reason.

(c) For offenders serving a sentence for a property offense, as defined in RCW 9.94A.030, any period of community custody shall be tolled during any period of time the offender is in confinement for any reason.

(4) For terms of confinement or community custody, the date for the tolling of the sentence shall be established by the entity responsible for the confinement or supervision.

(5) For the purposes of this section, "tolling" means the period of time in which community custody or confinement time is paused and for which the offender does not receive credit towards the term ordered.

**Sec.**  RCW 9.94A.860 and 2011 1st sp.s. c 40 s 36 are each amended to read as follows:

(1)(a) The sentencing guidelines commission is hereby created((~~, located within the office of financial management~~)). The commission shall be colocated with the caseload forecast council. Except as provided in RCW 9.94A.875, the commission shall serve to advise the governor and the legislature as necessary on issues relating to adult and juvenile sentencing.

(b) Subject to funds appropriated specifically for this purpose, the commission shall, in conjunction with the caseload forecast council, monitor and report to the governor and the legislature on the effectiveness of this act in reducing property crimes in Washington state and prepare racial and ethnic impact analyses as specified in section 17 of this act.

(c) The commission may meet, as necessary, to accomplish these purposes ((~~within funds appropriated~~)).

(d) The commission may request assistance from other state agencies including, but not limited to, the caseload forecast council, the department, the department of social and health services, and other agencies.

(2) The commission consists of ((~~twenty~~)) eighteen voting members, one of whom the governor shall designate as chairperson. With the exception of ex officio voting members, the voting members of the commission shall be appointed by the governor, or his or her designee, subject to confirmation by the senate.

(3) The voting membership consists of the following:

(a) The ((~~head of the state agency having general responsibility for adult correction programs~~)) secretary of the department, as an ex officio member;

(b) The director of financial management or designee, as an ex officio member;

(c) ((~~The chair of the indeterminate sentence review board, as an ex officio member;~~

~~(d)~~)) The head of the state agency, or the agency head's designee, having responsibility for juvenile corrections programs, as an ex officio member;

((~~(e)~~)) (d) Two prosecuting attorneys;

((~~(f)~~)) (e) Two attorneys with particular expertise in defense work;

((~~(g) Four~~)) (f) Two persons who are superior court judges;

((~~(h)~~)) (g) One person who is the chief law enforcement officer of a county ((~~or~~)) and one person who is the chief law enforcement officer of a city;

((~~(i)~~)) (h) Four members of the public who are not prosecutors, defense attorneys, judges, or law enforcement officers, one of whom is a victim of crime or a crime victims' advocate;

((~~(j)~~)) (i) One person who is an elected official of a county government, other than a prosecuting attorney or sheriff;

((~~(k)~~)) (j) One person who is an elected official of a city government;

((~~(l)~~)) (k) One person who is an administrator of juvenile court services.

In making the appointments, the governor shall endeavor to assure that the commission membership includes adequate representation and expertise relating to both the adult criminal justice system and the juvenile justice system. In making the appointments, the governor shall seek the recommendations of Washington prosecutors in respect to the prosecuting attorney members, of the Washington state bar association in respect to the defense attorney members, of the association of superior court judges in respect to the members who are judges, of the Washington association of sheriffs and police chiefs in respect to the members who ((~~is a~~)) are law enforcement officers, of the Washington state association of counties in respect to the member who is a county official, of the association of Washington cities in respect to the member who is a city official, of the office of crime victims advocacy and other organizations of crime victims in respect to the member who is a victim of crime or a crime victims' advocate, and of the Washington association of juvenile court administrators in respect to the member who is an administrator of juvenile court services.

(4)(a) All voting members of the commission, except ex officio voting members, shall serve terms of three years and until their successors are appointed and confirmed.

(b) The governor shall stagger the terms of the members appointed under subsection (3)(j), (k), and (l) of this section by appointing one of them for a term of one year, one for a term of two years, and one for a term of three years.

(5) The speaker of the house of representatives and the president of the senate may each appoint two nonvoting members to the commission, one from each of the two largest caucuses in each house. The members so appointed shall serve two-year terms, or until they cease to be members of the house from which they were appointed, whichever occurs first.

(6) The executive director of the caseload forecast council or his or her designee shall be an ex officio, nonvoting member of the commission.

(7) The members of the commission may be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislative members may be reimbursed by their respective houses as provided under RCW 44.04.120. Except for the reimbursement of travel expenses, members shall not be compensated.

NEW SECTION. **Sec.**  (1) Subject to appropriation, the department of commerce shall establish a law enforcement grant program. To be eligible for a grant, local law enforcement agencies shall submit proposals to the department of commerce that focus on increasing the capacity of the law enforcement agency to address property crime within their jurisdiction through one of the following strategies:

(a) Focusing on intervention and enforcement through the use of increased staffing resources, including with overtime funds, to target property crime with evidence driven approaches;

(b) Increasing technological capacity to support intervention and enforcement with the purchase of technology for crime prevention and criminal justice problem solving. Technology shall include, but not be limited to, crime mapping software, global positioning systems technology, and smart phone tools;

(c) Enhancing analytical capacity through the development or expansion of analytical capabilities that focus on crime mapping, analysis of crime trends, and developing data driven strategies that focus on property crime reduction through the employment of civilian crime analysts;

(d) Engaging with community partners in order to develop projects that focus on preventing property crime in the community. Community partners may include, but are not limited to, public and private service providers, the courts, and probation services;

(e) Increasing direct services to property crime victims through local law enforcement efforts.

(2) Preference shall be given to grant applicants that can demonstrate a commitment to regional, multijurisdictional strategies and that can clearly outline a comprehensive plan for municipalities to work with law enforcement, community-based organizations, and government agencies to address property crime.

(3) The department of commerce shall utilize an advisory committee to evaluate grant applications and monitor the effectiveness of grant projects in terms of property crime reduction. The advisory committee shall include one representative of each of the following entities:

(a) Governor's office;

(b) Washington state association of counties;

(c) Washington association of prosecuting attorneys;

(d) Administrative office of the courts;

(e) Washington association of sheriffs and police chiefs;

(f) Crime victims' compensation program;

(g) Department of corrections;

(h) Washington state patrol; and

(i) Criminal justice training commission.

(4) The department of commerce must report to the sentencing guidelines commission on the advisory committee's evaluation of the effectiveness of grant projects in terms of property crime reduction.

NEW SECTION. **Sec.**  Subject to appropriation, the department of commerce shall establish a pretrial grant program. To be eligible for a grant, counties shall submit proposals to the department of commerce that provide for a local pretrial program that meets the following criteria. The pretrial program must:

(1) Establish a procedure for screening those persons detained following arrest, and information from the screening must be provided to the judge who is setting the bond and conditions of release. The information must provide the judge with the ability to make an appropriate initial bond decision that is based upon facts relating to the person's risk of failure to appear for court and risk of danger to the community;

(2) Implement an empirically developed pretrial risk assessment tool and a structured decision-making design based upon the person's charge and risk assessment score;

(3) Establish a community advisory board with membership including a representative of the judiciary, a representative of local law enforcement, a representative of a prosecuting attorney, a representative of a public defender or other defense counsel, and a representative of a sheriff;

(4) Provide mental health, chemical dependency, and cognitive behavioral treatment and services to each person, as needed, in order to address and reduce criminal behavior;

(5) Use community supervision as a condition of release in order to decrease unnecessary pretrial detention;

(6) Agree to provide an annual report to the department of commerce that includes:

(a) The total number of pretrial assessments performed by the program and submitted to the court;

(b) The total number of closed cases in which the person was released from custody and supervised by the program;

(c) The total number of closed cases in which the person was released from custody, was supervised by the program, and, while under supervision, appeared for all scheduled court appearances on the case;

(d) The total number of closed cases in which the person was released from custody, was supervised by the program, and was not charged with a new criminal offense while under supervision;

(e) The total number of closed cases in which the person was released from custody, was supervised by the program, and the person's bond was not revoked by the court;

(f) The total number of persons released from custody to the supervision of the program and also on a commercial surety bond, a cash private surety or property bond, or a personal recognizance bond; and

(g) Any additional information required by the department of commerce;

The department of commerce shall identify at least one county to receive a grant that will test the impact of providing defendants with earlier access to pretrial defense counsel on pretrial outcomes and county budgets.

The department of commerce must report to the sentencing guidelines commission on the effectiveness of the grant programs.

NEW SECTION. **Sec.**  (1) Grants awarded under sections 14 and 15 of this act shall be considered one-time grants and may be renewed for effective programs. The department of commerce shall consult with counties and local law enforcement agencies when determining grant eligibility requirements and criteria. The department of commerce shall publish guidelines and an application for the competitive portion of the grant programs no later than January 1, 2017.

(2) The department of commerce shall monitor and enforce grant compliance, including enforcement by withdrawing grant funds or requiring reimbursement of grant funds.

(3) The department of commerce may adopt rules and procedures as necessary to carry out sections 14 and 15 of this act.

(4) A grantee may not supplant current local funds for pretrial services or law enforcement with funds provided by the department of commerce under sections 14 and 15 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 43.88 RCW to read as follows:

(1) If one member from each of the major two caucuses in the house of representatives or the senate request in writing a racial and ethnic impact statement under this section regarding legislation that has been introduced in that chamber, the Washington sentencing guidelines commission shall prepare a racial and ethnic impact analysis that describes the effects of proposed legislation on the racial and ethnic composition of:

(a) The criminal offender population; or

(b) Recipients of human services.

(2) A racial and ethnic impact statement must be impartial, simple, and understandable, and must include, for racial and ethnic groups for which data are available, the following:

(a) An estimate of how the proposed legislation would change the racial and ethnic composition of the criminal offender population or recipients of human services;

(b) A statement of the methodologies and assumptions used in preparing the estimate; and

(c) If the racial and ethnic impact statement addresses the effect of proposed legislation on the criminal offender population, an estimate of the racial and ethnic composition of the crime victims who may be affected by the proposed legislation.

(3) As used in this section:

(a) "Criminal offender population" means all persons who are convicted of a crime or adjudicated for an act that, if committed by an adult, would constitute a crime.

(b) "Recipients of human services" means all persons who are found to be within the jurisdiction of the juvenile court or who receive child welfare services.

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

(1) The prosecuting attorney may file a special allegation when sufficient evidence exists to show that the accused is a habitual property offender.

(2) In a criminal case in which there has been a special allegation and the accused has been convicted of the underlying crime, the court shall make a finding of fact prior to sentencing whether the person is a habitual property offender based on the person's criminal history. If the court finds by a preponderance of the evidence that the person is a habitual property offender, the person shall be sentenced in accordance with section 7 of this act.

(3) For purposes of this section, a person is a habitual property offender if:

(a) The present conviction for which the person is being sentenced is a property offense as defined in RCW 9.94A.030;

(b) The person has an offender score of six points or higher;

(c) At least two of the points in the person's offender score result from any combination of property offenses as defined in RCW 9.94A.030; and

(d) The person has been sentenced twice to supervision or community custody as required by RCW 9.94A.701 and 9.94A.702.

(4) A person found to be a habitual property offender is no longer eligible for supervision or community custody as required by this act.

**Sec.**  RCW 9.94A.533 and 2015 c 134 s 2 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728((~~(3)~~)) (1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728((~~(3)~~)) (1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.827. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055. All enhancements under this subsection shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions.

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (a)(i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (a)(i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728((~~(3)~~)) (1)(c); or

(ii) Released under the provisions of RCW 9.94A.730;

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional one‑year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one‑year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in the sexual conduct in return for a fee, an additional one‑year enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

(10)(a) For a person age eighteen or older convicted of any criminal street gang-related felony offense for which the person compensated, threatened, or solicited a minor in order to involve the minor in the commission of the felony offense, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by one hundred twenty-five percent. If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

(b) This subsection does not apply to any criminal street gang-related felony offense for which involving a minor in the commission of the felony offense is an element of the offense.

(c) The increased penalty specified in (a) of this subsection is unavailable in the event that the prosecution gives notice that it will seek an exceptional sentence based on an aggravating factor under RCW 9.94A.535.

(11) An additional twelve months and one day shall be added to the standard sentence range for a conviction of attempting to elude a police vehicle as defined by RCW 46.61.024, if the conviction included a finding by special allegation of endangering one or more persons under RCW 9.94A.834.

(12) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.831.

(13) An additional twelve months shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)) or felony physical control under the influence (RCW 46.61.504(6)) for each child passenger under the age of sixteen who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions. If the addition of a minor child enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(14) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.832.

(15)(a) The following additional times shall be added to the standard sentence range if the court finds that the offender is a habitual property offender pursuant to section 18 of this act:

(i) Three months if, as a result of the current conviction, the offender has an offender score of four;

(ii) Six months if, as a result of the current conviction, the offender has an offender score of five;

(iii) Twelve months if, as a result of the current conviction, the offender has an offender score of six;

(iv) Twenty-four months if, as a result of the current conviction, the offender has an offender score of seven;

(v) Thirty-six months if, as a result of the current conviction, the offender has an offender score of eight;

(vi) Forty-eight months if, as a result of the current conviction, the offender has an offender score of nine or above.

(b) A sentence imposed pursuant to this subsection (15) is not to exceed the statutory maximum for the crime as established in RCW 9A.20.021.

(c) Notwithstanding any other provision of law, all habitual property offender enhancements imposed under this section are mandatory and shall be served in total confinement. However, whether or not the mandatory minimum term has expired, an offender serving a sentence under this subsection (15) may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c).

NEW SECTION. **Sec.**  A new section is added to chapter 43.131 RCW to read as follows:

The sentencing guidelines commission's authorities, as established in sections 2 and 13 through 17 of this act, are terminated on June 30, 2026, as provided in section 21 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2027:

(1) Section 1 of this act;

(2) Section 2 of this act;

(3) Section 3 of this act;

(4) Section 4 of this act;

(5) Section 5 of this act;

(6) Section 6 of this act;

(7) Section 7 of this act;

(8) Section 8 of this act;

(9) Section 9 of this act;

(10) Section 10 of this act;

(11) Section 11 of this act;

(12) Section 12 of this act;

(13) Section 13 of this act;

(14) Section 14 of this act;

(15) Section 15 of this act;

(16) Section 16 of this act;

(17) Section 17 of this act;

(18) Section 18 of this act; and

(19) Section 19 of this act.

NEW SECTION. **Sec.**  Sections 7, 8, 14, and 15 of this act are each added to chapter 9.94A RCW.

NEW SECTION. **Sec.**  Sections 2 through 12 of this act apply to sentences for crimes committed on or after July 1, 2016.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2016, in the omnibus appropriations act, this act is null and void.

NEW SECTION. **Sec.**  Sections 2 through 12 of this act take effect July 1, 2016.

**--- END ---**