
SUBSTITUTE SENATE BILL 5006

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Long, Hargrove, McCaslin, Haugen, Sheldon, Winsley, Goings, Deccio, McAuliffe, Franklin, Rasmussen, Hale, Johnson and Oke)

Read first time 03/10/97.

1 AN ACT Relating to enhanced sentencing and supervision of sex
2 offenders; amending RCW 72.04A.070, 72.04A.080, 9A.20.021, 9A.44.060,
3 9A.44.079, 9A.44.086, 9A.44.089, 9A.44.100, 9A.64.020, 9.41.010,
4 9.94.070, 9.94A.230, 9.94A.310, 9.94A.386, 9.95.062, 9A.20.010,
5 9A.28.020, 9A.28.040, 9A.44.140, 9A.76.080, 9A.76.170, 9A.83.010,
6 10.64.025, 13.40.0357, 13.40.070, and 9.95.009; reenacting and amending
7 RCW 9.94A.120, 9.94A.030, 9.94A.320, and 13.04.030; reenacting RCW
8 9.94A.360; adding new sections to chapter 9.94A RCW; creating new
9 sections; repealing RCW 9.95.0011; prescribing penalties; providing an
10 effective date; and declaring an emergency.

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

12 NEW SECTION. **Sec. 1.** Since passage of the sentencing reform act
13 of 1981, the legislature has recognized that certain offenders should
14 be subject to supervision after release from prison. Also, the
15 determinate sentencing system has been criticized for releasing
16 offenders at the end of their sentence even if they continue to pose a
17 substantial threat to public safety. In regard to sex offenders, more
18 information may be known about the offender at the time of release from
19 prison than was known by the judge at the time of sentencing. The

1 legislature finds that in order to further enhance public safety and
2 reduce recidivism by sex offenders, the sentencing reform act should be
3 revised to require consideration of the future dangerousness of sex
4 offenders before their release from prison. Also, the authority to
5 impose, monitor, and enforce conditions on the release of a sex
6 offender should be enhanced.

7 **Sec. 2.** RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c
8 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as
9 follows:

10 When a person is convicted of a felony, the court shall impose
11 punishment as provided in this section.

12 (1) Except as authorized in subsections (2), (4), (5), (6), and (8)
13 of this section, the court shall impose a sentence within the sentence
14 range for the offense.

15 (2) The court may impose a sentence outside the standard sentence
16 range for that offense if it finds, considering the purpose of this
17 chapter, that there are substantial and compelling reasons justifying
18 an exceptional sentence.

19 (3) Whenever a sentence outside the standard range is imposed, the
20 court shall set forth the reasons for its decision in written findings
21 of fact and conclusions of law. A sentence outside the standard range
22 shall be a determinate sentence.

23 (4) A persistent offender shall be sentenced to a term of total
24 confinement for life without the possibility of parole or, when
25 authorized by RCW 10.95.030 for the crime of aggravated murder in the
26 first degree, sentenced to death, notwithstanding the maximum sentence
27 under any other law. An offender convicted of the crime of murder in
28 the first degree shall be sentenced to a term of total confinement not
29 less than twenty years. An offender convicted of the crime of assault
30 in the first degree or assault of a child in the first degree where the
31 offender used force or means likely to result in death or intended to
32 kill the victim shall be sentenced to a term of total confinement not
33 less than five years. An offender convicted of the crime of rape in
34 the first degree shall be sentenced to a term of total confinement not
35 less than five years. The foregoing minimum terms of total confinement
36 are mandatory and shall not be varied or modified as provided in
37 subsection (2) of this section. In addition, all offenders subject to
38 the provisions of this subsection shall not be eligible for community

1 custody, earned early release time, furlough, home detention, partial
2 confinement, work crew, work release, or any other form of early
3 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),
4 or any other form of authorized leave of absence from the correctional
5 facility while not in the direct custody of a corrections officer or
6 officers during such minimum terms of total confinement except in the
7 case of an offender in need of emergency medical treatment or for the
8 purpose of commitment to an inpatient treatment facility in the case of
9 an offender convicted of the crime of rape in the first degree.

10 (5) In sentencing a first-time offender the court may waive the
11 imposition of a sentence within the sentence range and impose a
12 sentence which may include up to ninety days of confinement in a
13 facility operated or utilized under contract by the county and a
14 requirement that the offender refrain from committing new offenses.
15 The sentence may also include up to two years of community supervision,
16 which, in addition to crime-related prohibitions, may include
17 requirements that the offender perform any one or more of the
18 following:

19 (a) Devote time to a specific employment or occupation;

20 (b) Undergo available outpatient treatment for up to two years, or
21 inpatient treatment not to exceed the standard range of confinement for
22 that offense;

23 (c) Pursue a prescribed, secular course of study or vocational
24 training;

25 (d) Remain within prescribed geographical boundaries and notify the
26 court or the community corrections officer prior to any change in the
27 offender's address or employment;

28 (e) Report as directed to the court and a community corrections
29 officer; or

30 (f) Pay all court-ordered legal financial obligations as provided
31 in RCW 9.94A.030 and/or perform community service work.

32 (6)(a) An offender is eligible for the special drug offender
33 sentencing alternative if:

34 (i) The offender is convicted of the manufacture, delivery, or
35 possession with intent to manufacture or deliver a controlled substance
36 classified in Schedule I or II that is a narcotic drug or a felony that
37 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
38 criminal solicitation, or criminal conspiracy to commit such crimes,

1 and the violation does not involve a sentence enhancement under RCW
2 9.94A.310 (3) or (4);

3 (ii) The offender has no prior convictions for a felony in this
4 state, another state, or the United States; and

5 (iii) The offense involved only a small quantity of the particular
6 controlled substance as determined by the judge upon consideration of
7 such factors as the weight, purity, packaging, sale price, and street
8 value of the controlled substance.

9 (b) If the midpoint of the standard range is greater than one year
10 and the sentencing judge determines that the offender is eligible for
11 this option and that the offender and the community will benefit from
12 the use of the special drug offender sentencing alternative, the judge
13 may waive imposition of a sentence within the standard range and impose
14 a sentence that must include a period of total confinement in a state
15 facility for one-half of the midpoint of the standard range. During
16 incarceration in the state facility, offenders sentenced under this
17 subsection shall undergo a comprehensive substance abuse assessment and
18 receive, within available resources, treatment services appropriate for
19 the offender. The treatment services shall be designed by the division
20 of alcohol and substance abuse of the department of social and health
21 services, in cooperation with the department of corrections. If the
22 midpoint of the standard range is twenty-four months or less, no more
23 than three months of the sentence may be served in a work release
24 status. The court shall also impose one year of concurrent community
25 custody and community supervision that must include appropriate
26 outpatient substance abuse treatment, crime-related prohibitions
27 including a condition not to use illegal controlled substances, and a
28 requirement to submit to urinalysis or other testing to monitor that
29 status. The court may require that the monitoring for controlled
30 substances be conducted by the department or by a treatment
31 alternatives to street crime program or a comparable court or agency-
32 referred program. The offender may be required to pay thirty dollars
33 per month while on community custody to offset the cost of monitoring.
34 In addition, the court shall impose three or more of the following
35 conditions:

36 (i) Devote time to a specific employment or training;

37 (ii) Remain within prescribed geographical boundaries and notify
38 the court or the community corrections officer before any change in the
39 offender's address or employment;

- 1 (iii) Report as directed to a community corrections officer;
- 2 (iv) Pay all court-ordered legal financial obligations;
- 3 (v) Perform community service work;
- 4 (vi) Stay out of areas designated by the sentencing judge.

5 (c) If the offender violates any of the sentence conditions in (b)
6 of this subsection, the department shall impose sanctions
7 administratively, with notice to the prosecuting attorney and the
8 sentencing court. Upon motion of the court or the prosecuting
9 attorney, a violation hearing shall be held by the court. If the court
10 finds that conditions have been willfully violated, the court may
11 impose confinement consisting of up to the remaining one-half of the
12 midpoint of the standard range. All total confinement served during
13 the period of community custody shall be credited to the offender,
14 regardless of whether the total confinement is served as a result of
15 the original sentence, as a result of a sanction imposed by the
16 department, or as a result of a violation found by the court. The term
17 of community supervision shall be tolled by any period of time served
18 in total confinement as a result of a violation found by the court.

19 (d) The department shall determine the rules for calculating the
20 value of a day fine based on the offender's income and reasonable
21 obligations which the offender has for the support of the offender and
22 any dependents. These rules shall be developed in consultation with
23 the administrator for the courts, the office of financial management,
24 and the commission.

25 (7) If a sentence range has not been established for the
26 defendant's crime, the court shall impose a determinate sentence which
27 may include not more than one year of confinement, community service
28 work, a term of community supervision not to exceed one year, and/or
29 other legal financial obligations. The court may impose a sentence
30 which provides more than one year of confinement if the court finds,
31 considering the purpose of this chapter, that there are substantial and
32 compelling reasons justifying an exceptional sentence.

33 (8)(a)(i) When an offender is convicted of any sex offense, the
34 court shall impose a sentence that consists of a maximum term which
35 shall be the maximum sentence provided by RCW 9A.20.021 for the
36 offense, and a minimum term of confinement which shall be within the
37 standard range for the offense, except that the minimum term may be
38 outside the standard sentence range if the court finds justification to
39 impose an exceptional sentence as provided in subsection (2) of this

1 section. The court shall also order the offender to be on community
2 supervision or community placement for the length of the maximum
3 sentence.

4 (ii) Except for offenders sentenced under the special sex offender
5 sentencing alternative, offenders sentenced to twelve or more months
6 shall not be released from custody until the board has determined that
7 the offender may be released. At least sixty days before the
8 expiration of the offender's minimum term of confinement, minus any
9 earned early release credits, the board shall review each offender's
10 case and make a determination of whether the offender will be released
11 or retained in confinement.

12 (iii) Offenders sentenced to twelve months or less shall be
13 released upon completion of the minimum term of confinement and shall
14 remain on community supervision until expiration of the maximum term.
15 If the offender is found by the sentencing court to have violated any
16 of the conditions of community supervision, the court may sentence the
17 offender to serve total confinement as follows:

18 (A) Up to sixty days confinement in the county jail for each
19 violation; or

20 (B) The court may sentence the offender to total confinement for
21 the maximum sentence allowed by statute for the offense. The court
22 shall also establish a minimum term of confinement for the offender.
23 The offender shall have credit for confinement time previously served
24 for the offense or for violations of community supervision established
25 for that offense. This sentence shall be served in total confinement
26 in a facility or institution operated, or used under contract, by the
27 state. After serving the minimum term imposed by the court, the
28 offender shall be subject to the jurisdiction of the board which shall
29 determine whether the offender should be released.

30 (b)(i) When an offender is convicted of a sex offense other than a
31 violation of RCW 9A.44.050 or a sex offense that is also a serious
32 violent offense and has no prior convictions for a sex offense or any
33 other felony sex offenses in this or any other state, the sentencing
34 court, on its own motion or the motion of the state or the defendant,
35 may order an examination to determine whether the defendant is amenable
36 to treatment.

37 The report of the examination shall include at a minimum the
38 following: The defendant's version of the facts and the official
39 version of the facts, the defendant's offense history, an assessment of

1 problems in addition to alleged deviant behaviors, the offender's
2 social and employment situation, and other evaluation measures used.
3 The report shall set forth the sources of the evaluator's information.

4 The examiner shall assess and report regarding the defendant's
5 amenability to treatment and relative risk to the community. A
6 proposed treatment plan shall be provided and shall include, at a
7 minimum:

8 (A) Frequency and type of contact between offender and therapist;

9 (B) Specific issues to be addressed in the treatment and
10 description of planned treatment modalities;

11 (C) Monitoring plans, including any requirements regarding living
12 conditions, lifestyle requirements, and monitoring by family members
13 and others;

14 (D) Anticipated length of treatment; and

15 (E) Recommended crime-related prohibitions.

16 The court on its own motion may order, or on a motion by the state
17 shall order, a second examination regarding the offender's amenability
18 to treatment. The evaluator shall be selected by the party making the
19 motion. The defendant shall pay the cost of any second examination
20 ordered unless the court finds the defendant to be indigent in which
21 case the state shall pay the cost.

22 (ii) After receipt of the reports, the court shall consider whether
23 the offender and the community will benefit from use of this special
24 sexual offender sentencing alternative and consider the victim's
25 opinion whether the offender should receive a treatment disposition
26 under this subsection. If the court determines that this special sex
27 offender sentencing alternative is appropriate, the court shall then
28 impose a sentence ~~((within the sentence range))~~ that consists of a
29 maximum term and a minimum term as provided in (a)(i) of this
30 subsection. If ~~((this sentence))~~ the minimum term is less than eight
31 years of confinement, the court may suspend the execution of the
32 ~~((sentence))~~ minimum term and impose the following conditions of
33 suspension:

34 (A) The court shall place the defendant on community custody for
35 the length of the ~~((suspended))~~ maximum sentence ~~((or three years,~~
36 ~~whichever is greater,))~~ and require the offender to comply with any
37 conditions imposed by the department of corrections under subsection
38 (14) of this section; and

1 (B) The court shall order treatment for any period up to three
2 years in duration. The court in its discretion shall order outpatient
3 sex offender treatment or inpatient sex offender treatment, if
4 available. A community mental health center may not be used for such
5 treatment unless it has an appropriate program designed for sex
6 offender treatment. The offender shall not change sex offender
7 treatment providers or treatment conditions without first notifying the
8 prosecutor, the community corrections officer, and the court, and shall
9 not change providers without court approval after a hearing if the
10 prosecutor or community corrections officer object to the change. In
11 addition, as conditions of the suspended sentence, the court may impose
12 other sentence conditions including up to six months of confinement,
13 not to exceed the sentence range of confinement for that offense,
14 crime-related prohibitions, and requirements that the offender perform
15 any one or more of the following:

16 (I) Devote time to a specific employment or occupation;

17 (II) Remain within prescribed geographical boundaries and notify
18 the court or the community corrections officer prior to any change in
19 the offender's address or employment;

20 (III) Report as directed to the court and a community corrections
21 officer;

22 (IV) Pay all court-ordered legal financial obligations as provided
23 in RCW 9.94A.030, perform community service work, or any combination
24 thereof; or

25 (V) Make recoupment to the victim for the cost of any counseling
26 required as a result of the offender's crime.

27 (iii) The sex offender therapist shall submit quarterly reports on
28 the defendant's progress in treatment to the court and the parties.
29 The report shall reference the treatment plan and include at a minimum
30 the following: Dates of attendance, defendant's compliance with
31 requirements, treatment activities, the defendant's relative progress
32 in treatment, and any other material as specified by the court at
33 sentencing.

34 (iv) At the time of sentencing, the court shall set a treatment
35 termination hearing for three months prior to the anticipated date for
36 completion of treatment. Prior to the treatment termination hearing,
37 the treatment professional and community corrections officer shall
38 submit written reports to the court and parties regarding the
39 defendant's compliance with treatment and monitoring requirements, and

1 recommendations regarding termination from treatment, including
2 proposed community supervision conditions. Either party may request
3 and the court may order another evaluation regarding the advisability
4 of termination from treatment. The defendant shall pay the cost of any
5 additional evaluation ordered unless the court finds the defendant to
6 be indigent in which case the state shall pay the cost. At the
7 treatment termination hearing the court may: (A) Modify conditions of
8 community custody, and either (B) terminate treatment, or (C) extend
9 treatment for up to the ~~((remaining period of community custody))~~
10 maximum sentence.

11 (v) If a violation of conditions occurs during community custody,
12 the department shall either impose sanctions as provided for in RCW
13 9.94A.205(2)(a) or refer the violation to the court and recommend
14 revocation of the suspended sentence as provided for in (a)(vi) of this
15 subsection.

16 (vi) The court may revoke the suspended ~~((sentence))~~ minimum term
17 at any time ~~((during the period of community custody))~~ before the
18 expiration of the maximum sentence and order execution of the sentence
19 if: (A) The defendant violates the conditions of the suspended
20 sentence, or (B) the court finds that the defendant is failing to make
21 satisfactory progress in treatment. All confinement time served during
22 the period of community custody shall be credited to the offender if
23 the suspended sentence is revoked.

24 (vii) If an offender's suspended minimum term is revoked, the
25 offender shall be required to serve the minimum term established by the
26 court in total confinement. The offender shall become subject to the
27 jurisdiction of the board which shall determine whether the offender
28 may be released upon completion of the minimum term.

29 (viii) Except as provided in (a) ~~((viii))~~ (ix) of this
30 subsection, after July 1, 1991, examinations and treatment ordered
31 pursuant to this subsection shall only be conducted by sex offender
32 treatment providers certified by the department of health pursuant to
33 chapter 18.155 RCW.

34 ~~((viii))~~ (ix) A sex offender therapist who examines or treats a
35 sex offender pursuant to this subsection (8) does not have to be
36 certified by the department of health pursuant to chapter 18.155 RCW if
37 the court finds that: (A) The offender has already moved to another
38 state or plans to move to another state for reasons other than
39 circumventing the certification requirements; (B) no certified

1 providers are available for treatment within a reasonable geographical
2 distance of the offender's home; and (C) the evaluation and treatment
3 plan comply with this subsection (8) and the rules adopted by the
4 department of health.

5 For purposes of this subsection, "victim" means any person who has
6 sustained emotional, psychological, physical, or financial injury to
7 person or property as a result of the crime charged. "Victim" also
8 means a parent or guardian of a victim who is a minor child unless the
9 parent or guardian is the perpetrator of the offense.

10 ~~((b))~~ (c) When an offender commits any felony sex offense on or
11 after July 1, 1987, and is sentenced to a term of confinement of more
12 than one year but less than six years, the sentencing court may, on its
13 own motion or on the motion of the offender or the state, request the
14 department of corrections to evaluate whether the offender is amenable
15 to treatment and the department may place the offender in a treatment
16 program within a correctional facility operated by the department.

17 Except for an offender who has been convicted of a violation of RCW
18 9A.44.040 or 9A.44.050, if the offender completes the treatment program
19 before the expiration of his or her term of confinement, the department
20 of corrections may request the court to convert the balance of
21 confinement to community supervision and to place conditions on the
22 offender including crime-related prohibitions and requirements that the
23 offender perform any one or more of the following:

- 24 (i) Devote time to a specific employment or occupation;
25 (ii) Remain within prescribed geographical boundaries and notify
26 the court or the community corrections officer prior to any change in
27 the offender's address or employment;
28 (iii) Report as directed to the court and a community corrections
29 officer;
30 (iv) Undergo available outpatient treatment.

31 If the offender violates any of the terms of his or her community
32 supervision, the court may order the offender to serve out the balance
33 of his or her community supervision term in confinement in the custody
34 of the department of corrections.

35 Nothing in this subsection (8)~~((b))~~ (c) shall confer eligibility
36 for such programs for offenders convicted and sentenced for a sex
37 offense committed prior to July 1, 1987. This subsection (8)~~((b))~~
38 (c) does not apply to any crime committed after July 1, 1990.

1 (~~(e)~~) (d) Offenders convicted and sentenced for a sex offense
2 committed prior to July 1, 1987, may, subject to available funds,
3 request an evaluation by the department of corrections to determine
4 whether they are amenable to treatment. If the offender is determined
5 to be amenable to treatment, the offender may request placement in a
6 treatment program within a correctional facility operated by the
7 department. Placement in such treatment program is subject to
8 available funds.

9 (9)(a) When a court sentences a person to a term of total
10 confinement to the custody of the department of corrections for an
11 offense categorized as a sex offense or a serious violent offense
12 committed after July 1, 1988, but before July 1, 1990, assault in the
13 second degree, assault of a child in the second degree, any crime
14 against a person where it is determined in accordance with RCW
15 9.94A.125 that the defendant or an accomplice was armed with a deadly
16 weapon at the time of commission, or any felony offense under chapter
17 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
18 committed on or after July 1, 1988, the court shall in addition to the
19 other terms of the sentence, sentence the offender to a one-year term
20 of community placement beginning either upon completion of the term of
21 confinement or at such time as the offender is transferred to community
22 custody in lieu of earned early release in accordance with RCW
23 9.94A.150 (1) and (2). When the court sentences an offender under this
24 subsection to the statutory maximum period of confinement then the
25 community placement portion of the sentence shall consist entirely of
26 such community custody to which the offender may become eligible, in
27 accordance with RCW 9.94A.150 (1) and (2). Any period of community
28 custody actually served shall be credited against the community
29 placement portion of the sentence.

30 (b) When a court sentences a person to a term of total confinement
31 to the custody of the department of corrections for an offense
32 categorized as a sex offense committed on or after July 1, 1990, but
33 before June 6, 1996, a serious violent offense, vehicular homicide, or
34 vehicular assault, committed on or after July 1, 1990, the court shall
35 in addition to other terms of the sentence, sentence the offender to
36 community placement for two years or up to the period of earned early
37 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is
38 longer. The community placement shall begin either upon completion of
39 the term of confinement or at such time as the offender is transferred

1 to community custody in lieu of earned early release in accordance with
2 RCW 9.94A.150 (1) and (2). When the court sentences an offender under
3 this subsection to the statutory maximum period of confinement then the
4 community placement portion of the sentence shall consist entirely of
5 the community custody to which the offender may become eligible, in
6 accordance with RCW 9.94A.150 (1) and (2). Any period of community
7 custody actually served shall be credited against the community
8 placement portion of the sentence. Unless a condition is waived by the
9 court, the terms of community placement for offenders sentenced
10 pursuant to this section shall include the following conditions:

11 (i) The offender shall report to and be available for contact with
12 the assigned community corrections officer as directed;

13 (ii) The offender shall work at department of corrections-approved
14 education, employment, and/or community service;

15 (iii) The offender shall not consume controlled substances except
16 pursuant to lawfully issued prescriptions;

17 (iv) An offender in community custody shall not unlawfully possess
18 controlled substances;

19 (v) The offender shall pay supervision fees as determined by the
20 department of corrections; and

21 (vi) The residence location and living arrangements are subject to
22 the prior approval of the department of corrections during the period
23 of community placement.

24 (c) As a part of any sentence imposed under (a) or (b) of this
25 subsection, the court may also order any of the following special
26 conditions:

27 (i) The offender shall remain within, or outside of, a specified
28 geographical boundary;

29 (ii) The offender shall not have direct or indirect contact with
30 the victim of the crime or a specified class of individuals;

31 (iii) The offender shall participate in crime-related treatment or
32 counseling services;

33 (iv) The offender shall not consume alcohol;

34 (v) The offender shall comply with any crime-related prohibitions;
35 or

36 (vi) For an offender convicted of a felony sex offense against a
37 minor victim after June 6, 1996, the offender shall comply with any
38 terms and conditions of community placement imposed by the department

1 of corrections relating to contact between the sex offender and a minor
2 victim or a child of similar age or circumstance as a previous victim.

3 (d) Prior to transfer to, or during, community placement, any
4 conditions of community placement may be removed or modified so as not
5 to be more restrictive by the sentencing court, upon recommendation of
6 the department of corrections.

7 (10)(a) When a court sentences a person to the custody of the
8 department of corrections for an offense categorized as a sex offense
9 committed on or after June 6, 1996, the court shall, in addition to
10 other terms of the sentence, sentence the offender to community custody
11 for three years or up to the period of earned early release awarded
12 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The
13 community custody shall begin either upon completion of the term of
14 confinement or at such time as the offender is transferred to community
15 custody in lieu of earned early release in accordance with RCW
16 9.94A.150 (1) and (2).

17 (b) Unless a condition is waived by the court, the terms of
18 community custody shall be the same as those provided for in subsection
19 (9)(b) of this section and may include those provided for in subsection
20 (9)(c) of this section. As part of any sentence that includes a term
21 of community custody imposed under this subsection, the court shall
22 also require the offender to comply with any conditions imposed by the
23 department of corrections under subsection (14) of this section.

24 (c) At any time prior to the completion of a sex offender's term of
25 community custody, if the court finds that public safety would be
26 enhanced, the court may impose and enforce an order extending any or
27 all of the conditions imposed pursuant to this section for a period up
28 to the maximum allowable sentence for the crime as it is classified in
29 chapter 9A.20 RCW, regardless of the expiration of the offender's term
30 of community custody. If a violation of a condition extended under
31 this subsection occurs after the expiration of the offender's term of
32 community custody, it shall be deemed a violation of the sentence for
33 the purposes of RCW 9.94A.195 and may be punishable as contempt of
34 court as provided for in RCW 7.21.040.

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

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

3 (12) If a sentence imposed includes payment of a legal financial
4 obligation, the sentence shall specify the total amount of the legal
5 financial obligation owed, and shall require the offender to pay a
6 specified monthly sum toward that legal financial obligation.
7 Restitution to victims shall be paid prior to any other payments of
8 monetary obligations. Any legal financial obligation that is imposed
9 by the court may be collected by the department, which shall deliver
10 the amount paid to the county clerk for credit. The offender's
11 compliance with payment of legal financial obligations shall be
12 supervised by the department. All monetary payments ordered shall be
13 paid no later than ten years after the last date of release from
14 confinement pursuant to a felony conviction or the date the sentence
15 was entered. Independent of the department, the party or entity to
16 whom the legal financial obligation is owed shall have the authority to
17 utilize any other remedies available to the party or entity to collect
18 the legal financial obligation. Nothing in this section makes the
19 department, the state, or any of its employees, agents, or other
20 persons acting on their behalf liable under any circumstances for the
21 payment of these legal financial obligations. If an order includes
22 restitution as one of the monetary assessments, the county clerk shall
23 make disbursements to victims named in the order.

24 (13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
25 court may not impose a sentence providing for a term of confinement or
26 community supervision or community placement which exceeds the
27 statutory maximum for the crime as provided in chapter 9A.20 RCW.

28 (14) All offenders sentenced to terms involving community
29 supervision, community service, community placement, or legal financial
30 obligation shall be under the supervision of the department of
31 corrections and shall follow explicitly the instructions and conditions
32 of the department of corrections.

33 (a) The instructions shall include, at a minimum, reporting as
34 directed to a community corrections officer, remaining within
35 prescribed geographical boundaries, notifying the community corrections
36 officer of any change in the offender's address or employment, and
37 paying the supervision fee assessment.

38 (b) For sex offenders sentenced to terms involving community
39 custody for crimes committed on or after June 6, 1996, the department

1 may include, in addition to the instructions in (a) of this subsection,
2 any appropriate conditions of supervision, including but not limited
3 to, prohibiting the offender from having contact with any other
4 specified individuals or specific class of individuals. The conditions
5 authorized under this subsection (14)(b) may be imposed by the
6 department prior to or during a sex offender's community custody term.
7 If a violation of conditions imposed by the court or the department
8 pursuant to subsection (10) of this section occurs during community
9 custody, it shall be deemed a violation of community placement for the
10 purposes of RCW 9.94A.207 and shall authorize the department to
11 transfer an offender to a more restrictive confinement status as
12 provided in RCW 9.94A.205. At any time prior to the completion of a
13 sex offender's term of community custody, the department may recommend
14 to the court that any or all of the conditions imposed by the court or
15 the department pursuant to subsection (10) of this section be continued
16 beyond the expiration of the offender's term of community custody as
17 authorized in subsection (10)(c) of this section.

18 The department may require offenders to pay for special services
19 rendered on or after July 25, 1993, including electronic monitoring,
20 day reporting, and telephone reporting, dependent upon the offender's
21 ability to pay. The department may pay for these services for
22 offenders who are not able to pay.

23 (15) All offenders sentenced to terms involving community
24 supervision, community service, or community placement under the
25 supervision of the department of corrections shall not own, use, or
26 possess firearms or ammunition. Offenders who own, use, or are found
27 to be in actual or constructive possession of firearms or ammunition
28 shall be subject to the appropriate violation process and sanctions.
29 "Constructive possession" as used in this subsection means the power
30 and intent to control the firearm or ammunition. "Firearm" as used in
31 this subsection means a weapon or device from which a projectile may be
32 fired by an explosive such as gunpowder.

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

37 (17) A departure from the standards in RCW 9.94A.400 (1) and (2)
38 governing whether sentences are to be served consecutively or
39 concurrently is an exceptional sentence subject to the limitations in

1 subsections (2) and (3) of this section, and may be appealed by the
2 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

3 (18) The court shall order restitution whenever the offender is
4 convicted of a felony that results in injury to any person or damage to
5 or loss of property, whether the offender is sentenced to confinement
6 or placed under community supervision, unless extraordinary
7 circumstances exist that make restitution inappropriate in the court's
8 judgment. The court shall set forth the extraordinary circumstances in
9 the record if it does not order restitution.

10 (19) As a part of any sentence, the court may impose and enforce an
11 order that relates directly to the circumstances of the crime for which
12 the offender has been convicted, prohibiting the offender from having
13 any contact with other specified individuals or a specific class of
14 individuals for a period not to exceed the maximum allowable sentence
15 for the crime, regardless of the expiration of the offender's term of
16 community supervision or community placement.

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

21 (21) All court-ordered legal financial obligations collected by the
22 department and remitted to the county clerk shall be credited and paid
23 where restitution is ordered. Restitution shall be paid prior to any
24 other payments of monetary obligations.

25 NEW SECTION. **Sec. 3.** The board is authorized to:

26 (1) Review sentences of offenders convicted of a sex offense that
27 results in total confinement in prison, including offenders who were
28 sentenced under the special sex offender sentencing alternative whose
29 suspended minimum term was revoked, to determine whether the offender
30 should be released upon completion of the minimum sentence or if the
31 offender should remain in custody;

32 (2) Establish conditions of release for any offenders who are
33 released;

34 (3) Establish procedures to determine if an offender has violated
35 conditions of release, and impose sanctions for such violations; and

36 (4) Establish procedures for periodic review of offenders who
37 remain in confinement beyond the minimum term of confinement.

1 NEW SECTION. **Sec. 4.** The board shall meet at department of
2 corrections' institutions at such times as may be necessary for a full
3 and complete study of the cases of all sex offenders whose durations of
4 confinement are to be determined by it or whose applications for
5 release come before it. Other times and places of meetings may also be
6 fixed by the board.

7 The superintendents of the different correctional institutions
8 shall provide suitable quarters for the board while in the discharge of
9 its duties.

10 NEW SECTION. **Sec. 5.** (1) When deciding whether an offender should
11 be released, the board shall give public safety considerations the
12 highest priority. An offender shall not be released unless the board
13 finds that the offender's risk to the community can be reasonably
14 managed under release conditions established by the board. All
15 relevant information shall be considered by the board, including but
16 not limited to, information relating to:

17 (a) The number and severity of the sex offenses and violent
18 offenses committed by the offender;

19 (b) Whether the offender has a history of substance abuse, the
20 extent of any such abuse, and the offender's performance in any
21 substance abuse treatment;

22 (c) Whether the offender has an adequate plan for his or her
23 residence and employment upon release;

24 (d) The offender's performance in any sex offender treatment,
25 refusal to participate in treatment, or lack of amenability to
26 treatment;

27 (e) The offender's future dangerousness;

28 (f) Infractions committed by the offender while in the custody of
29 the department; and

30 (g) Any other relevant information.

31 (2) The board shall not consider in any way factors relating to
32 prison population or prison overcrowding when deciding whether to
33 release a sex offender.

34 NEW SECTION. **Sec. 6.** (1) At the time the sex offender is
35 transported to the custody of the department of corrections, the
36 prosecuting attorney shall provide the board a statement of all the

1 facts concerning the offender's crime and any other information the
2 prosecuting attorney has about the offender.

3 (2) The statement shall be signed by the prosecuting attorney and
4 approved by the sentencing judge and shall be delivered to the sheriff,
5 traveling guard, department of corrections personnel, or other officer
6 executing the sentence, and a copy of the statement shall be furnished
7 to the defendant or his or her attorney. The officer shall deliver the
8 statement, at the time of the offender's commitment, to the
9 superintendent of the institution to which the offender has been
10 sentenced. The superintendent shall make the statement available for
11 use by the board.

12 NEW SECTION. **Sec. 7.** If a sex offender under the jurisdiction of
13 the board serving a sentence in a state correctional facility commits
14 any infractions of the rules and regulations of the institution, the
15 board may revoke any order determining the length of time the offender
16 shall be imprisoned, including the forfeiture of all or a portion of
17 credits earned, pursuant to RCW 9.94A.150, and make a new order
18 determining the length of time the offender shall serve, not exceeding
19 the maximum penalty provided by law for the crime for which the
20 offender was convicted. Revocation and redetermination shall not be
21 had except upon a hearing before the board. At the hearing the sex
22 offender shall be present and entitled to be heard and may present
23 evidence and witnesses in his or her behalf.

24 NEW SECTION. **Sec. 8.** At the time of release of a sex offender,
25 the board shall establish conditions of release. When establishing the
26 conditions of release, the board shall consider any recommendations for
27 release conditions made by the department, the sentencing court, or the
28 prosecutor. At a minimum, the offender shall be required to comply
29 with the following:

- 30 (1) No law violations;
31 (2) No illegal drug use;
32 (3) Report as required to the department; and
33 (4) No contact with any victims or witnesses except as specifically
34 allowed by the board.

35 NEW SECTION. **Sec. 9.** (1) Whenever the board or a community
36 corrections officer of this state has reason to believe a sex offender

1 has violated a condition of his or her release, the law of any state,
2 or the rules and regulations of the board, any community corrections
3 officer may arrest or cause the arrest and detention and suspension of
4 release of the offender pending a determination by the board whether
5 the release shall be revoked. All facts and circumstances surrounding
6 the violation by the offender shall be reported to the board by the
7 community corrections officer, with recommendations. The board, after
8 consultation with the secretary of corrections, shall make rules
9 concerning procedural matters, including the time when community
10 corrections officers shall file with the board reports required by this
11 section.

12 (2) On the basis of the report by the community corrections
13 officer, or at any time upon its own discretion, the board may revise
14 or modify the conditions of release or order the revocation of release
15 by the issuance of a written order. The order shall be sufficient
16 warrant for all peace officers to take into custody any offender who
17 may be on release and retain the offender in their custody until
18 arrangements can be made by the board for the offender's return to a
19 state correctional institution. Any revision or modification of the
20 conditions of release or the order revoking release shall be personally
21 served upon the offender.

22 (3) Any offender arrested and detained in physical custody by the
23 authority of a community corrections officer, or upon the written order
24 of the board, shall not be released from custody on bail or personal
25 recognizance, except upon approval of the board and the issuance by the
26 board of an order of reinstatement on release on the same or modified
27 conditions of release.

28 (4) Whenever a released sex offender is accused of a violation of
29 his or her release, other than conviction for a felony or misdemeanor
30 under the laws of this state or the laws of any other state, the
31 offender is entitled to a fair and impartial hearing on the violations
32 within thirty days from the time the offender is served with notice of
33 the violation of conditions of release. The hearing shall be held
34 before one or more members of the board at a place or places within
35 this state and reasonably near the site of the alleged violation.

36 (5) In the event that the board revokes a release by reason of an
37 alleged violation or pending the disposition of a new criminal charge,
38 the board may nullify the order of revocation and release the offender
39 under previous conditions or any new conditions that the board may

1 determine advisable. Before the board may nullify an order of
2 revocation and release an offender, the board must determine that the
3 interests of society and the individual are best served by such release
4 rather than a return to total confinement.

5 NEW SECTION. **Sec. 10.** Within fifteen days from the date of notice
6 to the department of corrections of the arrest and detention of a sex
7 offender alleged to have violated conditions of release, the offender,
8 shall be personally served by a community corrections officer with a
9 copy of the factual allegations of the violation of the conditions of
10 release, and, at the same time shall be advised of his or her right to
11 an on-site release revocation hearing and other rights and privileges
12 as provided in sections 9 through 15 of this act. The offender, after
13 service of the allegations of violations of the conditions of release
14 and the advice of rights may waive the on-site release revocation
15 hearing, and admit one or more of the alleged violations. If the board
16 accepts the waiver it shall either, (1) reinstate the offender's
17 release under the same or modified conditions, or (2) revoke the
18 release of the offender and return the offender to state custody. A
19 determination of a new minimum sentence shall be made within thirty
20 days of return to state custody which shall not exceed the maximum
21 sentence as provided by law for the crime of which the offender was
22 originally convicted.

23 If the waiver made by the offender is rejected by the board it
24 shall hold an on-site release revocation hearing under sections 9
25 through 15 of this act.

26 NEW SECTION. **Sec. 11.** At any on-site release revocation hearing
27 the offender is entitled to be represented by an attorney of the
28 offender's choosing and at the offender's expense. Upon the
29 presentation of satisfactory evidence of indigency and the request for
30 the appointment of an attorney, the board shall cause the appointment
31 of an attorney to represent the offender to be paid for at state
32 expense. The board may assume all or such other expenses in the
33 presentation of evidence on behalf of the offender as it deems
34 appropriate. Attorneys for the representation of sex offenders in on-
35 site hearings shall be appointed by the superior courts for the
36 counties wherein the on-site hearing is to be held. The attorneys

1 shall be compensated in the manner and amount as is fixed in a schedule
2 of fees adopted by rule of the board.

3 NEW SECTION. **Sec. 12.** (1) In conducting on-site release
4 revocation hearings, the board may administer oaths and affirmations,
5 examine witnesses, receive evidence, and issue subpoenas for the
6 compulsory attendance of witnesses and the production of evidence for
7 presentation at such hearings. Subpoenas issued by the board shall be
8 effective throughout the state. Witnesses in attendance at any on-site
9 hearing shall be paid the same fees as provided for witnesses in
10 chapter 2.40 RCW.

11 (2) If any person fails or refuses to obey a subpoena issued by the
12 board, or obeys the subpoena but refuses to testify concerning any
13 matter under examination at the hearing, the board may petition the
14 superior court of the county where the hearing is being conducted for
15 enforcement of the subpoena. The petition shall be accompanied by a
16 copy of the subpoena and proof of service, and shall state specifically
17 how the subpoena has not been complied with, and shall ask an order of
18 the court to compel the witness to appear and testify before the board.
19 The court, upon such petition, shall enter an order directing the
20 witness to appear before the court at a time and place to be fixed in
21 the order to show cause why he or she has not responded to the subpoena
22 or has refused to testify. A copy of the order shall be served upon
23 the witness. If it appears to the court that the subpoena was properly
24 issued and that the particular questions the witness refuses to answer
25 are reasonable and relevant, the court shall enter an order that the
26 witness appear at the time and place fixed in the order and testify or
27 produce the required papers. Upon failure to obey the order, the
28 witness may be found in contempt of court.

29 NEW SECTION. **Sec. 13.** (1) At all on-site release revocation
30 hearings the community corrections officers of the department of
31 corrections, having made the allegations of the violations of the
32 conditions of release, may be represented by the attorney general. The
33 attorney general may make independent recommendations to the board
34 about whether the violations constitute sufficient cause for the
35 revocation of the release and the return of the sex offender to total
36 confinement.

1 (2) The hearings shall be open to the public unless the board for
2 specifically stated reasons closes the hearing in whole or in part.
3 The hearings shall be recorded either manually or by a mechanical
4 recording device. The offender may be requested to testify and any
5 such testimony shall not be used against him or her in any criminal
6 prosecution.

7 (3) The board shall adopt rules governing the procedures authorized
8 by this chapter and make rules of practice before the board in on-site
9 release revocation hearings, together with forms and instructions.

10 NEW SECTION. **Sec. 14.** After the on-site release revocation
11 hearing has been concluded, the members of the board having heard the
12 matter shall enter their decision of record within ten days, and make
13 findings and conclusions upon the allegations of the violations of the
14 conditions of release. If the member, or members having heard the
15 matter, should conclude that the allegations have not been proven by a
16 preponderance of the evidence, or, those which have been proven by a
17 preponderance of the evidence are not sufficient cause for the
18 revocation of release, then the release shall be reinstated on the same
19 or modified conditions of release. For violations not resulting in new
20 convictions, modified conditions of release may include sanctions
21 according to an administrative sanction grid. If the member or members
22 having heard the matter should conclude that the allegations have been
23 proven by a preponderance of the evidence and constitute sufficient
24 cause for the revocation of release, then such member or members shall
25 enter an order of release revocation and return the offender to state
26 custody. Within thirty days of the return of the offender to a state
27 correctional institution the board shall enter an order determining a
28 new minimum term not exceeding the maximum penalty provided by law for
29 the crime for which the offender was originally convicted.

30 NEW SECTION. **Sec. 15.** All officers and employees of the state,
31 counties, cities and political subdivisions of this state shall
32 cooperate with the board in making available suitable facilities for
33 conducting release revocation hearings.

34 NEW SECTION. **Sec. 16.** After the revocation of the release of any
35 sex offender and until his or her return to custody, the offender shall
36 be deemed an escapee and a fugitive from justice. The board may deny

1 credit against the maximum sentence for any time during which the
2 offender is an escapee and a fugitive from justice.

3 NEW SECTION. **Sec. 17.** The board shall keep a complete record of
4 every sex offender under the jurisdiction of the board. The records
5 shall be organized so that there will always be complete information
6 about each offender immediately available. The board may make rules as
7 to the privacy of the records and their use by others than the board
8 and its staff. The board shall be immune from liability for the
9 release of information concerning sex offenders as provided in RCW
10 4.24.550.

11 The superintendents of state correctional facilities and all
12 officers and employees thereof and all other public officials shall
13 cooperate with the board and furnish to the board, its officers, and
14 employees case files, investigation reports, or other information as
15 may be necessary to enable it to perform its functions. Such
16 superintendents and other employees shall at all times give the members
17 of the board, its officers, and employees free access to all sex
18 offenders confined in the state correctional facilities.

19 In addition to any other information required to be released under
20 this chapter, the board may, pursuant to RCW 4.24.550, release
21 information concerning offenders under the jurisdiction of the board
22 who are convicted of sex offenses as defined in RCW 9.94A.030.

23 NEW SECTION. **Sec. 18.** The board shall make all necessary rules to
24 carry out the provisions of sections 3 through 20 of this act, and may
25 provide the forms of all necessary documents.

26 NEW SECTION. **Sec. 19.** The board may deputize any person regularly
27 employed by another state to act as an officer and agent of this state
28 in effecting the return of any sex offender who has violated the
29 conditions of release as granted by this state. In any matter relating
30 to the return of the offender, any agent so deputized shall have all
31 the powers of a police officer of this state.

32 Any deputization shall be in writing and the person deputized shall
33 carry formal evidence of his or her deputization and shall produce the
34 same upon demand.

1 NEW SECTION. **Sec. 20.** The board may enter into contracts with
2 similar officials of any other state or states for the purpose of
3 sharing an equitable portion of the cost of effecting the return of any
4 sex offender who has violated the terms and conditions of release as
5 granted by this state.

6 **Sec. 21.** RCW 72.04A.070 and 1981 c 136 s 82 are each amended to
7 read as follows:

8 The ~~((secretary))~~ department of corrections shall ~~((cause to be
9 prepared))~~ prepare plans and recommendations for the conditions of
10 supervision under which each inmate of any state penal institutions who
11 is eligible for parole or release may be released from custody. Such
12 plans and recommendations shall be submitted to the indeterminate
13 sentence review board ~~((of prison terms and paroles which))~~. The board
14 may~~((, at its discretion,))~~ approve, reject, ~~((or))~~ revise, or amend
15 ~~((such))~~ the plans and recommendations ~~((for the conditions of
16 supervision of release of inmates on parole,))~~ and~~((, in addition,))~~
17 the board may stipulate any special conditions of supervision to be
18 carried out by a ~~((probation and parole))~~ community corrections
19 officer.

20 **Sec. 22.** RCW 72.04A.080 and 1981 c 136 s 83 are each amended to
21 read as follows:

22 Each inmate hereafter released on parole and each sex offender
23 released by the indeterminate sentence review board shall be subject to
24 the supervision of the department of corrections, and the ~~((probation
25 and parole))~~ community corrections officers of the department shall be
26 charged with the preparation of progress reports of parolees or sex
27 offenders and to give guidance and supervision to such parolees and sex
28 offenders within the conditions of a parolee's or sex offender's
29 release from custody. Copies of all progress reports prepared by the
30 ~~((probation and parole))~~ community corrections officers shall be
31 supplied to the indeterminate sentence review board ~~((of prison terms
32 and paroles for their files and records))~~.

33 **Sec. 23.** RCW 9A.20.021 and 1982 c 192 s 10 are each amended to
34 read as follows:

35 (1) Felony. No person convicted of a classified felony shall be
36 punished by confinement or fine exceeding the following:

1 (a) For a class A felony, by confinement in a state correctional
2 institution for a term of life imprisonment, or by a fine in an amount
3 fixed by the court of fifty thousand dollars, or by both such
4 confinement and fine;

5 (b) For a class B+ felony, by confinement in a state correctional
6 institution for a term of twenty years, or by a fine in an amount fixed
7 by the court of thirty thousand dollars, or by both such confinement
8 and fine;

9 (c) For a class B felony, by confinement in a state correctional
10 institution for a term of ten years, or by a fine in an amount fixed by
11 the court of twenty thousand dollars, or by both such confinement and
12 fine;

13 ((+e)) (d) For a class C felony, by confinement in a state
14 correctional institution for five years, or by a fine in an amount
15 fixed by the court of ten thousand dollars, or by both such confinement
16 and fine.

17 (2) Gross misdemeanor. Every person convicted of a gross
18 misdemeanor defined in Title 9A RCW shall be punished by imprisonment
19 in the county jail for a maximum term fixed by the court of not more
20 than one year, or by a fine in an amount fixed by the court of not more
21 than five thousand dollars, or by both such imprisonment and fine.

22 (3) Misdemeanor. Every person convicted of a misdemeanor defined
23 in Title 9A RCW shall be punished by imprisonment in the county jail
24 for a maximum term fixed by the court of not more than ninety days, or
25 by a fine in an amount fixed by the court of not more than one thousand
26 dollars, or by both such imprisonment and fine.

27 (4) This section applies to only those crimes committed on or after
28 July 1, 1984.

29 **Sec. 24.** RCW 9A.44.060 and 1979 ex.s. c 244 s 3 are each amended
30 to read as follows:

31 (1) A person is guilty of rape in the third degree when, under
32 circumstances not constituting rape in the first or second degrees,
33 such person engages in sexual intercourse with another person, not
34 married to the perpetrator:

35 (a) Where the victim did not consent, as defined in RCW
36 ((~~9A.44.010(6)~~)) 9A.44.010, to sexual intercourse with the perpetrator
37 and such lack of consent was clearly expressed by the victim's words or
38 conduct, or

1 (b) Where there is threat of substantial unlawful harm to property
2 rights of the victim.

3 (2) Rape in the third degree is a class ((C)) B felony.

4 **Sec. 25.** RCW 9A.44.079 and 1988 c 145 s 4 are each amended to read
5 as follows:

6 (1) A person is guilty of rape of a child in the third degree when
7 the person has sexual intercourse with another who is at least fourteen
8 years old but less than sixteen years old and not married to the
9 perpetrator and the perpetrator is at least forty-eight months older
10 than the victim.

11 (2) Rape of a child in the third degree is a class ((C)) B felony.

12 **Sec. 26.** RCW 9A.44.086 and 1994 c 271 s 304 are each amended to
13 read as follows:

14 (1) A person is guilty of child molestation in the second degree
15 when the person has, or knowingly causes another person under the age
16 of eighteen to have, sexual contact with another who is at least twelve
17 years old but less than fourteen years old and not married to the
18 perpetrator and the perpetrator is at least thirty-six months older
19 than the victim.

20 (2) Child molestation in the second degree is a class B+ felony.

21 **Sec. 27.** RCW 9A.44.089 and 1994 c 271 s 305 are each amended to
22 read as follows:

23 (1) A person is guilty of child molestation in the third degree
24 when the person has, or knowingly causes another person under the age
25 of eighteen to have, sexual contact with another who is at least
26 fourteen years old but less than sixteen years old and not married to
27 the perpetrator and the perpetrator is at least forty-eight months
28 older than the victim.

29 (2) Child molestation in the third degree is a class ((C)) B
30 felony.

31 **Sec. 28.** RCW 9A.44.100 and 1993 c 477 s 3 are each amended to read
32 as follows:

33 (1) A person is guilty of indecent liberties when he knowingly
34 causes another person who is not his spouse to have sexual contact with
35 him or another:

1 (a) By forcible compulsion; or
2 (b) When the other person is incapable of consent by reason of
3 being mentally defective, mentally incapacitated, or physically
4 helpless;

5 (c) When the victim is developmentally disabled and the perpetrator
6 is a person who is not married to the victim and who has supervisory
7 authority over the victim;

8 (d) When the perpetrator is a health care provider, the victim is
9 a client or patient, and the sexual contact occurs during a treatment
10 session, consultation, interview, or examination. It is an affirmative
11 defense that the defendant must prove by a preponderance of the
12 evidence that the client or patient consented to the sexual contact
13 with the knowledge that the sexual contact was not for the purpose of
14 treatment; or

15 (e) When the victim is a resident of a facility for mentally
16 disordered or chemically dependent persons and the perpetrator is a
17 person who is not married to the victim and has supervisory authority
18 over the victim.

19 (2) Indecent liberties is a class B+ felony if committed by
20 forcible compulsion under subsection (1)(a) of this section, and a
21 class B felony in all other circumstances.

22 **Sec. 29.** RCW 9A.64.020 and 1985 c 53 s 1 are each amended to read
23 as follows:

24 (1) A person is guilty of incest in the first degree if he engages
25 in sexual intercourse with a person whom he knows to be related to him,
26 either legitimately or illegitimately, as an ancestor, descendant,
27 brother, or sister of either the whole or the half blood.

28 (2) A person is guilty of incest in the second degree if he engages
29 in sexual contact with a person whom he knows to be related to him,
30 either legitimately or illegitimately, as an ancestor, descendant,
31 brother, or sister of either the whole or the half blood.

32 (3) As used in this section, "descendant" includes stepchildren and
33 adopted children under eighteen years of age.

34 (4) As used in this section, "sexual contact" has the same meaning
35 as in RCW (~~9A.44.100(2)~~) 9A.44.010.

36 (5) As used in this section, "sexual intercourse" has the same
37 meaning as in RCW 9A.44.010(1).

38 (6) Incest in the first degree is a class B+ felony.

1 (7) Incest in the second degree is a class ((C)) B felony.

2 **Sec. 30.** RCW 9.41.010 and 1996 c 295 s 1 are each amended to read
3 as follows:

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

6 (1) "Firearm" means a weapon or device from which a projectile or
7 projectiles may be fired by an explosive such as gunpowder.

8 (2) "Pistol" means any firearm with a barrel less than sixteen
9 inches in length, or is designed to be held and fired by the use of a
10 single hand.

11 (3) "Rifle" means a weapon designed or redesigned, made or remade,
12 and intended to be fired from the shoulder and designed or redesigned,
13 made or remade, and intended to use the energy of the explosive in a
14 fixed metallic cartridge to fire only a single projectile through a
15 rifled bore for each single pull of the trigger.

16 (4) "Short-barreled rifle" means a rifle having one or more barrels
17 less than sixteen inches in length and any weapon made from a rifle by
18 any means of modification if such modified weapon has an overall length
19 of less than twenty-six inches.

20 (5) "Shotgun" means a weapon with one or more barrels, designed or
21 redesigned, made or remade, and intended to be fired from the shoulder
22 and designed or redesigned, made or remade, and intended to use the
23 energy of the explosive in a fixed shotgun shell to fire through a
24 smooth bore either a number of ball shot or a single projectile for
25 each single pull of the trigger.

26 (6) "Short-barreled shotgun" means a shotgun having one or more
27 barrels less than eighteen inches in length and any weapon made from a
28 shotgun by any means of modification if such modified weapon has an
29 overall length of less than twenty-six inches.

30 (7) "Machine gun" means any firearm known as a machine gun,
31 mechanical rifle, submachine gun, or any other mechanism or instrument
32 not requiring that the trigger be pressed for each shot and having a
33 reservoir clip, disc, drum, belt, or other separable mechanical device
34 for storing, carrying, or supplying ammunition which can be loaded into
35 the firearm, mechanism, or instrument, and fired therefrom at the rate
36 of five or more shots per second.

37 (8) "Antique firearm" means a firearm or replica of a firearm not
38 designed or redesigned for using rim fire or conventional center fire

1 ignition with fixed ammunition and manufactured in or before 1898,
2 including any matchlock, flintlock, percussion cap, or similar type of
3 ignition system and also any firearm using fixed ammunition
4 manufactured in or before 1898, for which ammunition is no longer
5 manufactured in the United States and is not readily available in the
6 ordinary channels of commercial trade.

7 (9) "Loaded" means:

8 (a) There is a cartridge in the chamber of the firearm;

9 (b) Cartridges are in a clip that is locked in place in the
10 firearm;

11 (c) There is a cartridge in the cylinder of the firearm, if the
12 firearm is a revolver;

13 (d) There is a cartridge in the tube or magazine that is inserted
14 in the action; or

15 (e) There is a ball in the barrel and the firearm is capped or
16 primed if the firearm is a muzzle loader.

17 (10) "Dealer" means a person engaged in the business of selling
18 firearms at wholesale or retail who has, or is required to have, a
19 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
20 does not have, and is not required to have, a federal firearms license
21 under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only
22 occasional sales, exchanges, or purchases of firearms for the
23 enhancement of a personal collection or for a hobby, or sells all or
24 part of his or her personal collection of firearms.

25 (11) "Crime of violence" means:

26 (a) Any of the following felonies, as now existing or hereafter
27 amended: Any felony defined under any law as a class A felony or an
28 attempt to commit a class A felony, criminal solicitation of or
29 criminal conspiracy to commit a class A felony, manslaughter in the
30 first degree, manslaughter in the second degree, indecent liberties if
31 committed by forcible compulsion, kidnapping in the second degree,
32 arson in the second degree, assault in the second degree, assault of a
33 child in the second degree, extortion in the first degree, burglary in
34 the second degree, residential burglary, and robbery in the second
35 degree;

36 (b) Any conviction for a felony offense in effect at any time prior
37 to June 6, 1996, which is comparable to a felony classified as a crime
38 of violence in (a) of this subsection; and

1 (c) Any federal or out-of-state conviction for an offense
2 comparable to a felony classified as a crime of violence under (a) or
3 (b) of this subsection.

4 (12) "Serious offense" means any of the following felonies or a
5 felony attempt to commit any of the following felonies, as now existing
6 or hereafter amended:

7 (a) Any crime of violence;

8 (b) Any felony violation of the uniform controlled substances act,
9 chapter 69.50 RCW, that is classified as a class B or B+ felony or that
10 has a maximum term of imprisonment of at least ten years;

11 (c) Child molestation in the second degree;

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

13 (e) Indecent liberties;

14 (f) Leading organized crime;

15 (g) Promoting prostitution in the first degree;

16 (h) Rape in the third degree;

17 (i) Reckless endangerment in the first degree;

18 (j) Sexual exploitation;

19 (k) Vehicular assault;

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

24 (m) Any other class B or B+ felony offense with a finding of sexual
25 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

26 (n) Any other felony with a deadly weapon verdict under RCW
27 9.94A.125; or

28 (o) Any felony offense in effect at any time prior to June 6, 1996,
29 that is comparable to a serious offense, or any federal or out-of-state
30 conviction for an offense that under the laws of this state would be a
31 felony classified as a serious offense.

32 (13) "Law enforcement officer" includes a general authority
33 Washington peace officer as defined in RCW 10.93.020, or a specially
34 commissioned Washington peace officer as defined in RCW 10.93.020.
35 "Law enforcement officer" also includes a limited authority Washington
36 peace officer as defined in RCW 10.93.020 if such officer is duly
37 authorized by his or her employer to carry a concealed pistol.

1 (14) "Felony" means any felony offense under the laws of this state
2 or any federal or out-of-state offense comparable to a felony offense
3 under the laws of this state.

4 (15) "Sell" refers to the actual approval of the delivery of a
5 firearm in consideration of payment or promise of payment of a certain
6 price in money.

7 (16) "Barrel length" means the distance from the bolt face of a
8 closed action down the length of the axis of the bore to the crown of
9 the muzzle, or in the case of a barrel with attachments to the end of
10 any legal device permanently attached to the end of the muzzle.

11 (17) "Family or household member" means "family" or "household
12 member" as used in RCW 10.99.020.

13 **Sec. 31.** RCW 9.94.070 and 1995 c 385 s 1 are each amended to read
14 as follows:

15 (1) An inmate of a state correctional institution who is serving a
16 sentence for an offense committed on or after August 1, 1995, commits
17 the crime of persistent prison misbehavior if the inmate knowingly
18 commits a serious infraction, that does not constitute a class A, class
19 B+, or class B felony, after losing all potential earned early release
20 time credit.

21 (2) "Serious infraction" means misconduct that has been designated
22 as a serious infraction by department of corrections rules adopted
23 under RCW 72.09.130.

24 (3) "State correctional institution" has the same meaning as in RCW
25 9.94.049.

26 (4) The crime of persistent prison misbehavior is a class C felony
27 punishable as provided in RCW 9A.20.021. The sentence imposed for this
28 crime must be served consecutive to any sentence being served at the
29 time the crime is committed.

30 **Sec. 32.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are
31 each reenacted and amended to read as follows:

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

34 (1) "Board" means the indeterminate sentence review board created
35 under RCW 9.95.001.

36 (2) "Collect," or any derivative thereof, "collect and remit," or
37 "collect and deliver," when used with reference to the department of

1 corrections, means that the department is responsible for monitoring
2 and enforcing the offender's sentence with regard to the legal
3 financial obligation, receiving payment thereof from the offender, and,
4 consistent with current law, delivering daily the entire payment to the
5 superior court clerk without depositing it in a departmental account.

6 ~~((+2))~~ (3) "Commission" means the sentencing guidelines
7 commission.

8 ~~((+3))~~ (4) "Community corrections officer" means an employee of
9 the department who is responsible for carrying out specific duties in
10 supervision of sentenced offenders and monitoring of sentence
11 conditions.

12 ~~((+4))~~ (5) "Community custody" means that portion of an inmate's
13 sentence of confinement in lieu of earned early release time or imposed
14 pursuant to RCW 9.94A.120 (6), (8), or (10) served in the community
15 subject to controls placed on the inmate's movement and activities by
16 the department of corrections.

17 ~~((+5))~~ (6) "Community placement" means that period during which
18 the offender is subject to the conditions of community custody and/or
19 postrelease supervision, which begins either upon completion of the
20 term of confinement (postrelease supervision) or at such time as the
21 offender is transferred to community custody in lieu of earned early
22 release. Community placement may consist of entirely community
23 custody, entirely postrelease supervision, or a combination of the two.

24 ~~((+6))~~ (7) "Community service" means compulsory service, without
25 compensation, performed for the benefit of the community by the
26 offender.

27 ~~((+7))~~ (8) "Community supervision" means a period of time during
28 which a convicted offender is subject to crime-related prohibitions and
29 other sentence conditions imposed by a court pursuant to this chapter
30 or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the
31 supervision may include crime-related prohibitions and other conditions
32 imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate
33 compact for out-of-state supervision of parolees and probationers, RCW
34 9.95.270, community supervision is the functional equivalent of
35 probation and should be considered the same as probation by other
36 states.

37 ~~((+8))~~ (9) "Confinement" means total or partial confinement as
38 defined in this section.

1 (~~(9)~~) (10) "Conviction" means an adjudication of guilt pursuant
2 to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of
3 guilty, and acceptance of a plea of guilty.

4 (~~(10)~~) (11) "Court-ordered legal financial obligation" means a
5 sum of money that is ordered by a superior court of the state of
6 Washington for legal financial obligations which may include
7 restitution to the victim, statutorily imposed crime victims'
8 compensation fees as assessed pursuant to RCW 7.68.035, court costs,
9 county or interlocal drug funds, court-appointed attorneys' fees, and
10 costs of defense, fines, and any other financial obligation that is
11 assessed to the offender as a result of a felony conviction. Upon
12 conviction for vehicular assault while under the influence of
13 intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular
14 homicide while under the influence of intoxicating liquor or any drug,
15 RCW 46.61.520(1)(a), legal financial obligations may also include
16 payment to a public agency of the expense of an emergency response to
17 the incident resulting in the conviction, subject to the provisions in
18 RCW 38.52.430.

19 (~~(11)~~) (12) "Crime-related prohibition" means an order of a court
20 prohibiting conduct that directly relates to the circumstances of the
21 crime for which the offender has been convicted, and shall not be
22 construed to mean orders directing an offender affirmatively to
23 participate in rehabilitative programs or to otherwise perform
24 affirmative conduct.

25 (~~(12)~~) (13)(a) "Criminal history" means the list of a defendant's
26 prior convictions, whether in this state, in federal court, or
27 elsewhere. The history shall include, where known, for each conviction
28 (i) whether the defendant has been placed on probation and the length
29 and terms thereof; and (ii) whether the defendant has been incarcerated
30 and the length of incarceration.

31 (b) "Criminal history" shall always include juvenile convictions
32 for sex offenses and serious violent offenses and shall also include a
33 defendant's other prior convictions in juvenile court if: (i) The
34 conviction was for an offense which is a felony or a serious traffic
35 offense and is criminal history as defined in RCW 13.40.020(9); (ii)
36 the defendant was fifteen years of age or older at the time the offense
37 was committed; and (iii) with respect to prior juvenile class B, B+,
38 and C felonies or serious traffic offenses, the defendant was less than

1 twenty-three years of age at the time the offense for which he or she
2 is being sentenced was committed.

3 ~~((13))~~ (14) "Day fine" means a fine imposed by the sentencing
4 judge that equals the difference between the offender's net daily
5 income and the reasonable obligations that the offender has for the
6 support of the offender and any dependents.

7 ~~((14))~~ (15) "Day reporting" means a program of enhanced
8 supervision designed to monitor the defendant's daily activities and
9 compliance with sentence conditions, and in which the defendant is
10 required to report daily to a specific location designated by the
11 department or the sentencing judge.

12 ~~((15))~~ (16) "Department" means the department of corrections.

13 ~~((16))~~ (17) "Determinate sentence" means a sentence that states
14 with exactitude the number of actual years, months, or days of total
15 confinement, of partial confinement, of community supervision, the
16 number of actual hours or days of community service work, or dollars or
17 terms of a legal financial obligation. The fact that an offender
18 through "earned early release" can reduce the actual period of
19 confinement shall not affect the classification of the sentence as a
20 determinate sentence.

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

33 ~~((18))~~ (19) "Drug offense" means:

34 (a) Any felony violation of chapter 69.50 RCW except possession of
35 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
36 controlled substance (RCW 69.50.403);

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

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

4 (~~(19)~~) (20) "Escape" means:

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

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

13 (~~(20)~~) (21) "Felony traffic offense" means:

14 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
15 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
16 and-run injury-accident (RCW 46.52.020(4)); or

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

20 (~~(21)~~) (22) "Fines" means the requirement that the offender pay
21 a specific sum of money over a specific period of time to the court.

22 (~~(22)~~) (23)(a) "First-time offender" means any person who is
23 convicted of a felony (i) not classified as a violent offense or a sex
24 offense under this chapter, or (ii) that is not the manufacture,
25 delivery, or possession with intent to manufacture or deliver a
26 controlled substance classified in schedule I or II that is a narcotic
27 drug, nor the manufacture, delivery, or possession with intent to
28 deliver methamphetamine, its salts, isomers, and salts of its isomers
29 as defined in RCW 69.50.206(d)(2), nor the selling for profit of any
30 controlled substance or counterfeit substance classified in schedule I,
31 RCW 69.50.204, except leaves and flowering tops of marihuana, and
32 except as provided in (b) of this subsection, who previously has never
33 been convicted of a felony in this state, federal court, or another
34 state, and who has never participated in a program of deferred
35 prosecution for a felony offense.

36 (b) For purposes of (a) of this subsection, a juvenile adjudication
37 for an offense committed before the age of fifteen years is not a
38 previous felony conviction except for adjudications of sex offenses and
39 serious violent offenses.

1 (~~(23)~~) (24) "Most serious offense" means any of the following
2 felonies or a felony attempt to commit any of the following felonies,
3 as now existing or hereafter amended:

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

7 (b) Assault in the second degree;

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

9 (d) Child molestation in the second degree;

10 (e) Controlled substance homicide;

11 (f) Extortion in the first degree;

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

13 (h) Indecent liberties;

14 (i) Kidnapping in the second degree;

15 (j) Leading organized crime;

16 (k) Manslaughter in the first degree;

17 (l) Manslaughter in the second degree;

18 (m) Promoting prostitution in the first degree;

19 (n) Rape in the third degree;

20 (o) Robbery in the second degree;

21 (p) Sexual exploitation;

22 (q) Vehicular assault;

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

27 (s) Any other class B or B+ felony offense with a finding of sexual
28 motivation, as "sexual motivation" is defined under this section;

29 (t) Any other felony with a deadly weapon verdict under RCW
30 9.94A.125;

31 (u) Any felony offense in effect at any time prior to December 2,
32 1993, that is comparable to a most serious offense under this
33 subsection, or any federal or out-of-state conviction for an offense
34 that under the laws of this state would be a felony classified as a
35 most serious offense under this subsection.

36 (~~(24)~~) (25) "Nonviolent offense" means an offense which is not a
37 violent offense.

38 (~~(25)~~) (26) "Offender" means a person who has committed a felony
39 established by state law and is eighteen years of age or older or is

1 less than eighteen years of age but whose case has been transferred by
2 the appropriate juvenile court to a criminal court pursuant to RCW
3 13.40.110. Throughout this chapter, the terms "offender" and
4 "defendant" are used interchangeably.

5 ~~((+26+))~~ (27) "Partial confinement" means confinement for no more
6 than one year in a facility or institution operated or utilized under
7 contract by the state or any other unit of government, or, if home
8 detention or work crew has been ordered by the court, in an approved
9 residence, for a substantial portion of each day with the balance of
10 the day spent in the community. Partial confinement includes work
11 release, home detention, work crew, and a combination of work crew and
12 home detention as defined in this section.

13 ~~((+27+))~~ (28) "Persistent offender" is an offender who:

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

16 (ii) Has, before the commission of the offense under (a) of this
17 subsection, been convicted as an offender on at least two separate
18 occasions, whether in this state or elsewhere, of felonies that under
19 the laws of this state would be considered most serious offenses and
20 would be included in the offender score under RCW 9.94A.360; provided
21 that of the two or more previous convictions, at least one conviction
22 must have occurred before the commission of any of the other most
23 serious offenses for which the offender was previously convicted; or

24 (b)(i) Has been convicted of (A) rape in the first degree, rape in
25 the second degree, or indecent liberties by forcible compulsion; (B)
26 murder in the first degree, murder in the second degree, kidnapping in
27 the first degree, kidnapping in the second degree, assault in the first
28 degree, assault in the second degree, or burglary in the first degree,
29 with a finding of sexual motivation; or (C) an attempt to commit any
30 crime listed in this subsection ~~((+27+))~~ (28)(b)(i); and

31 (ii) Has, before the commission of the offense under (b)(i) of this
32 subsection, been convicted as an offender on at least one occasion,
33 whether in this state or elsewhere, of an offense listed in (b)(i) of
34 this subsection.

35 ~~((+28+))~~ (29) "Postrelease supervision" is that portion of an
36 offender's community placement that is not community custody.

37 ~~((+29+))~~ (30) "Restitution" means the requirement that the offender
38 pay a specific sum of money over a specific period of time to the court
39 as payment of damages. The sum may include both public and private

1 costs. The imposition of a restitution order does not preclude civil
2 redress.

3 ~~((+30+))~~ (31) "Serious traffic offense" means:

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

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

12 ~~((+31+))~~ (32) "Serious violent offense" is a subcategory of violent
13 offense and means:

14 (a) Murder in the first degree, homicide by abuse, murder in the
15 second degree, assault in the first degree, kidnapping in the first
16 degree, or rape in the first degree, assault of a child in the first
17 degree, or an attempt, criminal solicitation, or criminal conspiracy to
18 commit one of these felonies; or

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

22 ~~((+32+))~~ (33) "Sentence range" means the sentencing court's
23 discretionary range in imposing a nonappealable sentence.

24 ~~((+33+))~~ (34) "Sex offense" means:

25 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
26 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
27 criminal attempt, criminal solicitation, or criminal conspiracy to
28 commit such crimes;

29 (b) A felony with a finding of sexual motivation under RCW
30 9.94A.127 or 13.40.135; or

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

34 ~~((+34+))~~ (35) "Sexual motivation" means that one of the purposes
35 for which the defendant committed the crime was for the purpose of his
36 or her sexual gratification.

37 ~~((+35+))~~ (36) "Total confinement" means confinement inside the
38 physical boundaries of a facility or institution operated or utilized

1 under contract by the state or any other unit of government for twenty-
2 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

3 ~~((+36+))~~ (37) "Transition training" means written and verbal
4 instructions and assistance provided by the department to the offender
5 during the two weeks prior to the offender's successful completion of
6 the work ethic camp program. The transition training shall include
7 instructions in the offender's requirements and obligations during the
8 offender's period of community custody.

9 ~~((+37+))~~ (38) "Victim" means any person who has sustained
10 emotional, psychological, physical, or financial injury to person or
11 property as a direct result of the crime charged.

12 ~~((+38+))~~ (39) "Violent offense" means:

13 (a) Any of the following felonies, as now existing or hereafter
14 amended: Any felony defined under any law as a class A felony or an
15 attempt to commit a class A felony, criminal solicitation of or
16 criminal conspiracy to commit a class A felony, manslaughter in the
17 first degree, manslaughter in the second degree, indecent liberties if
18 committed by forcible compulsion, kidnapping in the second degree,
19 arson in the second degree, assault in the second degree, assault of a
20 child in the second degree, extortion in the first degree, robbery in
21 the second degree, vehicular assault, and vehicular homicide, when
22 proximately caused by the driving of any vehicle by any person while
23 under the influence of intoxicating liquor or any drug as defined by
24 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

31 ~~((+39+))~~ (40) "Work crew" means a program of partial confinement
32 consisting of civic improvement tasks for the benefit of the community
33 of not less than thirty-five hours per week that complies with RCW
34 9.94A.135. The civic improvement tasks shall have minimal negative
35 impact on existing private industries or the labor force in the county
36 where the service or labor is performed. The civic improvement tasks
37 shall not affect employment opportunities for people with developmental
38 disabilities contracted through sheltered workshops as defined in RCW
39 82.04.385. Only those offenders sentenced to a facility operated or

1 utilized under contract by a county or the state are eligible to
2 participate on a work crew. Offenders sentenced for a sex offense as
3 defined in subsection (~~(33)~~) (34) of this section are not eligible
4 for the work crew program.

5 (~~(40)~~) (41) "Work ethic camp" means an alternative incarceration
6 program designed to reduce recidivism and lower the cost of corrections
7 by requiring offenders to complete a comprehensive array of real-world
8 job and vocational experiences, character-building work ethics
9 training, life management skills development, substance abuse
10 rehabilitation, counseling, literacy training, and basic adult
11 education.

12 (~~(41)~~) (42) "Work release" means a program of partial confinement
13 available to offenders who are employed or engaged as a student in a
14 regular course of study at school. Participation in work release shall
15 be conditioned upon the offender attending work or school at regularly
16 defined hours and abiding by the rules of the work release facility.

17 (~~(42)~~) (43) "Home detention" means a program of partial
18 confinement available to offenders wherein the offender is confined in
19 a private residence subject to electronic surveillance.

20 **Sec. 33.** RCW 9.94A.230 and 1987 c 486 s 7 are each amended to read
21 as follows:

22 (1) Every offender who has been discharged under RCW 9.94A.220 may
23 apply to the sentencing court for a vacation of the offender's record
24 of conviction. If the court finds the offender meets the tests
25 prescribed in subsection (2) of this section, the court may clear the
26 record of conviction by: (a) Permitting the offender to withdraw the
27 offender's plea of guilty and to enter a plea of not guilty; or (b) if
28 the offender has been convicted after a plea of not guilty, by the
29 court setting aside the verdict of guilty; and (c) by the court
30 dismissing the information or indictment against the offender.

31 (2) An offender may not have the record of conviction cleared if:
32 (a) There are any criminal charges against the offender pending in any
33 court of this state or another state, or in any federal court; (b) the
34 offense was a violent offense as defined in RCW 9.94A.030; (c) the
35 offense was a crime against persons as defined in RCW 43.43.830; (d)
36 the offender has been convicted of a new crime in this state, another
37 state, or federal court since the date of the offender's discharge
38 under RCW 9.94A.220; (e) the offense is a class B+ felony and less than

1 twenty years have passed since the date the applicant was discharged
 2 under RCW 9.94A.220; (f) the offense is a class B felony and less than
 3 ten years have passed since the date the applicant was discharged under
 4 RCW 9.94A.220; and ((+f+)) (g) the offense was a class C felony and
 5 less than five years have passed since the date the applicant was
 6 discharged under RCW 9.94A.220.

7 (3) Once the court vacates a record of conviction under subsection
 8 (1) of this section, the fact that the offender has been convicted of
 9 the offense shall not be included in the offender's criminal history
 10 for purposes of determining a sentence in any subsequent conviction,
 11 and the offender shall be released from all penalties and disabilities
 12 resulting from the offense. For all purposes, including responding to
 13 questions on employment applications, an offender whose conviction has
 14 been vacated may state that the offender has never been convicted of
 15 that crime. Nothing in this section affects or prevents the use of an
 16 offender's prior conviction in a later criminal prosecution.

17 **Sec. 34.** RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read
 18 as follows:

19 (1) TABLE 1

20 Sentencing Grid

21 SERIOUSNESS

22 SCORE OFFENDER SCORE

23 9 or

24 0 1 2 3 4 5 6 7 8 more

25

26 XV Life Sentence without Parole/Death Penalty

27

28 XIV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y

29 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-

30 320 333 347 361 374 388 416 450 493 548

31

32 XIII 12y 13y 14y 15y 16y 17y 19y 21y 25y 29y

33 123- 134- 144- 154- 165- 175- 195- 216- 257- 298-

34 164 178 192 205 219 233 260 288 342 397

35

1	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
2		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
3		123	136	147	160	171	184	216	236	277	318
4											
5	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
6		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
7		102	114	125	136	147	158	194	211	245	280
8											
9	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
10		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
11		68	75	82	89	96	102	130	144	171	198
12											
13	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
14		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
15		41	48	54	61	68	75	102	116	144	171
16											
17	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
18		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
19		27	34	41	48	54	61	89	102	116	144
20											
21	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
22		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
23		20	27	34	41	48	54	75	89	102	116
24											
25	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
26		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
27		14	20	27	34	41	48	61	75	89	102
28											
29	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
30		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
31		12	14	17	20	29	43	54	68	82	96
32											
33	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
34		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
35		9	12	14	17	20	29	43	57	70	84
36											
37	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
38		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
39		3	8	12	12	16	22	29	43	57	68

1
2
3
4
5
6
7
8
9

II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
	Days	6	9	12	14	18	22	29	43	57

I			3m	4m	5m	8m	13m	16m	20m	2y2m
	0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
	Days	Days	5	6	8	12	14	18	22	29

10 NOTE: Numbers in the first horizontal row of each seriousness category
11 represent sentencing midpoints in years(y) and months(m). Numbers in
12 the second and third rows represent presumptive sentencing ranges in
13 months, or in days if so designated. 12+ equals one year and one day.

14 (2) For persons convicted of the anticipatory offenses of criminal
15 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
16 presumptive sentence is determined by locating the sentencing grid
17 sentence range defined by the appropriate offender score and the
18 seriousness level of the completed crime, and multiplying the range by
19 75 percent.

20 (3) The following additional times shall be added to the
21 presumptive sentence for felony crimes committed after July 23, 1995,
22 if the offender or an accomplice was armed with a firearm as defined in
23 RCW 9.41.010 and the offender is being sentenced for one of the crimes
24 listed in this subsection as eligible for any firearm enhancements
25 based on the classification of the completed felony crime. If the
26 offender or an accomplice was armed with a firearm as defined in RCW
27 9.41.010 and the offender is being sentenced for an anticipatory
28 offense under chapter 9A.28 RCW to commit one of the crimes listed in
29 this subsection as eligible for any firearm enhancements, the following
30 additional times shall be added to the presumptive sentence determined
31 under subsection (2) of this section based on the felony crime of
32 conviction as classified under RCW 9A.28.020:

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

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

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

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

11 (e) Notwithstanding any other provision of law, any and all
12 firearm enhancements under this section are mandatory, shall be served
13 in total confinement, and shall not run concurrently with any other
14 sentencing provisions.

15 (f) The firearm enhancements in this section shall apply to all
16 felony crimes except the following: Possession of a machine gun,
17 possessing a stolen firearm, reckless endangerment in the first degree,
18 theft of a firearm, unlawful possession of a firearm in the first and
19 second degree, and use of a machine gun in a felony.

20 (g) If the presumptive sentence under this section exceeds the
21 statutory maximum for the offense, the statutory maximum sentence shall
22 be the presumptive sentence unless the offender is a persistent
23 offender as defined in RCW 9.94A.030.

24 (4) The following additional times shall be added to the
25 presumptive sentence for felony crimes committed after July 23, 1995,
26 if the offender or an accomplice was armed with a deadly weapon as
27 defined in this chapter other than a firearm as defined in RCW 9.41.010
28 and the offender is being sentenced for one of the crimes listed in
29 this subsection as eligible for any deadly weapon enhancements based on
30 the classification of the completed felony crime. If the offender or
31 an accomplice was armed with a deadly weapon other than a firearm as
32 defined in RCW 9.41.010 and the offender is being sentenced for an
33 anticipatory offense under chapter 9A.28 RCW to commit one of the
34 crimes listed in this subsection as eligible for any deadly weapon
35 enhancements, the following additional times shall be added to the
36 presumptive sentence determined under subsection (2) of this section
37 based on the felony crime of conviction as classified under RCW
38 9A.28.020:

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

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

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

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

17 (e) Notwithstanding any other provision of law, any and all deadly
18 weapon enhancements under this section are mandatory, shall be served
19 in total confinement, and shall not run concurrently with any other
20 sentencing provisions.

21 (f) The deadly weapon enhancements in this section shall apply to
22 all felony crimes except the following: Possession of a machine gun,
23 possessing a stolen firearm, reckless endangerment in the first degree,
24 theft of a firearm, unlawful possession of a firearm in the first and
25 second degree, and use of a machine gun in a felony.

26 (g) If the presumptive sentence under this section exceeds the
27 statutory maximum for the offense, the statutory maximum sentence shall
28 be the presumptive sentence unless the offender is a persistent
29 offender as defined in RCW 9.94A.030.

30 (5) The following additional times shall be added to the
31 presumptive sentence if the offender or an accomplice committed the
32 offense while in a county jail or state correctional facility as that
33 term is defined in this chapter and the offender is being sentenced for
34 one of the crimes listed in this subsection. If the offender or an
35 accomplice committed one of the crimes listed in this subsection while
36 in a county jail or state correctional facility as that term is defined
37 in this chapter, and the offender is being sentenced for an
38 anticipatory offense under chapter 9A.28 RCW to commit one of the
39 crimes listed in this subsection, the following additional times shall

1 be added to the presumptive sentence determined under subsection (2) of
2 this section:

3 (a) Eighteen months for offenses committed under RCW
4 69.50.401(a)(1) (i) or (ii) or 69.50.410;

5 (b) Fifteen months for offenses committed under RCW
6 69.50.401(a)(1) (iii), (iv), and (v);

7 (c) Twelve months for offenses committed under RCW 69.50.401(d).

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

11 (6) An additional twenty-four months shall be added to the
12 presumptive sentence for any ranked offense involving a violation of
13 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

14 **Sec. 35.** RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and
15 1996 c 36 s 2 are each reenacted and amended to read as follows:

16 TABLE 2

17 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

18	XV	Aggravated Murder 1 (RCW 10.95.020)
19	XIV	Murder 1 (RCW 9A.32.030)
20		Homicide by abuse (RCW 9A.32.055)
21	XIII	Murder 2 (RCW 9A.32.050)
22	XII	Assault 1 (RCW 9A.36.011)
23		Assault of a Child 1 (RCW 9A.36.120)
24	XI	Rape 1 (RCW 9A.44.040)
25		Rape of a Child 1 (RCW 9A.44.073)
26	X	Kidnapping 1 (RCW 9A.40.020)
27		Rape 2 (RCW 9A.44.050)
28		Rape of a Child 2 (RCW 9A.44.076)
29		Child Molestation 1 (RCW 9A.44.083)
30		Damaging building, etc., by explosion with
31		threat to human being (RCW 70.74.280(1))

1 Over 18 and deliver heroin or narcotic from
2 Schedule I or II to someone under 18
3 (RCW 69.50.406)
4 Leading Organized Crime (RCW 9A.82.060(1)(a))
5 IX Assault of a Child 2 (RCW 9A.36.130)
6 Robbery 1 (RCW 9A.56.200)
7 Manslaughter 1 (RCW 9A.32.060)
8 Explosive devices prohibited (RCW 70.74.180)
9 Indecent Liberties (with forcible compulsion)
10 (RCW 9A.44.100(1)(a))
11 Endangering life and property by explosives
12 with threat to human being (RCW
13 70.74.270)
14 Over 18 and deliver narcotic from Schedule
15 III, IV, or V or a nonnarcotic from
16 Schedule I-V to someone under 18 and 3
17 years junior (RCW 69.50.406)
18 Controlled Substance Homicide (RCW 69.50.415)
19 Sexual Exploitation (RCW 9.68A.040)
20 Inciting Criminal Profiteering (RCW
21 9A.82.060(1)(b))
22 Vehicular Homicide, by being under the
23 influence of intoxicating liquor or any
24 drug (RCW 46.61.520)
25 VIII Arson 1 (RCW 9A.48.020)
26 Promoting Prostitution 1 (RCW 9A.88.070)
27 Selling for profit (controlled or
28 counterfeit) any controlled substance
29 (RCW 69.50.410)
30 Manufacture, deliver, or possess with intent
31 to deliver heroin or cocaine (RCW
32 69.50.401(a)(1)(i))
33 Manufacture, deliver, or possess with intent
34 to deliver methamphetamine (RCW
35 69.50.401(a)(1)(ii))
36 Possession of ephedrine or pseudoephedrine
37 with intent to manufacture
38 methamphetamine (RCW 69.50.440)

1 Vehicular Homicide, by the operation of any
2 vehicle in a reckless manner (RCW
3 46.61.520)

4 VII Burglary 1 (RCW 9A.52.020)
5 Vehicular Homicide, by disregard for the
6 safety of others (RCW 46.61.520)
7 Introducing Contraband 1 (RCW 9A.76.140)
8 Indecent Liberties (without forcible
9 compulsion) (RCW 9A.44.100(1) (b) and
10 (c))
11 Child Molestation 2 (RCW 9A.44.086)
12 Dealing in depictions of minor engaged in
13 sexually explicit conduct (RCW
14 9.68A.050)
15 Sending, bringing into state depictions of
16 minor engaged in sexually explicit
17 conduct (RCW 9.68A.060)
18 Involving a minor in drug dealing (RCW
19 69.50.401(f))
20 Reckless Endangerment 1 (RCW 9A.36.045)
21 Unlawful Possession of a Firearm in the first
22 degree (RCW 9.41.040(1)(a))

23 VI Bribery (RCW 9A.68.010)
24 Manslaughter 2 (RCW 9A.32.070)
25 Rape of a Child 3 (RCW 9A.44.079)
26 Intimidating a Juror/Witness (RCW 9A.72.110,
27 9A.72.130)
28 Damaging building, etc., by explosion with no
29 threat to human being (RCW 70.74.280(2))
30 Endangering life and property by explosives
31 with no threat to human being (RCW
32 70.74.270)
33 Incest 1 (RCW 9A.64.020(1))
34 Manufacture, deliver, or possess with intent
35 to deliver narcotics from Schedule I or
36 II (except heroin or cocaine) (RCW
37 69.50.401(a)(1)(i))

1 Intimidating a Judge (RCW 9A.72.160)
2 Bail Jumping with Murder 1 (RCW
3 9A.76.170(2)(a))
4 Theft of a Firearm (RCW 9A.56.300)

5 V Persistent prison misbehavior (RCW 9.94.070)
6 Criminal Mistreatment 1 (RCW 9A.42.020)
7 Abandonment of dependent person 1 (RCW
8 9A.42.060)
9 Rape 3 (RCW 9A.44.060)
10 Sexual Misconduct with a Minor 1 (RCW
11 9A.44.093)
12 Child Molestation 3 (RCW 9A.44.089)
13 Kidnapping 2 (RCW 9A.40.030)
14 Extortion 1 (RCW 9A.56.120)
15 Incest 2 (RCW 9A.64.020(2))
16 Perjury 1 (RCW 9A.72.020)
17 Extortionate Extension of Credit (RCW
18 9A.82.020)
19 Advancing money or property for extortionate
20 extension of credit (RCW 9A.82.030)
21 Extortionate Means to Collect Extensions of
22 Credit (RCW 9A.82.040)
23 Rendering Criminal Assistance 1 (RCW
24 9A.76.070)
25 Bail Jumping with class A Felony (RCW
26 9A.76.170(2)(b))
27 Sexually Violating Human Remains (RCW
28 9A.44.105)
29 Delivery of imitation controlled substance by
30 person eighteen or over to person under
31 eighteen (RCW 69.52.030(2))
32 Possession of a Stolen Firearm (RCW
33 9A.56.310)

34 IV Residential Burglary (RCW 9A.52.025)
35 Theft of Livestock 1 (RCW 9A.56.080)
36 Robbery 2 (RCW 9A.56.210)
37 Assault 2 (RCW 9A.36.021)
38 Escape 1 (RCW 9A.76.110)

1 Arson 2 (RCW 9A.48.030)
2 Commercial Bribery (RCW 9A.68.060)
3 Bribing a Witness/Bribe Received by Witness
4 (RCW 9A.72.090, 9A.72.100)
5 Malicious Harassment (RCW 9A.36.080)
6 Threats to Bomb (RCW 9.61.160)
7 Willful Failure to Return from Furlough (RCW
8 72.66.060)
9 Hit and Run -- Injury Accident (RCW
10 46.52.020(4))
11 Hit and Run with Vessel -- Injury Accident
12 (RCW 88.12.155(3))
13 Vehicular Assault (RCW 46.61.522)
14 Manufacture, deliver, or possess with intent
15 to deliver narcotics from Schedule III,
16 IV, or V or nonnarcotics from Schedule
17 I-V (except marijuana or
18 methamphetamines) (RCW 69.50.401(a)(1)
19 (iii) through (v))
20 Influencing Outcome of Sporting Event (RCW
21 9A.82.070)
22 Use of Proceeds of Criminal Profiteering (RCW
23 9A.82.080 (1) and (2))
24 Knowingly Trafficking in Stolen Property (RCW
25 9A.82.050(2))
26 III Criminal Mistreatment 2 (RCW 9A.42.030)
27 Abandonment of dependent person 2 (RCW
28 9A.42.070)
29 Extortion 2 (RCW 9A.56.130)
30 Unlawful Imprisonment (RCW 9A.40.040)
31 Assault 3 (RCW 9A.36.031)
32 Assault of a Child 3 (RCW 9A.36.140)
33 Custodial Assault (RCW 9A.36.100)
34 Unlawful possession of firearm in the second
35 degree (RCW 9.41.040(1)(b))
36 Harassment (RCW 9A.46.020)
37 Promoting Prostitution 2 (RCW 9A.88.080)
38 Willful Failure to Return from Work Release
39 (RCW 72.65.070)

1 Burglary 2 (RCW 9A.52.030)
2 Introducing Contraband 2 (RCW 9A.76.150)
3 Communication with a Minor for Immoral
4 Purposes (RCW 9.68A.090)
5 Patronizing a Juvenile Prostitute (RCW
6 9.68A.100)
7 Escape 2 (RCW 9A.76.120)
8 Perjury 2 (RCW 9A.72.030)
9 Bail Jumping with class B+, B, or C Felony
10 (RCW 9A.76.170(2)(c))
11 Intimidating a Public Servant (RCW 9A.76.180)
12 Tampering with a Witness (RCW 9A.72.120)
13 Manufacture, deliver, or possess with intent
14 to deliver marijuana (RCW
15 69.50.401(a)(1)(iii))
16 Delivery of a material in lieu of a
17 controlled substance (RCW 69.50.401(c))
18 Manufacture, distribute, or possess with
19 intent to distribute an imitation
20 controlled substance (RCW 69.52.030(1))
21 Recklessly Trafficking in Stolen Property
22 (RCW 9A.82.050(1))
23 Theft of livestock 2 (RCW 9A.56.080)
24 Securities Act violation (RCW 21.20.400)

25 II Unlawful Practice of Law (RCW 2.48.180)
26 Malicious Mischief 1 (RCW 9A.48.070)
27 Possession of Stolen Property 1 (RCW
28 9A.56.150)
29 Theft 1 (RCW 9A.56.030)
30 Trafficking in Insurance Claims (RCW
31 48.30A.015)
32 Unlicensed Practice of a Profession or
33 Business (RCW 18.130.190(7))
34 Health Care False Claims (RCW 48.80.030)
35 Possession of controlled substance that is
36 either heroin or narcotics from Schedule
37 I or II (RCW 69.50.401(d))
38 Possession of phencyclidine (PCP) (RCW
39 69.50.401(d))

1 Create, deliver, or possess a counterfeit
2 controlled substance (RCW 69.50.401(b))
3 Computer Trespass 1 (RCW 9A.52.110)
4 Escape from Community Custody (RCW 72.09.310)
5 I Theft 2 (RCW 9A.56.040)
6 Possession of Stolen Property 2 (RCW
7 9A.56.160)
8 Forgery (RCW 9A.60.020)
9 Taking Motor Vehicle Without Permission (RCW
10 9A.56.070)
11 Vehicle Prowl 1 (RCW 9A.52.095)
12 Attempting to Elude a Pursuing Police Vehicle
13 (RCW 46.61.024)
14 Malicious Mischief 2 (RCW 9A.48.080)
15 Reckless Burning 1 (RCW 9A.48.040)
16 Unlawful Issuance of Checks or Drafts (RCW
17 9A.56.060)
18 Unlawful Use of Food Stamps (RCW 9.91.140 (2)
19 and (3))
20 False Verification for Welfare (RCW
21 74.08.055)
22 Forged Prescription (RCW 69.41.020)
23 Forged Prescription for a Controlled
24 Substance (RCW 69.50.403)
25 Possess Controlled Substance that is a
26 Narcotic from Schedule III, IV, or V or
27 Non-narcotic from Schedule I-V (except
28 phencyclidine) (RCW 69.50.401(d))

29 **Sec. 36.** RCW 9.94A.360 and 1995 c 316 s 1 and 1995 c 101 s 1 are
30 each reenacted and amended to read as follows:

31 The offender score is measured on the horizontal axis of the
32 sentencing grid. The offender score rules are as follows:

33 The offender score is the sum of points accrued under this section
34 rounded down to the nearest whole number.

35 (1) A prior conviction is a conviction which exists before the
36 date of sentencing for the offense for which the offender score is
37 being computed. Convictions entered or sentenced on the same date as

1 the conviction for which the offender score is being computed shall be
2 deemed "other current offenses" within the meaning of RCW 9.94A.400.

3 (2) Except as provided in subsection (4) of this section, class A
4 and sex prior felony convictions shall always be included in the
5 offender score. Class B and B+ prior felony convictions other than sex
6 offenses shall not be included in the offender score, if since the last
7 date of release from confinement (including full-time residential
8 treatment) pursuant to a felony conviction, if any, or entry of
9 judgment and sentence, the offender had spent ten consecutive years in
10 the community without committing any crime that subsequently results in
11 a conviction. Class C prior felony convictions other than sex offenses
12 shall not be included in the offender score if, since the last date of
13 release from confinement (including full-time residential treatment)
14 pursuant to a felony conviction, if any, or entry of judgment and
15 sentence, the offender had spent five consecutive years in the
16 community without committing any crime that subsequently results in a
17 conviction. Serious traffic convictions shall not be included in the
18 offender score if, since the last date of release from confinement
19 (including full-time residential treatment) pursuant to a felony
20 conviction, if any, or entry of judgment and sentence, the offender
21 spent five years in the community without committing any crime that
22 subsequently results in a conviction. This subsection applies to both
23 adult and juvenile prior convictions.

24 (3) Out-of-state convictions for offenses shall be classified
25 according to the comparable offense definitions and sentences provided
26 by Washington law. Federal convictions for offenses shall be
27 classified according to the comparable offense definitions and
28 sentences provided by Washington law. If there is no clearly
29 comparable offense under Washington law or the offense is one that is
30 usually considered subject to exclusive federal jurisdiction, the
31 offense shall be scored as a class C felony equivalent if it was a
32 felony under the relevant federal statute.

33 (4) Always include juvenile convictions for sex offenses and
34 serious violent offenses. Include other class A juvenile felonies only
35 if the offender was 15 or older at the time the juvenile offense was
36 committed. Include other class B+, B, and C juvenile felony
37 convictions only if the offender was 15 or older at the time the
38 juvenile offense was committed and the offender was less than 23 at the
39 time the offense for which he or she is being sentenced was committed.

1 (5) Score prior convictions for felony anticipatory offenses
2 (attempts, criminal solicitations, and criminal conspiracies) the same
3 as if they were convictions for completed offenses.

4 (6)(a) In the case of multiple prior convictions, for the purpose
5 of computing the offender score, count all convictions separately,
6 except:

7 (i) Prior adult offenses which were found, under RCW
8 9.94A.400(1)(a), to encompass the same criminal conduct, shall be
9 counted as one offense, the offense that yields the highest offender
10 score. The current sentencing court shall determine with respect to
11 other prior adult offenses for which sentences were served concurrently
12 whether those offenses shall be counted as one offense or as separate
13 offenses using the "same criminal conduct" analysis found in RCW
14 9.94A.400(1)(a), and if the court finds that they shall be counted as
15 one offense, then the offense that yields the highest offender score
16 shall be used. The current sentencing court may presume that such
17 other prior adult offenses were not the same criminal conduct from
18 sentences imposed on separate dates, or in separate counties or
19 jurisdictions, or in separate complaints, indictments, or informations;

20 (ii) Juvenile prior convictions entered or sentenced on the same
21 date shall count as one offense, the offense that yields the highest
22 offender score, except for juvenile prior convictions for violent
23 offenses with separate victims, which shall count as separate offenses;
24 and

25 (iii) In the case of multiple prior convictions for offenses
26 committed before July 1, 1986, for the purpose of computing the
27 offender score, count all adult convictions served concurrently as one
28 offense, and count all juvenile convictions entered on the same date as
29 one offense. Use the conviction for the offense that yields the
30 highest offender score.

31 (b) As used in this subsection (6), "served concurrently" means
32 that: (i) The latter sentence was imposed with specific reference to
33 the former; (ii) the concurrent relationship of the sentences was
34 judicially imposed; and (iii) the concurrent timing of the sentences
35 was not the result of a probation or parole revocation on the former
36 offense.

37 (7) If the present conviction is one of the anticipatory offenses
38 of criminal attempt, solicitation, or conspiracy, count each prior
39 conviction as if the present conviction were for a completed offense.

1 (8) If the present conviction is for a nonviolent offense and not
2 covered by subsection (12) or (13) of this section, count one point for
3 each adult prior felony conviction and one point for each juvenile
4 prior violent felony conviction and 1/2 point for each juvenile prior
5 nonviolent felony conviction.

6 (9) If the present conviction is for a violent offense and not
7 covered in subsection (10), (11), (12), or (13) of this section, count
8 two points for each prior adult and juvenile violent felony conviction,
9 one point for each prior adult nonviolent felony conviction, and 1/2
10 point for each prior juvenile nonviolent felony conviction.

11 (10) If the present conviction is for Murder 1 or 2, Assault 1,
12 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count
13 three points for prior adult and juvenile convictions for crimes in
14 these categories, two points for each prior adult and juvenile violent
15 conviction (not already counted), one point for each prior adult
16 nonviolent felony conviction, and 1/2 point for each prior juvenile
17 nonviolent felony conviction.

18 (11) If the present conviction is for Burglary 1, count prior
19 convictions as in subsection (9) of this section; however count two
20 points for each prior adult Burglary 2 or residential burglary
21 conviction, and one point for each prior juvenile Burglary 2 or
22 residential burglary conviction.

23 (12) If the present conviction is for a felony traffic offense
24 count two points for each adult or juvenile prior conviction for
25 Vehicular Homicide or Vehicular Assault; for each felony offense or
26 serious traffic offense, count one point for each adult and 1/2 point
27 for each juvenile prior conviction.

28 (13) If the present conviction is for a drug offense count three
29 points for each adult prior felony drug offense conviction and two
30 points for each juvenile drug offense. All other adult and juvenile
31 felonies are scored as in subsection (9) of this section if the current
32 drug offense is violent, or as in subsection (8) of this section if the
33 current drug offense is nonviolent.

34 (14) If the present conviction is for Willful Failure to Return
35 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
36 Release, RCW 72.65.070, or Escape from Community Custody, RCW
37 72.09.310, count only prior escape convictions in the offender score.
38 Count adult prior escape convictions as one point and juvenile prior
39 escape convictions as 1/2 point.

1 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
2 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
3 juvenile prior convictions as 1/2 point.

4 (16) If the present conviction is for Burglary 2 or residential
5 burglary, count priors as in subsection (8) of this section; however,
6 count two points for each adult and juvenile prior Burglary 1
7 conviction, two points for each adult prior Burglary 2 or residential
8 burglary conviction, and one point for each juvenile prior Burglary 2
9 or residential burglary conviction.

10 (17) If the present conviction is for a sex offense, count priors
11 as in subsections (8) through (16) of this section; however count three
12 points for each adult and juvenile prior sex offense conviction.

13 (18) If the present conviction is for an offense committed while
14 the offender was under community placement, add one point.

15 **Sec. 37.** RCW 9.94A.386 and 1984 c 209 s 23 are each amended to
16 read as follows:

17 On all sentences under this chapter the court may impose fines
18 according to the following ranges:

19	Class A felonies	\$0 - 50,000
20	<u>Class B+ felonies</u>	<u>\$0 - 30,000</u>
21	Class B felonies	\$0 - 20,000
22	Class C felonies	\$0 - 10,000

23 **Sec. 38.** RCW 9.95.062 and 1996 c 275 s 9 are each amended to read
24 as follows:

25 (1) Notwithstanding CrR 3.2 or RAP 7.2, an appeal by a defendant
26 in a criminal action shall not stay the execution of the judgment of
27 conviction, if the court determines by a preponderance of the evidence
28 that:

29 (a) The defendant is likely to flee or to pose a danger to the
30 safety of any other person or the community if the judgment is stayed;
31 or

32 (b) The delay resulting from the stay will unduly diminish the
33 deterrent effect of the punishment; or

34 (c) A stay of the judgment will cause unreasonable trauma to the
35 victims of the crime or their families; or

36 (d) The defendant has not undertaken to the extent of the
37 defendant's financial ability to pay the financial obligations under

1 the judgment or has not posted an adequate performance bond to assure
2 payment.

3 (2) An appeal by a defendant convicted of one of the following
4 offenses shall not stay execution of the judgment of conviction: Rape
5 in the first or second degree (RCW 9A.44.040 and 9A.44.050); rape of a
6 child in the first, second, or third degree (RCW 9A.44.073, 9A.44.076,
7 and 9A.44.079); child molestation in the first, second, or third degree
8 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a
9 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);
10 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW
11 9A.40.090); any class A, B+, or B felony that is a sexually motivated
12 offense as defined in RCW 9.94A.030; a felony violation of RCW
13 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal
14 attempt, solicitation, or conspiracy to commit one of those offenses.

15 (3) In case the defendant has been convicted of a felony, and has
16 been unable to obtain release pending the appeal by posting an appeal
17 bond, cash, adequate security, release on personal recognizance, or any
18 other conditions imposed by the court, the time the defendant has been
19 imprisoned pending the appeal shall be deducted from the term for which
20 the defendant was sentenced, if the judgment is affirmed.

21 **Sec. 39.** RCW 9A.20.010 and 1984 c 258 s 808 are each amended to
22 read as follows:

23 (1) Classified Felonies. (a) The particular classification of
24 each felony defined in Title 9A RCW is expressly designated in the
25 section defining it.

26 (b) For purposes of sentencing, classified felonies are designated
27 as one of (~~three~~) four classes, as follows:

- 28 (i) Class A felony; or
- 29 (ii) Class B+ felony; or
- 30 (~~iii~~) Class B felony; or
- 31 (~~iii~~) (iv) Class C felony.

32 (2) Misdemeanors and Gross Misdemeanors. (a) Any crime punishable
33 by a fine of not more than one thousand dollars, or by imprisonment in
34 a county jail for not more than ninety days, or by both such fine and
35 imprisonment is a misdemeanor. Whenever the performance of any act is
36 prohibited by any statute, and no penalty for the violation of such
37 statute is imposed, the committing of such act shall be a misdemeanor.

1 (b) All crimes other than felonies and misdemeanors are gross
2 misdemeanors.

3 **Sec. 40.** RCW 9A.28.020 and 1994 c 271 s 101 are each amended to
4 read as follows:

5 (1) A person is guilty of an attempt to commit crime if, with
6 intent to commit a specific crime, he or she does any act which is a
7 substantial step toward the commission of that crime.

8 (2) If the conduct in which a person engages otherwise constitutes
9 an attempt to commit a crime, it is no defense to a prosecution of such
10 attempt that the crime charged to have been attempted was, under the
11 attendant circumstances, factually or legally impossible of commission.

12 (3) An attempt to commit a crime is a:

13 (a) Class A felony when the crime attempted is murder in the first
14 degree, murder in the second degree, or arson in the first degree;

15 (b) Class B felony when the crime attempted is a class B+ felony
16 or a class A felony other than murder in the first degree, murder in
17 the second degree, or arson in the first degree;

18 (c) Class C felony when the crime attempted is a class B felony;

19 (d) Gross misdemeanor when the crime attempted is a class C
20 felony;

21 (e) Misdemeanor when the crime attempted is a gross misdemeanor or
22 misdemeanor.

23 **Sec. 41.** RCW 9A.28.040 and 1975 1st ex.s. c 260 s 9A.28.040 are
24 each amended to read as follows:

25 (1) A person is guilty of criminal conspiracy when, with intent
26 that conduct constituting a crime be performed, he or she agrees with
27 one or more persons to engage in or cause the performance of such
28 conduct, and any one of them takes a substantial step in pursuance of
29 such agreement.

30 (2) It shall not be a defense to criminal conspiracy that the
31 person or persons with whom the accused is alleged to have conspired:

32 (a) Has not been prosecuted or convicted; or

33 (b) Has been convicted of a different offense; or

34 (c) Is not amenable to justice; or

35 (d) Has been acquitted; or

36 (e) Lacked the capacity to commit an offense.

37 (3) Criminal conspiracy is a:

1 (a) Class A felony when an object of the conspiratorial agreement
2 is murder in the first degree;

3 (b) Class B felony when an object of the conspiratorial agreement
4 is a class B+ felony or a class A felony other than murder in the first
5 degree;

6 (c) Class C felony when an object of the conspiratorial agreement
7 is a class B felony;

8 (d) Gross misdemeanor when an object of the conspiratorial
9 agreement is a class C felony;

10 (e) Misdemeanor when an object of the conspiratorial agreement is
11 a gross misdemeanor or misdemeanor.

12 **Sec. 42.** RCW 9A.44.140 and 1996 c 275 s 12 are each amended to
13 read as follows:

14 (1) The duty to register under RCW 9A.44.130 shall end:

15 (a) For a person convicted of a class A felony: Such person may
16 only be relieved of the duty to register under subsection (3) or (4) of
17 this section.

18 (b) For a person convicted of a class B+ felony: Twenty years
19 after the last date of release from confinement, if any, (including
20 full-time residential treatment) pursuant to the conviction, or entry
21 of the judgment and sentence, if the person has spent twenty
22 consecutive years in the community without being convicted of any new
23 offenses.

24 (c) For a person convicted of a class B felony: Fifteen years
25 after the last date of release from confinement, if any, (including
26 full-time residential treatment) pursuant to the conviction, or entry
27 of the judgment and sentence, if the person has spent fifteen
28 consecutive years in the community without being convicted of any new
29 offenses.

30 ((+e)) (d) For a person convicted of a class C felony, a
31 violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation,
32 or conspiracy to commit a class C felony: Ten years after the last
33 date of release from confinement, if any, (including full-time
34 residential treatment) pursuant to the conviction, or entry of the
35 judgment and sentence, if the person has spent ten consecutive years in
36 the community without being convicted of any new offenses.

1 (2) The provisions of subsection (1) of this section shall apply
2 equally to a person who has been found not guilty by reason of insanity
3 under chapter 10.77 RCW of a sex offense.

4 (3) Any person having a duty to register under RCW 9A.44.130 may
5 petition the superior court to be relieved of that duty. The petition
6 shall be made to the court in which the petitioner was convicted of the
7 offense that subjects him or her to the duty to register, or, in the
8 case of convictions in other states, a foreign country, or a federal or
9 military court, to the court in Thurston county. The prosecuting
10 attorney of the county shall be named and served as the respondent in
11 any such petition. The court shall consider the nature of the
12 registrable offense committed, and the criminal and relevant
13 noncriminal behavior of the petitioner both before and after
14 conviction, and may consider other factors. Except as provided in
15 subsection (4) of this section, the court may relieve the petitioner of
16 the duty to register only if the petitioner shows, with clear and
17 convincing evidence, that future registration of the petitioner will
18 not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540,
19 46.20.187, 70.48.470, and 72.09.330.

20 (4) An offender having a duty to register under RCW 9A.44.130 for
21 a sex offense committed when the offender was a juvenile may petition
22 the superior court to be relieved of that duty. The court shall
23 consider the nature of the registrable offense committed, and the
24 criminal and relevant noncriminal behavior of the petitioner both
25 before and after adjudication, and may consider other factors. The
26 court may relieve the petitioner of the duty to register for a sex
27 offense that was committed while the petitioner was fifteen years of
28 age or older only if the petitioner shows, with clear and convincing
29 evidence, that future registration of the petitioner will not serve the
30 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,
31 and 72.09.330. The court may relieve the petitioner of the duty to
32 register for a sex offense that was committed while the petitioner was
33 under the age of fifteen if the petitioner (a) has not been adjudicated
34 of any additional sex offenses during the twenty-four months following
35 the adjudication for the sex offense giving rise to the duty to
36 register, and (b) the petitioner proves by a preponderance of the
37 evidence that future registration of the petitioner will not serve the
38 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,
39 and 72.09.330.

1 (5) Unless relieved of the duty to register pursuant to this
2 section, a violation of RCW 9A.44.130 is an ongoing offense for
3 purposes of the statute of limitations under RCW 9A.04.080.

4 (6) Nothing in RCW 9.94A.220 relating to discharge of an offender
5 shall be construed as operating to relieve the offender of his or her
6 duty to register pursuant to RCW 9A.44.130.

7 **Sec. 43.** RCW 9A.76.080 and 1982 1st ex.s. c 47 s 22 are each
8 amended to read as follows:

9 (1) A person is guilty of rendering criminal assistance in the
10 second degree if he or she renders criminal assistance to a person who
11 has committed or is being sought for a class B+, class B, or class C
12 felony or an equivalent juvenile offense or to someone being sought for
13 violation of parole, probation, or community supervision.

14 (2) Rendering criminal assistance in the second degree is:

15 (a) A misdemeanor if it is established by a preponderance of the
16 evidence that the actor is a relative as defined in RCW 9A.76.060;

17 (b) A gross misdemeanor in all other cases.

18 **Sec. 44.** RCW 9A.76.170 and 1983 1st ex.s. c 4 s 3 are each
19 amended to read as follows:

20 (1) Any person having been released by court order or admitted to
21 bail with the requirement of a subsequent personal appearance before
22 any court of this state, and who knowingly fails to appear as required
23 is guilty of bail jumping.

24 (2) Bail jumping is:

25 (a) A class A felony if the person was held for, charged with, or
26 convicted of murder in the first degree;

27 (b) A class B felony if the person was held for, charged with, or
28 convicted of a class A felony other than murder in the first degree;

29 (c) A class C felony if the person was held for, charged with, or
30 convicted of a class B+, class B, or class C felony;

31 (d) A misdemeanor if the person was held for, charged with, or
32 convicted of a gross misdemeanor or misdemeanor.

33 **Sec. 45.** RCW 9A.83.010 and 1992 c 210 s 1 are each amended to
34 read as follows:

35 The definitions set forth in this section apply throughout this
36 chapter.

1 (1) "Conducts a financial transaction" includes initiating,
2 concluding, or participating in a financial transaction.

3 (2) "Financial institution" means a bank, savings bank, credit
4 union, or savings and loan institution.

5 (3) "Financial transaction" means a purchase, sale, loan, pledge,
6 gift, transfer, transmission, delivery, trade, deposit, withdrawal,
7 payment, transfer between accounts, exchange of currency, extension of
8 credit, or any other acquisition or disposition of property, by
9 whatever means effected.

10 (4) "Knows the property is proceeds of specified unlawful
11 activity" means believing based upon the representation of a law
12 enforcement officer or his or her agent, or knowing that the property
13 is proceeds from some form, though not necessarily which form, of
14 specified unlawful activity.

15 (5) "Proceeds" means any interest in property directly or
16 indirectly acquired through or derived from an act or omission, and any
17 fruits of this interest, in whatever form.

18 (6) "Property" means anything of value, whether real or personal,
19 tangible or intangible.

20 (7) "Specified unlawful activity" means an offense committed in
21 this state that is a class A, B+, or B felony under Washington law or
22 that is listed in RCW 9A.82.010(14), or an offense committed in any
23 other state that is punishable under the laws of that state by more
24 than one year in prison, or an offense that is punishable under federal
25 law by more than one year in prison.

26 **Sec. 46.** RCW 10.64.025 and 1996 c 275 s 10 are each amended to
27 read as follows:

28 (1) A defendant who has been found guilty of a felony and is
29 awaiting sentencing shall be detained unless the court finds by clear
30 and convincing evidence that the defendant is not likely to flee or to
31 pose a danger to the safety of any other person or the community if
32 released. Any bail bond that was posted on behalf of a defendant
33 shall, upon the defendant's conviction, be exonerated.

34 (2) A defendant who has been found guilty of one of the following
35 offenses shall be detained pending sentencing: Rape in the first or
36 second degree (RCW 9A.44.040 and 9A.44.050); rape of a child in the
37 first, second, or third degree (RCW 9A.44.073, 9A.44.076, and
38 9A.44.079); child molestation in the first, second, or third degree

1 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a
2 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);
3 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW
4 9A.40.090); any class A, B+, or B felony that is a sexually motivated
5 offense as defined in RCW 9.94A.030; a felony violation of RCW
6 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal
7 attempt, solicitation, or conspiracy to commit one of those offenses.

8 **Sec. 47.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15
9 are each reenacted and amended to read as follows:

10 (1) Except as provided in subsection (2) of this section, the
11 juvenile courts in the several counties of this state, shall have
12 exclusive original jurisdiction over all proceedings:

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

15 (b) Relating to children alleged or found to be dependent as
16 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

17 (c) Relating to the termination of a parent and child relationship
18 as provided in RCW 13.34.180 through 13.34.210;

19 (d) To approve or disapprove out-of-home placement as provided in
20 RCW 13.32A.170;

21 (e) Relating to juveniles alleged or found to have committed
22 offenses, traffic infractions, or violations as provided in RCW
23 13.40.020 through 13.40.230, unless:

24 (i) The juvenile court transfers jurisdiction of a particular
25 juvenile to adult criminal court pursuant to RCW 13.40.110; or

26 (ii) The statute of limitations applicable to adult prosecution
27 for the offense, traffic infraction, or violation has expired; or

28 (iii) The alleged offense or infraction is a traffic, fish,
29 boating, or game offense or traffic infraction committed by a juvenile
30 sixteen years of age or older and would, if committed by an adult, be
31 tried or heard in a court of limited jurisdiction, in which instance
32 the appropriate court of limited jurisdiction shall have jurisdiction
33 over the alleged offense or infraction: PROVIDED, That if such an
34 alleged offense or infraction and an alleged offense or infraction
35 subject to juvenile court jurisdiction arise out of the same event or
36 incident, the juvenile court may have jurisdiction of both matters:
37 PROVIDED FURTHER, That the jurisdiction under this subsection does not
38 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)

1 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited
2 jurisdiction which confine juveniles for an alleged offense or
3 infraction may place juveniles in juvenile detention facilities under
4 an agreement with the officials responsible for the administration of
5 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

6 (iv) The juvenile is sixteen or seventeen years old and the
7 alleged offense is: (A) A serious violent offense as defined in RCW
8 9.94A.030 committed on or after June 13, 1994; or (B) a violent offense
9 as defined in RCW 9.94A.030 committed on or after June 13, 1994, and
10 the juvenile has a criminal history consisting of: (I) One or more
11 prior serious violent offenses; (II) two or more prior violent
12 offenses; or (III) three or more of any combination of the following
13 offenses: Any class A felony, any class B+ felony, any class B felony,
14 vehicular assault, or manslaughter in the second degree, all of which
15 must have been committed after the juvenile's thirteenth birthday and
16 prosecuted separately. In such a case the adult criminal court shall
17 have exclusive original jurisdiction.

18 If the juvenile challenges the state's determination of the
19 juvenile's criminal history, the state may establish the offender's
20 criminal history by a preponderance of the evidence. If the criminal
21 history consists of adjudications entered upon a plea of guilty, the
22 state shall not bear a burden of establishing the knowing and
23 voluntariness of the plea;

24 (f) Under the interstate compact on juveniles as provided in
25 chapter 13.24 RCW;

26 (g) Relating to termination of a diversion agreement under RCW
27 13.40.080, including a proceeding in which the divertee has attained
28 eighteen years of age;

29 (h) Relating to court validation of a voluntary consent to an out-
30 of-home placement under chapter 13.34 RCW, by the parent or Indian
31 custodian of an Indian child, except if the parent or Indian custodian
32 and child are residents of or domiciled within the boundaries of a
33 federally recognized Indian reservation over which the tribe exercises
34 exclusive jurisdiction; and

35 (i) Relating to petitions to compel disclosure of information
36 filed by the department of social and health services pursuant to RCW
37 74.13.042.

38 (2) The family court shall have concurrent original jurisdiction
39 with the juvenile court over all proceedings under this section if the

1 superior court judges of a county authorize concurrent jurisdiction as
2 provided in RCW 26.12.010.

3 (3) A juvenile subject to adult superior court jurisdiction under
4 subsection (1)(e)(i) through (iv) of this section, who is detained
5 pending trial, may be detained in a county detention facility as
6 defined in RCW 13.40.020 pending sentencing or a dismissal.

7 **Sec. 48.** RCW 13.40.0357 and 1996 c 205 s 6 are each amended to
8 read as follows:

9 **SCHEDULE A**

10 **DESCRIPTION AND OFFENSE CATEGORY**

11

<i>JUVENILE</i>		<i>JUVENILE DISPOSITION</i>
<i>DISPOSITION</i>		<i>CATEGORY FOR ATTEMPT,</i>
<i>OFFENSE</i>		<i>BAILJUMP, CONSPIRACY,</i>
<i>CATEGORY</i>	<i>DESCRIPTION (RCW CITATION)</i>	<i>OR SOLICITATION</i>

12

13

14

15

.....

16 ***Arson and Malicious Mischief***

17

<i>A</i>	<i>Arson 1 (9A.48.020)</i>	<i>B+</i>
<i>B</i>	<i>Arson 2 (9A.48.030)</i>	<i>C</i>
<i>C</i>	<i>Reckless Burning 1 (9A.48.040)</i>	<i>D</i>
<i>D</i>	<i>Reckless Burning 2 (9A.48.050)</i>	<i>E</i>
<i>B</i>	<i>Malicious Mischief 1 (9A.48.070)</i>	<i>C</i>
<i>C</i>	<i>Malicious Mischief 2 (9A.48.080)</i>	<i>D</i>
<i>D</i>	<i>Malicious Mischief 3 (<\$50 is</i>	
	<i>E class) (9A.48.090)</i>	<i>E</i>
<i>E</i>	<i>Tampering with Fire Alarm</i>	
	<i>Apparatus (9.40.100)</i>	<i>E</i>
<i>A</i>	<i>Possession of Incendiary Device</i>	
	<i>(9.40.120)</i>	<i>B+</i>

29 ***Assault and Other Crimes***

30 ***Involving Physical Harm***

31

<i>A</i>	<i>Assault 1 (9A.36.011)</i>	<i>B+</i>
<i>B+</i>	<i>Assault 2 (9A.36.021)</i>	<i>C+</i>
<i>C+</i>	<i>Assault 3 (9A.36.031)</i>	<i>D+</i>
<i>D+</i>	<i>Assault 4 (9A.36.041)</i>	<i>E</i>
<i>D+</i>	<i>Reckless Endangerment</i>	
	<i>(9A.36.050)</i>	<i>E</i>

32

33

34

35

36

1	C+	<i>Promoting Suicide Attempt</i>	
2		<i>(9A.36.060)</i>	D+
3	D+	<i>Coercion (9A.36.070)</i>	E
4	C+	<i>Custodial Assault (9A.36.100)</i>	D+
5		<i>Burglary and Trespass</i>	
6	B+	<i>Burglary 1 (9A.52.020)</i>	C+
7	B	<i>Burglary 2 (9A.52.030)</i>	C
8	D	<i>Burglary Tools (Possession of)</i>	
9		<i>(9A.52.060)</i>	E
10	D	<i>Criminal Trespass 1 (9A.52.070)</i>	E
11	E	<i>Criminal Trespass 2 (9A.52.080)</i>	E
12	D	<i>Vehicle Prowling (9A.52.100)</i>	E
13		<i>Drugs</i>	
14	E	<i>Possession/Consumption of Alcohol</i>	
15		<i>(66.44.270)</i>	E
16	C	<i>Illegally Obtaining Legend Drug</i>	
17		<i>(69.41.020)</i>	D
18	C+	<i>Sale, Delivery, Possession of Legend</i>	
19		<i>Drug with Intent to Sell</i>	
20		<i>(69.41.030)</i>	D+
21	E	<i>Possession of Legend Drug</i>	
22		<i>(69.41.030)</i>	E
23	B+	<i>Violation of Uniform Controlled</i>	
24		<i>Substances Act - Narcotic or</i>	
25		<i>Methamphetamine Sale</i>	
26		<i>(69.50.401(a)(1)(i) or (ii))</i>	B+
27	C	<i>Violation of Uniform Controlled</i>	
28		<i>Substances Act - Nonnarcotic Sale</i>	
29		<i>(69.50.401(a)(1)(iii))</i>	C
30	E	<i>Possession of Marihuana <40 grams</i>	
31		<i>(69.50.401(e))</i>	E
32	C	<i>Fraudulently Obtaining Controlled</i>	
33		<i>Substance (69.50.403)</i>	C
34	C+	<i>Sale of Controlled Substance</i>	
35		<i>for Profit (69.50.410)</i>	C+
36	E	<i>Unlawful Inhalation (9.47A.020)</i>	E

1	B	Violation of Uniform Controlled	
2		Substances Act - Narcotic or	
3		Methamphetamine	
4		Counterfeit Substances	
5		(69.50.401(b)(1)(i) or (ii))	B
6	C	Violation of Uniform Controlled	
7		Substances Act - Nonnarcotic	
8		Counterfeit Substances	
9		(69.50.401(b)(1) (iii), (iv),	
10		(v))	C
11	C	Violation of Uniform Controlled	
12		Substances Act - Possession of a	
13		Controlled Substance	
14		(69.50.401(d))	C
15	C	Violation of Uniform Controlled	
16		Substances Act - Possession of a	
17		Controlled Substance	
18		(69.50.401(c))	C
19		Firearms and Weapons	
20	E	Carrying Loaded Pistol Without	
21		Permit (9.41.050)	E
22	C	Possession of Firearms by	
23		Minor (<18) (9.41.040(1) (b)((iv)))	
24		(iii))	C
25	D+	Possession of Dangerous Weapon	
26		(9.41.250)	E
27	D	Intimidating Another Person by use	
28		of Weapon (9.41.270)	E
29		Homicide	
30	A+	Murder 1 (9A.32.030)	A
31	A+	Murder 2 (9A.32.050)	B+
32	B+	Manslaughter 1 (9A.32.060)	C+
33	C+	Manslaughter 2 (9A.32.070)	D+
34	B+	Vehicular Homicide (46.61.520)	C+
35		Kidnapping	
36	A	Kidnap 1 (9A.40.020)	B+
37	B+	Kidnap 2 (9A.40.030)	C+

1	C+	<i>Unlawful Imprisonment</i>	
2		(9A.40.040)	D+
3		<i>Obstructing Governmental Operation</i>	
4	E	<i>Obstructing a</i>	
5		<i>Law Enforcement Officer</i>	
6		(9A.76.020)	E
7	E	<i>Resisting Arrest (9A.76.040)</i>	E
8	B	<i>Introducing Contraband 1</i>	
9		(9A.76.140)	C
10	C	<i>Introducing Contraband 2</i>	
11		(9A.76.150)	D
12	E	<i>Introducing Contraband 3</i>	
13		(9A.76.160)	E
14	B+	<i>Intimidating a Public Servant</i>	
15		(9A.76.180)	C+
16	B+	<i>Intimidating a Witness</i>	
17		(9A.72.110)	C+
18		<i>Public Disturbance</i>	
19	C+	<i>Riot with Weapon (9A.84.010)</i>	D+
20	D+	<i>Riot Without Weapon</i>	
21		(9A.84.010)	E
22	E	<i>Failure to Disperse (9A.84.020)</i>	E
23	E	<i>Disorderly Conduct (9A.84.030)</i>	E
24		<i>Sex Crimes</i>	
25	A	<i>Rape 1 (9A.44.040)</i>	B+
26	A-	<i>Rape 2 (9A.44.050)</i>	B+
27	C+	<i>Rape 3 (9A.44.060)</i>	D+
28	A-	<i>Rape of a Child 1 (9A.44.073)</i>	B+
29	B	<i>Rape of a Child 2 (9A.44.076)</i>	C+
30	B	<i>Incest 1 (9A.64.020(1))</i>	C
31	C	<i>Incest 2 (9A.64.020(2))</i>	D
32	D+	<i>Indecent Exposure</i>	
33		(Victim <14) (9A.88.010)	E
34	E	<i>Indecent Exposure</i>	
35		(Victim 14 or over) (9A.88.010)	E
36	B+	<i>Promoting Prostitution 1</i>	
37		(9A.88.070)	C+

1	C+	<i>Promoting Prostitution 2</i>	
2		<i>(9A.88.080)</i>	D+
3	E	<i>O & A (Prostitution) (9A.88.030)</i>	E
4	B+	<i>Indecent Liberties (9A.44.100)</i>	C+
5	B+	<i>Child Molestation 1 (9A.44.083)</i>	C+
6	C+	<i>Child Molestation 2 (9A.44.086)</i>	C
7		<i>Theft, Robbery, Extortion, and Forgery</i>	
8	B	<i>Theft 1 (9A.56.030)</i>	C
9	C	<i>Theft 2 (9A.56.040)</i>	D
10	D	<i>Theft 3 (9A.56.050)</i>	E
11	B	<i>Theft of Livestock (9A.56.080)</i>	C
12	C	<i>Forgery (9A.60.020)</i>	D
13	A	<i>Robbery 1 (9A.56.200)</i>	B+
14	B+	<i>Robbery 2 (9A.56.210)</i>	C+
15	B+	<i>Extortion 1 (9A.56.120)</i>	C+
16	C+	<i>Extortion 2 (9A.56.130)</i>	D+
17	B	<i>Possession of Stolen Property 1</i>	
18		<i>(9A.56.150)</i>	C
19	C	<i>Possession of Stolen Property 2</i>	
20		<i>(9A.56.160)</i>	D
21	D	<i>Possession of Stolen Property 3</i>	
22		<i>(9A.56.170)</i>	E
23	C	<i>Taking Motor Vehicle Without</i>	
24		<i>Owner's Permission (9A.56.070)</i>	D
25		<i>Motor Vehicle Related Crimes</i>	
26	E	<i>Driving Without a License</i>	
27		<i>(46.20.021)</i>	E
28	C	<i>Hit and Run - Injury</i>	
29		<i>(46.52.020(4))</i>	D
30	D	<i>Hit and Run-Attended</i>	
31		<i>(46.52.020(5))</i>	E
32	E	<i>Hit and Run-Unattended</i>	
33		<i>(46.52.010)</i>	E
34	C	<i>Vehicular Assault (46.61.522)</i>	D
35	C	<i>Attempting to Elude Pursuing</i>	
36		<i>Police Vehicle (46.61.024)</i>	D
37	E	<i>Reckless Driving (46.61.500)</i>	E

1	<i>D</i>	<i>Driving While Under the Influence</i>	
2		<i>(46.61.502 and 46.61.504)</i>	<i>E</i>
3	<i>D</i>	<i>Vehicle Prowling (9A.52.100)</i>	<i>E</i>
4	<i>C</i>	<i>Taking Motor Vehicle Without</i>	
5		<i>Owner's Permission (9A.56.070)</i>	<i>D</i>
6		<i>Other</i>	
7	<i>B</i>	<i>Bomb Threat (9.61.160)</i>	<i>C</i>
8	<i>C</i>	<i>Escape 1 (9A.76.110)</i>	<i>C</i>
9	<i>C</i>	<i>Escape 2 (9A.76.120)</i>	<i>C</i>
10	<i>D</i>	<i>Escape 3 (9A.76.130)</i>	<i>E</i>
11	<i>E</i>	<i>Obscene, Harassing, Etc.,</i>	
12		<i>Phone Calls (9.61.230)</i>	<i>E</i>
13	<i>A</i>	<i>Other Offense Equivalent to an</i>	
14		<i>Adult Class A Felony</i>	<i>B+</i>
15	<u><i>B+</i></u>	<u><i>Other Offense Equivalent to an</i></u>	
16		<u><i>Adult Class B+ Felony</i></u>	<u><i>B</i></u>
17	<i>B</i>	<i>Other Offense Equivalent to an</i>	
18		<i>Adult Class B Felony</i>	<i>C</i>
19	<i>C</i>	<i>Other Offense Equivalent to an</i>	
20		<i>Adult Class C Felony</i>	<i>D</i>
21	<i>D</i>	<i>Other Offense Equivalent to an</i>	
22		<i>Adult Gross Misdemeanor</i>	<i>E</i>
23	<i>E</i>	<i>Other Offense Equivalent to an</i>	
24		<i>Adult Misdemeanor</i>	<i>E</i>
25	<i>V</i>	<i>Violation of Order of Restitution,</i>	
26		<i>Community Supervision, or</i>	
27		<i>Confinement (13.40.200)</i>	<i>V</i>

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

30 1st escape or attempted escape during 12-month period - 4 weeks
31 confinement

32 2nd escape or attempted escape during 12-month period - 8 weeks
33 confinement

34 3rd and subsequent escape or attempted escape during 12-month
35 period - 12 weeks confinement

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

3 **SCHEDULE B**

4 **PRIOR OFFENSE INCREASE FACTOR**

5 For use with all CURRENT OFFENSES occurring on or after July 1,
6 1989.

7 **TIME SPAN**

8 **OFFENSE** **0-12** **13-24** **25 Months**
9 **CATEGORY** **Months** **Months** **or More**

10

11	<i>A+</i>	<i>.9</i>	<i>.9</i>	<i>.9</i>
12	<i>A</i>	<i>.9</i>	<i>.8</i>	<i>.6</i>
13	<i>A-</i>	<i>.9</i>	<i>.8</i>	<i>.5</i>
14	<i>B+</i>	<i>.9</i>	<i>.7</i>	<i>.4</i>
15	<i>B</i>	<i>.9</i>	<i>.6</i>	<i>.3</i>
16	<i>C+</i>	<i>.6</i>	<i>.3</i>	<i>.2</i>
17	<i>C</i>	<i>.5</i>	<i>.2</i>	<i>.2</i>
18	<i>D+</i>	<i>.3</i>	<i>.2</i>	<i>.1</i>
19	<i>D</i>	<i>.2</i>	<i>.1</i>	<i>.1</i>
20	<i>E</i>	<i>.1</i>	<i>.1</i>	<i>.1</i>

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

25 **SCHEDULE C**

26 **CURRENT OFFENSE POINTS**

27 For use with all CURRENT OFFENSES occurring on or after July 1,
28 1989.

29 **AGE**

30 **OFFENSE** **12 &**
31 **CATEGORY** **Under** **13** **14** **15** **16** **17**

32

33	<i>A+</i>	<i>STANDARD RANGE 180-224 WEEKS</i>				
34	<i>A</i>	<i>250</i>	<i>300</i>	<i>350</i>	<i>375</i>	<i>375</i>

1	<i>A-</i>	<i>150</i>	<i>150</i>	<i>150</i>	<i>200</i>	<i>200</i>	<i>200</i>
2	<i>B+</i>	<i>110</i>	<i>110</i>	<i>120</i>	<i>130</i>	<i>140</i>	<i>150</i>
3	<i>B</i>	<i>45</i>	<i>45</i>	<i>50</i>	<i>50</i>	<i>57</i>	<i>57</i>
4	<i>C+</i>	<i>44</i>	<i>44</i>	<i>49</i>	<i>49</i>	<i>55</i>	<i>55</i>
5	<i>C</i>	<i>40</i>	<i>40</i>	<i>45</i>	<i>45</i>	<i>50</i>	<i>50</i>
6	<i>D+</i>	<i>16</i>	<i>18</i>	<i>20</i>	<i>22</i>	<i>24</i>	<i>26</i>
7	<i>D</i>	<i>14</i>	<i>16</i>	<i>18</i>	<i>20</i>	<i>22</i>	<i>24</i>
8	<i>E</i>	<i>4</i>	<i>4</i>	<i>4</i>	<i>6</i>	<i>8</i>	<i>10</i>

9 **JUVENILE SENTENCING STANDARDS**

10 **SCHEDULE D-1**

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

14 **MINOR/FIRST OFFENDER**

15 **OPTION A**

16 **STANDARD RANGE**

17 *Community*

18 *Community Service*

19 *Points Supervision Hours Fine*

20

21 *1-9 0-3 months and/or 0-8 and/or 0-\$10*

22 *10-19 0-3 months and/or 0-8 and/or 0-\$10*

23 *20-29 0-3 months and/or 0-16 and/or 0-\$10*

24 *30-39 0-3 months and/or 8-24 and/or 0-\$25*

25 *40-49 3-6 months and/or 16-32 and/or 0-\$25*

26 *50-59 3-6 months and/or 24-40 and/or 0-\$25*

27 *60-69 6-9 months and/or 32-48 and/or 0-\$50*

28 *70-79 6-9 months and/or 40-56 and/or 0-\$50*

29 *80-89 9-12 months and/or 48-64 and/or 10-\$100*

30 *90-109 9-12 months and/or 56-72 and/or 10-\$100*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

OR

OPTION B

STATUTORY OPTION

- 0-12 Months Community Supervision
- 0-150 Hours Community Service
- 0-100 Fine
- Posting of a Probation Bond

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

OR

OPTION C

MANIFEST INJUSTICE

When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.

JUVENILE SENTENCING STANDARDS

SCHEDULE D-2

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

MIDDLE OFFENDER

OPTION A

STANDARD RANGE

		<i>Community</i>	<i>Community</i>		<i>Confinement</i>			
	<i>Points</i>	<i>Supervision</i>	<i>Service</i>	<i>Hours</i>	<i>Fine</i>	<i>Days</i>	<i>Weeks</i>	
.....								
	<i>1-9</i>	<i>0-3 months</i>	<i>and/or</i>	<i>0-8</i>	<i>and/or</i>	<i>0-\$10</i>	<i>and/or</i>	<i>0</i>
	<i>10-19</i>	<i>0-3 months</i>	<i>and/or</i>	<i>0-8</i>	<i>and/or</i>	<i>0-\$10</i>	<i>and/or</i>	<i>0</i>
	<i>20-29</i>	<i>0-3 months</i>	<i>and/or</i>	<i>0-16</i>	<i>and/or</i>	<i>0-\$10</i>	<i>and/or</i>	<i>0</i>
	<i>30-39</i>	<i>0-3 months</i>	<i>and/or</i>	<i>8-24</i>	<i>and/or</i>	<i>0-\$25</i>	<i>and/or</i>	<i>2-4</i>
	<i>40-49</i>	<i>3-6 months</i>	<i>and/or</i>	<i>16-32</i>	<i>and/or</i>	<i>0-\$25</i>	<i>and/or</i>	<i>2-4</i>
	<i>50-59</i>	<i>3-6 months</i>	<i>and/or</i>	<i>24-40</i>	<i>and/or</i>	<i>0-\$25</i>	<i>and/or</i>	<i>5-10</i>

1	<i>60-69</i>	<i>6-9 months</i>	<i>and/or 32-48</i>	<i>and/or 0-\$50</i>	<i>and/or 5-10</i>
2	<i>70-79</i>	<i>6-9 months</i>	<i>and/or 40-56</i>	<i>and/or 0-\$50</i>	<i>and/or 10-20</i>
3	<i>80-89</i>	<i>9-12 months</i>	<i>and/or 48-64</i>	<i>and/or 0-\$100</i>	<i>and/or 10-20</i>
4	<i>90-109</i>	<i>9-12 months</i>	<i>and/or 56-72</i>	<i>and/or 0-\$100</i>	<i>and/or 15-30</i>
5	<i>110-129</i>				<i>8-12</i>
6	<i>130-149</i>				<i>13-16</i>
7	<i>150-199</i>				<i>21-28</i>
8	<i>200-249</i>				<i>30-40</i>
9	<i>250-299</i>				<i>52-65</i>
10	<i>300-374</i>				<i>80-100</i>
11	<i>375+</i>				<i>103-129</i>

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

15 **OR**

16 **OPTION B**

17 **STATUTORY OPTION**

- 18 0-12 Months Community Supervision
- 19 0-150 Hours Community Service
- 20 0-100 Fine
- 21 Posting of a Probation Bond

22 If the offender has less than 110 points, the court may impose a
23 determinate disposition of community supervision and/or up to 30 days
24 confinement; in which case, if confinement has been imposed, the court
25 shall state either aggravating or mitigating factors as set forth in
26 RCW 13.40.150.

27 If the middle offender has 110 points or more, the court may
28 impose a disposition under option A and may suspend the disposition on
29 the condition that the offender serve up to thirty days of confinement
30 and follow all conditions of community supervision. If the offender
31 fails to comply with the terms of community supervision, the court may
32 impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended
33 disposition and order execution of the disposition. If the court
34 imposes confinement for offenders with 110 points or more, the court
35 shall state either aggravating or mitigating factors set forth in RCW
36 13.40.150.

37 **OR**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

OPTION C
MANIFEST INJUSTICE

If the court determines that a disposition under A or B would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall be used to determine the range.

JUVENILE SENTENCING STANDARDS
SCHEDULE D-3

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

SERIOUS OFFENDER
OPTION A
STANDARD RANGE

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

OR

OPTION B
MANIFEST INJUSTICE

A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision including posting a probation bond or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range.

1 **Sec. 49.** RCW 13.40.070 and 1994 sp.s. c 7 s 543 are each amended
2 to read as follows:

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

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

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

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

15 (3) If the requirements of subsections (1) (a) and (b) of this
16 section are met, the prosecutor shall either file an information in
17 juvenile court or divert the case, as set forth in subsections (5),
18 (6), and (7) of this section. If the prosecutor finds that the
19 requirements of subsection (1) (a) and (b) of this section are not met,
20 the prosecutor shall maintain a record, for one year, of such decision
21 and the reasons therefor. In lieu of filing an information or
22 diverting an offense a prosecutor may file a motion to modify community
23 supervision where such offense constitutes a violation of community
24 supervision.

25 (4) An information shall be a plain, concise, and definite written
26 statement of the essential facts constituting the offense charged. It
27 shall be signed by the prosecuting attorney and conform to chapter
28 10.37 RCW.

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

31 (a) An alleged offender is accused of a class A felony, a class B+
32 felony, a class B felony, an attempt to commit a class B or B+ felony,
33 a class C felony listed in RCW 9.94A.440(2) as a crime against persons
34 or listed in RCW 9A.46.060 as a crime of harassment, a class C felony
35 that is a violation of RCW 9.41.080 or 9.41.040(1)((+e)) (b)(iii), or
36 any other offense listed in RCW 13.40.020(1) (b) or (c); or

37 (b) An alleged offender is accused of a felony and has a criminal
38 history of any felony, or at least two gross misdemeanors, or at least
39 two misdemeanors; or

1 (c) An alleged offender has previously been committed to the
2 department; or

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

5 (e) An alleged offender has two or more diversion contracts on the
6 alleged offender's criminal history; or

7 (f) A special allegation has been filed that the offender or an
8 accomplice was armed with a firearm when the offense was committed.

9 (6) Where a case is legally sufficient the prosecutor shall divert
10 the case if the alleged offense is a misdemeanor or gross misdemeanor
11 or violation and the alleged offense is the offender's first offense or
12 violation. If the alleged offender is charged with a related offense
13 that must or may be filed under subsections (5) and (7) of this
14 section, a case under this subsection may also be filed.

15 (7) Where a case is legally sufficient and falls into neither
16 subsection (5) nor (6) of this section, it may be filed or diverted.
17 In deciding whether to file or divert an offense under this section the
18 prosecutor shall be guided only by the length, seriousness, and recency
19 of the alleged offender's criminal history and the circumstances
20 surrounding the commission of the alleged offense.

21 (8) Whenever a juvenile is placed in custody or, where not placed
22 in custody, referred to a diversionary interview, the parent or legal
23 guardian of the juvenile shall be notified as soon as possible
24 concerning the allegation made against the juvenile and the current
25 status of the juvenile. Where a case involves victims of crimes
26 against persons or victims whose property has not been recovered at the
27 time a juvenile is referred to a diversionary unit, the victim shall be
28 notified of the referral and informed how to contact the unit.

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

35 (10) The prosecutor, juvenile court probation counselor, or
36 diversion unit may, in exercising their authority under this section or
37 RCW 13.40.080, refer juveniles to mediation or victim offender
38 reconciliation programs. Such mediation or victim offender
39 reconciliation programs shall be voluntary for victims.

1 **Sec. 50.** RCW 9.95.009 and 1990 c 3 s 707 are each amended to read
2 as follows:

3 (1) On July 1, 1986, the board of prison terms and paroles shall
4 be redesignated as the indeterminate sentence review board. The
5 board's membership shall be reduced as follows: On July 1, 1986, and
6 on July 1st of each year until 1998, the number of board members shall
7 be reduced in a manner commensurate with the board's remaining workload
8 as determined by the office of financial management based upon its
9 population forecast for the indeterminate sentencing system and in
10 conjunction with the budget process. To meet the statutory obligations
11 of the indeterminate sentence review board, the number of board members
12 shall not be reduced to fewer than three members, although the office
13 of financial management may designate some or all members as part-time
14 members and specify the extent to which they shall be less than full-
15 time members. Any reduction shall take place by the expiration, on
16 that date, of the term or terms having the least time left to serve.

17 (2) After July 1, 1984, the board shall continue its functions
18 with respect to persons convicted of crimes committed prior to July 1,
19 1984, and committed to the department of corrections. When making
20 decisions on duration of confinement, including those relating to
21 persons committed under a mandatory life sentence, and parole release
22 under RCW 9.95.100 and 9.95.110, the board shall consider the purposes,
23 standards, and sentencing ranges adopted pursuant to RCW 9.94A.040 and
24 the minimum term recommendations of the sentencing judge and
25 prosecuting attorney, and shall attempt to make decisions reasonably
26 consistent with those ranges, standards, purposes, and recommendations:
27 PROVIDED, That the board and its successors shall give adequate written
28 reasons whenever a minimum term or parole release decision is made
29 which is outside the sentencing ranges adopted pursuant to RCW
30 9.94A.040. In making such decisions, the board and its successors
31 shall consider the different charging and disposition practices under
32 the indeterminate sentencing system.

33 (3) Notwithstanding the provisions of subsection (2) of this
34 section, the indeterminate sentence review board shall give public
35 safety considerations the highest priority when making all
36 discretionary decisions on the remaining indeterminate population
37 regarding the ability for parole, parole release, and conditions of
38 parole.

1 (4) In addition to its other duties as set out under this chapter,
2 the indeterminate sentence review board shall also perform those duties
3 set out under sections 3 through 20 of this act.

4 NEW SECTION. Sec. 51. Sections 3 through 20 of this act are each
5 added to chapter 9.94A RCW.

6 NEW SECTION. Sec. 52. RCW 9.95.0011 and 1989 c 259 s 4 & 1986 c
7 224 s 12 are each repealed.

8 NEW SECTION. Sec. 53. This act applies to offenses committed on
9 or after July 1, 1997.

10 NEW SECTION. Sec. 54. This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 July 1, 1997.

--- END ---