

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1544

Chapter 352, Laws of 1999

56th Legislature
1999 Regular Session

OFFENDER SENTENCING

EFFECTIVE DATE: 7/25/99

Passed by the House April 23, 1999
Yeas 96 Nays 0

CLYDE BALLARD
Speaker of the House of Representatives

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 14, 1999
Yeas 49 Nays 0

BRAD OWEN
President of the Senate

Approved May 17, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1544** as passed by the House of Representatives and the Senate on the dates hereon set forth.

DEAN R. FOSTER
Chief Clerk

TIMOTHY A. MARTIN
Chief Clerk

FILED

May 17, 1999 - 3:18 p.m.

**Secretary of State
State of Washington**

HOUSE BILL 1544

AS AMENDED BY THE SENATE

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By Representatives O'Brien, Ballasiotes, Kastama, Cairnes and Keiser;
by request of Sentencing Guidelines Commission

Read first time 01/28/1999. Referred to Committee on Criminal Justice
& Corrections.

1 AN ACT Relating to sentencing of offenders; amending RCW 81.60.070,
2 9.40.120, 9.94A.030, 9.94A.360, and 9.94A.400; reenacting and amending
3 RCW 9.94A.040, 9.94A.310, 9.94A.320, and 9A.44.130; creating new
4 sections; and prescribing penalties.

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

6 **Sec. 1.** RCW 9.94A.040 and 1997 c 365 s 2 and 1997 c 338 s 3 are
7 each reenacted and amended to read as follows:

8 (1) A sentencing guidelines commission is established as an agency
9 of state government.

10 (2) The legislature finds that the commission, having accomplished
11 its original statutory directive to implement this chapter, and having
12 expertise in sentencing practice and policies, shall:

13 (a) Evaluate state sentencing policy, to include whether the
14 sentencing ranges and standards are consistent with and further:

15 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

16 (ii) The intent of the legislature to emphasize confinement for the
17 violent offender and alternatives to confinement for the nonviolent
18 offender.

1 The commission shall provide the governor and the legislature with
2 its evaluation and recommendations under this subsection not later than
3 December 1, 1996, and every two years thereafter;

4 (b) Recommend to the legislature revisions or modifications to the
5 standard sentence ranges, state sentencing policy, prosecuting
6 standards, and other standards. If implementation of the revisions or
7 modifications would result in exceeding the capacity of correctional
8 facilities, then the commission shall accompany its recommendation with
9 an additional list of standard sentence ranges which are consistent
10 with correction capacity;

11 (c) Study the existing criminal code and from time to time make
12 recommendations to the legislature for modification;

13 (d)(i) Serve as a clearinghouse and information center for the
14 collection, preparation, analysis, and dissemination of information on
15 state and local adult and juvenile sentencing practices; (ii) develop
16 and maintain a computerized adult and juvenile sentencing information
17 system by individual superior court judge consisting of offender,
18 offense, history, and sentence information entered from judgment and
19 sentence forms for all adult felons; and (iii) conduct ongoing research
20 regarding adult and juvenile sentencing guidelines, use of total
21 confinement and alternatives to total confinement, plea bargaining, and
22 other matters relating to the improvement of the adult criminal justice
23 system and the juvenile justice system;

24 (e) Assume the powers and duties of the juvenile disposition
25 standards commission after June 30, 1996;

26 (f) Evaluate the effectiveness of existing disposition standards
27 and related statutes in implementing policies set forth in RCW
28 13.40.010 generally, specifically review the guidelines relating to the
29 confinement of minor and first offenders as well as the use of
30 diversion, and review the application of current and proposed juvenile
31 sentencing standards and guidelines for potential adverse impacts on
32 the sentencing outcomes of racial and ethnic minority youth;

33 (g) Solicit the comments and suggestions of the juvenile justice
34 community concerning disposition standards, and make recommendations to
35 the legislature regarding revisions or modifications of the standards.
36 The evaluations shall be submitted to the legislature on December 1 of
37 each odd-numbered year. The department of social and health services
38 shall provide the commission with available data concerning the
39 implementation of the disposition standards and related statutes and

1 their effect on the performance of the department's responsibilities
2 relating to juvenile offenders, and with recommendations for
3 modification of the disposition standards. The office of the
4 administrator for the courts shall provide the commission with
5 available data on diversion and dispositions of juvenile offenders
6 under chapter 13.40 RCW; and

7 (h) Not later than December 1, 1997, and at least every two years
8 thereafter, based on available information, report to the governor and
9 the legislature on:

10 (i) Racial disproportionality in juvenile and adult sentencing;

11 (ii) The capacity of state and local juvenile and adult facilities
12 and resources; and

13 (iii) Recidivism information on adult and juvenile offenders.

14 (3) Each of the commission's recommended standard sentence ranges
15 shall include one or more of the following: Total confinement, partial
16 confinement, community supervision, community service, and a fine.

17 (4) The standard sentence ranges of total and partial confinement
18 under this chapter are subject to the following limitations:

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

24 (b) If the maximum term in the range is greater than one year, the
25 minimum term in the range shall be no less than seventy-five percent of
26 the maximum term in the range, except that for murder in the second
27 degree in seriousness (~~category XIII~~) level XIV under RCW 9.94A.310,
28 the minimum term in the range shall be no less than fifty percent of
29 the maximum term in the range; and

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

32 (5) The commission shall exercise its duties under this section in
33 conformity with chapter 34.05 RCW.

34 **Sec. 2.** RCW 9.94A.310 and 1998 c 235 s 1 and 1998 c 211 s 3 are
35 each reenacted and amended to read as follows:

1 (1)

TABLE 1

2 Sentencing Grid

3 SERIOUSNESS

4 ((SCORE))

5 LEVEL

OFFENDER SCORE

9 or
more

7 0 1 2 3 4 5 6 7 8

9 ((XV))

10 XVI Life Sentence without Parole/Death Penalty

12 ((XIV))

13 <u>XV</u>	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
14	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
15	320	333	347	361	374	388	416	450	493	548

17 ((XIII))

18 <u>XIV</u>	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
19	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
20	220	234	244	254	265	275	295	316	357	397

22 <u>XIII</u>	<u>12y</u>	<u>13y</u>	<u>14y</u>	<u>15y</u>	<u>16y</u>	<u>17y</u>	<u>19y</u>	<u>21y</u>	<u>25y</u>	<u>29y</u>
23	<u>123-</u>	<u>134-</u>	<u>144-</u>	<u>154-</u>	<u>165-</u>	<u>175-</u>	<u>195-</u>	<u>216-</u>	<u>257-</u>	<u>298-</u>
24	<u>164</u>	<u>178</u>	<u>192</u>	<u>205</u>	<u>219</u>	<u>233</u>	<u>260</u>	<u>288</u>	<u>342</u>	<u>397</u>

26 <u>XII</u>	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
27	93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
28	123	136	147	160	171	184	216	236	277	318

30 <u>XI</u>	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
31	78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
32	102	114	125	136	147	158	194	211	245	280

34 <u>X</u>	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
35	51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
36	68	75	82	89	96	102	130	144	171	198

1	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
2		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
3		41	48	54	61	68	75	102	116	144	171
4											
5	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
6		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
7		27	34	41	48	54	61	89	102	116	144
8											
9	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
10		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
11		20	27	34	41	48	54	75	89	102	116
12											
13	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
14		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
15		14	20	27	34	41	48	61	75	89	102
16											
17	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
18		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
19		12	14	17	20	29	43	54	68	82	96
20											
21	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
22		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
23		9	12	14	17	20	29	43	57	70	84
24											
25	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
26		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
27		3	8	12	12	16	22	29	43	57	68
28											
29	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
30		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
31		Days	6	9	12	14	18	22	29	43	57
32											
33	I			3m	4m	5m	8m	13m	16m	20m	2y2m
34		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
35		Days	Days	5	6	8	12	14	18	22	29
36											

37 NOTE: Numbers in the first horizontal row of each seriousness category
38 represent sentencing midpoints in years(y) and months(m). Numbers in

1 the second and third rows represent presumptive sentencing ranges in
2 months, or in days if so designated. 12+ equals one year and one day.

3 (2) For persons convicted of the anticipatory offenses of criminal
4 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
5 presumptive sentence is determined by locating the sentencing grid
6 sentence range defined by the appropriate offender score and the
7 seriousness level of the completed crime, and multiplying the range by
8 75 percent.

9 (3) The following additional times shall be added to the
10 presumptive sentence for felony crimes committed after July 23, 1995,
11 if the offender or an accomplice was armed with a firearm as defined in
12 RCW 9.41.010 and the offender is being sentenced for one of the crimes
13 listed in this subsection as eligible for any firearm enhancements
14 based on the classification of the completed felony crime. If the
15 offender is being sentenced for more than one offense, the firearm
16 enhancement or enhancements must be added to the total period of
17 confinement for all offenses, regardless of which underlying offense is
18 subject to a firearm enhancement. If the offender or an accomplice was
19 armed with a firearm as defined in RCW 9.41.010 and the offender is
20 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
21 commit one of the crimes listed in this subsection as eligible for any
22 firearm enhancements, the following additional times shall be added to
23 the presumptive sentence determined under subsection (2) of this
24 section based on the felony crime of conviction as classified under RCW
25 9A.28.020:

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

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

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

35 (d) If the offender is being sentenced for any firearm
36 enhancements under (a), (b), and/or (c) of this subsection and the
37 offender has previously been sentenced for any deadly weapon
38 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
39 subsection or subsection (4)(a), (b), and/or (c) of this section, or

1 both, any and all firearm enhancements under this subsection shall be
2 twice the amount of the enhancement listed.

3 (e) Notwithstanding any other provision of law, any and all
4 firearm enhancements under this section are mandatory, shall be served
5 in total confinement, and shall run consecutively to all other
6 sentencing provisions, including other firearm or deadly weapon
7 enhancements, for all offenses sentenced under this chapter.

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

13 (g) If the presumptive sentence under this section exceeds the
14 statutory maximum for the offense, the statutory maximum sentence shall
15 be the presumptive sentence unless the offender is a persistent
16 offender as defined in RCW 9.94A.030. If the addition of a firearm
17 enhancement increases the sentence so that it would exceed the
18 statutory maximum for the offense, the portion of the sentence
19 representing the enhancement may not be reduced.

20 (4) 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 deadly weapon as
23 defined in this chapter other than a firearm as defined in RCW 9.41.010
24 and the offender is being sentenced for one of the crimes listed in
25 this subsection as eligible for any deadly weapon enhancements based on
26 the classification of the completed felony crime. If the offender is
27 being sentenced for more than one offense, the deadly weapon
28 enhancement or enhancements must be added to the total period of
29 confinement for all offenses, regardless of which underlying offense is
30 subject to a deadly weapon enhancement. If the offender or an
31 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
5 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 run consecutively to all other
20 sentencing provisions, including other firearm or deadly weapon
21 enhancements, for all offenses sentenced under this chapter.

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

27 (g) If the presumptive sentence under this section exceeds the
28 statutory maximum for the offense, the statutory maximum sentence shall
29 be the presumptive sentence unless the offender is a persistent
30 offender as defined in RCW 9.94A.030. If the addition of a deadly
31 weapon enhancement increases the sentence so that it would exceed the
32 statutory maximum for the offense, the portion of the sentence
33 representing the enhancement may not be reduced.

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

1 in a county jail or state correctional facility as that term is defined
2 in this chapter, and the offender is being sentenced for an
3 anticipatory offense under chapter 9A.28 RCW to commit one of the
4 crimes listed in this subsection, the following additional times shall
5 be added to the presumptive sentence determined under subsection (2) of
6 this section:

7 (a) Eighteen months for offenses committed under RCW
8 69.50.401(a)(1) (i) or (ii) or 69.50.410;

9 (b) Fifteen months for offenses committed under RCW
10 69.50.401(a)(1) (iii), (iv), and (v);

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

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

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

18 (7) An additional two years shall be added to the presumptive
19 sentence for vehicular homicide committed while under the influence of
20 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
21 prior offense as defined in RCW 46.61.5055.

22 **Sec. 3.** RCW 9.94A.320 and 1998 c 290 s 4, 1998 c 219 s 4, 1998 c
23 82 s 1, and 1998 c 78 s 1 are each reenacted and amended to read as
24 follows:

25 TABLE 2

26 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

27 ((~~XV~~))

28 XVI Aggravated Murder 1 (RCW 10.95.020)

29 ((~~XIV~~))

30 XV Murder 1 (RCW 9A.32.030)

31 Homicide by abuse (RCW 9A.32.055)

32 Malicious explosion 1 (RCW 70.74.280(1))

33 ((~~XIII~~))

34 XIV Murder 2 (RCW 9A.32.050)

35 XIII Malicious explosion 2 (RCW 70.74.280(2))

1 Malicious placement of an explosive 1 (RCW
2 70.74.270(1))

3 XII Assault 1 (RCW 9A.36.011)
4 Assault of a Child 1 (RCW 9A.36.120)
5 Rape 1 (RCW 9A.44.040)
6 Rape of a Child 1 (RCW 9A.44.073)
7 Malicious placement of an imitation device 1
8 (RCW 70.74.272(1)(a))

9 XI Rape 2 (RCW 9A.44.050)
10 Rape of a Child 2 (RCW 9A.44.076)
11 Manslaughter 1 (RCW 9A.32.060)

12 X Kidnapping 1 (RCW 9A.40.020)
13 Child Molestation 1 (RCW 9A.44.083)
14 Malicious explosion 3 (RCW 70.74.280(3))
15 Over 18 and deliver heroin, methamphetamine,
16 a narcotic from Schedule I or II, or
17 flunitrazepam from Schedule IV to
18 someone under 18 (RCW 69.50.406)
19 Leading Organized Crime (RCW 9A.82.060(1)(a))
20 Indecent Liberties (with forcible compulsion)
21 (RCW 9A.44.100(1)(a))
22 Manufacture of methamphetamine (RCW
23 69.50.401(a)(1)(ii))

24 IX Assault of a Child 2 (RCW 9A.36.130)
25 Robbery 1 (RCW 9A.56.200)
26 Explosive devices prohibited (RCW 70.74.180)
27 Malicious placement of an explosive 2 (RCW
28 70.74.270(2))
29 Over 18 and deliver narcotic from Schedule
30 III, IV, or V or a nonnarcotic, except
31 flunitrazepam or methamphetamine, from
32 Schedule I-V to someone under 18 and 3
33 years junior (RCW 69.50.406)
34 Controlled Substance Homicide (RCW 69.50.415)
35 Sexual Exploitation (RCW 9.68A.040)
36 Inciting Criminal Profiteering (RCW
37 9A.82.060(1)(b))

1 Vehicular Homicide, by being under the
2 influence of intoxicating liquor or any
3 drug (RCW 46.61.520)
4 Homicide by Watercraft, by being under the
5 influence of intoxicating liquor or any
6 drug (RCW 88.12.029)

7 VIII Arson 1 (RCW 9A.48.020)
8 Promoting Prostitution 1 (RCW 9A.88.070)
9 Selling for profit (controlled or
10 counterfeit) any controlled substance
11 (RCW 69.50.410)
12 Manufacture, deliver, or possess with intent
13 to deliver heroin or cocaine (RCW
14 69.50.401(a)(1)(i))
15 Deliver or possess with intent to deliver
16 methamphetamine (RCW
17 69.50.401(a)(1)(ii))
18 Manufacture, deliver, or possess with intent
19 to deliver amphetamine (RCW
20 69.50.401(a)(1)(ii))
21 Possession of ephedrine or pseudoephedrine
22 with intent to manufacture
23 methamphetamine (RCW 69.50.440)
24 Vehicular Homicide, by the operation of any
25 vehicle in a reckless manner (RCW
26 46.61.520)
27 Homicide by Watercraft, by the operation of
28 any vessel in a reckless manner (RCW
29 88.12.029)
30 Manslaughter 2 (RCW 9A.32.070)

31 VII Burglary 1 (RCW 9A.52.020)
32 Vehicular Homicide, by disregard for the
33 safety of others (RCW 46.61.520)
34 Homicide by Watercraft, by disregard for the
35 safety of others (RCW 88.12.029)
36 Introducing Contraband 1 (RCW 9A.76.140)

1 Indecent Liberties (without forcible
2 compulsion) (RCW 9A.44.100(1) (b) and
3 (c))
4 Child Molestation 2 (RCW 9A.44.086)
5 Dealing in depictions of minor engaged in
6 sexually explicit conduct (RCW
7 9.68A.050)
8 Sending, bringing into state depictions of
9 minor engaged in sexually explicit
10 conduct (RCW 9.68A.060)
11 Involving a minor in drug dealing (RCW
12 69.50.401(f))
13 Drive-by Shooting (RCW 9A.36.045)
14 Unlawful Possession of a Firearm in the first
15 degree (RCW 9.41.040(1)(a))
16 Malicious placement of an explosive 3 (RCW
17 70.74.270(3))
18 Use of a Machine Gun in Commission of a
19 Felony (RCW 9.41.225)
20 VI Bribery (RCW 9A.68.010)
21 Rape of a Child 3 (RCW 9A.44.079)
22 Intimidating a Juror/Witness (RCW 9A.72.110,
23 9A.72.130)
24 Malicious placement of an imitation device 2
25 (RCW 70.74.272(1)(b))
26 Incest 1 (RCW 9A.64.020(1))
27 Manufacture, deliver, or possess with intent
28 to deliver narcotics from Schedule I or
29 II (except heroin or cocaine) or
30 flunitrazepam from Schedule IV (RCW
31 69.50.401(a)(1)(i))
32 Intimidating a Judge (RCW 9A.72.160)
33 Bail Jumping with Murder 1 (RCW
34 9A.76.170(2)(a))
35 Theft of a Firearm (RCW 9A.56.300)

1 V Persistent prison misbehavior (RCW 9.94.070)
2 Criminal Mistreatment 1 (RCW 9A.42.020)
3 Abandonment of dependent person 1 (RCW
4 9A.42.060)
5 Rape 3 (RCW 9A.44.060)
6 Sexual Misconduct with a Minor 1 (RCW
7 9A.44.093)
8 Child Molestation 3 (RCW 9A.44.089)
9 Kidnapping 2 (RCW 9A.40.030)
10 Extortion 1 (RCW 9A.56.120)
11 Incest 2 (RCW 9A.64.020(2))
12 Perjury 1 (RCW 9A.72.020)
13 Extortionate Extension of Credit (RCW
14 9A.82.020)
15 Advancing money or property for extortionate
16 extension of credit (RCW 9A.82.030)
17 Extortionate Means to Collect Extensions of
18 Credit (RCW 9A.82.040)
19 Rendering Criminal Assistance 1 (RCW
20 9A.76.070)
21 Bail Jumping with class A Felony (RCW
22 9A.76.170(2)(b))
23 Sexually Violating Human Remains (RCW
24 9A.44.105)
25 Delivery of imitation controlled substance by
26 person eighteen or over to person under
27 eighteen (RCW 69.52.030(2))
28 Possession of a Stolen Firearm (RCW
29 9A.56.310)
30 On and after July 1, 2000: Stalking (RCW
31 9A.46.110)
32 On and after July 1, 2000: No-Contact Order
33 Violation: Domestic Violence Pretrial
34 Condition (RCW 10.99.040(4) (b) and (c))
35 On and after July 1, 2000: No-Contact Order
36 Violation: Domestic Violence Sentence
37 Condition (RCW 10.99.050(2))

1 On and after July 1, 2000: Protection Order
2 Violation: Domestic Violence Civil
3 Action (RCW 26.50.110 (4) and (5))

- 4 IV Residential Burglary (RCW 9A.52.025)
5 Theft of Livestock 1 (RCW 9A.56.080)
6 Robbery 2 (RCW 9A.56.210)
7 Assault 2 (RCW 9A.36.021)
8 Escape 1 (RCW 9A.76.110)
9 Arson 2 (RCW 9A.48.030)
10 Commercial Bribery (RCW 9A.68.060)
11 Bribing a Witness/Bribe Received by Witness
12 (RCW 9A.72.090, 9A.72.100)
13 Malicious Harassment (RCW 9A.36.080)
14 Threats to Bomb (RCW 9.61.160)
15 Willful Failure to Return from Furlough (RCW
16 72.66.060)
17 Hit and Run--Injury Accident (RCW
18 46.52.020(4))
19 Hit and Run with Vessel--Injury Accident (RCW
20 88.12.155(3))
21 Vehicular Assault (RCW 46.61.522)
22 Assault by Watercraft (RCW 88.12.032)
23 Manufacture, deliver, or possess with intent
24 to deliver narcotics from Schedule III,
25 IV, or V or nonnarcotics from Schedule
26 I-V (except marijuana, amphetamine,
27 methamphetamines, or flunitrazepam) (RCW
28 69.50.401(a)(1) (iii) through (v))
29 Influencing Outcome of Sporting Event (RCW
30 9A.82.070)
31 Use of Proceeds of Criminal Profiteering (RCW
32 9A.82.080 (1) and (2))
33 Knowingly Trafficking in Stolen Property (RCW
34 9A.82.050(2))
35 Indecent Exposure to Person Under Age
36 Fourteen (subsequent sex offense) (RCW
37 9A.88.010)

1 III Criminal Gang Intimidation (RCW 9A.46.120)
2 Criminal Mistreatment 2 (RCW 9A.42.030)
3 Abandonment of dependent person 2 (RCW
4 9A.42.070)
5 Extortion 2 (RCW 9A.56.130)
6 Unlawful Imprisonment (RCW 9A.40.040)
7 Assault 3 (RCW 9A.36.031)
8 Assault of a Child 3 (RCW 9A.36.140)
9 Custodial Assault (RCW 9A.36.100)
10 Unlawful possession of firearm in the second
11 degree (RCW 9.41.040(1)(b))
12 Harassment (RCW 9A.46.020)
13 Promoting Prostitution 2 (RCW 9A.88.080)
14 Willful Failure to Return from Work Release
15 (RCW 72.65.070)
16 Burglary 2 (RCW 9A.52.030)
17 Introducing Contraband 2 (RCW 9A.76.150)
18 Communication with a Minor for Immoral
19 Purposes (RCW 9.68A.090)
20 Patronizing a Juvenile Prostitute (RCW
21 9.68A.100)
22 Escape 2 (RCW 9A.76.120)
23 Perjury 2 (RCW 9A.72.030)
24 Bail Jumping with class B or C Felony (RCW
25 9A.76.170(2)(c))
26 Intimidating a Public Servant (RCW 9A.76.180)
27 Tampering with a Witness (RCW 9A.72.120)
28 Manufacture, deliver, or possess with intent
29 to deliver marijuana (RCW
30 69.50.401(a)(1)(iii))
31 Delivery of a material in lieu of a
32 controlled substance (RCW 69.50.401(c))
33 Manufacture, distribute, or possess with
34 intent to distribute an imitation
35 controlled substance (RCW 69.52.030(1))
36 Recklessly Trafficking in Stolen Property
37 (RCW 9A.82.050(1))
38 Theft of livestock 2 (RCW 9A.56.080)
39 Securities Act violation (RCW 21.20.400)

1 Maintaining a Dwelling or Place for
2 Controlled Substances (RCW
3 69.50.402(a)(6))
4 Malicious Injury to Railroad Property (RCW
5 81.60.070)
6 Possession of Incendiary Device (RCW
7 9.40.120)
8 Possession of Machine Gun or Short-Barreled
9 Shotgun or Rifle (RCW 9.41.190)
10 Telephone Harassment (subsequent conviction
11 or threat of death) (RCW 9.61.230)
12 Unlawful Use of Building for Drug Purposes
13 (RCW 69.53.010)

14 II Unlawful Practice of Law (RCW 2.48.180)
15 Malicious Mischief 1 (RCW 9A.48.070)
16 Possession of Stolen Property 1 (RCW
17 9A.56.150)
18 Theft 1 (RCW 9A.56.030)
19 (~~Class B Felony~~) Theft of Rental, Leased,
20 or Lease-purchased Property (valued at
21 one thousand five hundred dollars or
22 more) (RCW 9A.56.096(4))
23 Trafficking in Insurance Claims (RCW
24 48.30A.015)
25 Unlicensed Practice of a Profession or
26 Business (RCW 18.130.190(7))
27 Health Care False Claims (RCW 48.80.030)
28 Possession of controlled substance that is
29 either heroin or narcotics from Schedule
30 I or II or flunitrazepam from Schedule
31 IV (RCW 69.50.401(d))
32 Possession of phencyclidine (PCP) (RCW
33 69.50.401(d))
34 Create, deliver, or possess a counterfeit
35 controlled substance (RCW 69.50.401(b))
36 Computer Trespass 1 (RCW 9A.52.110)
37 Escape from Community Custody (RCW 72.09.310)

1 I Theft 2 (RCW 9A.56.040)
2 ((Class C Felony)) Theft of Rental, Leased,
3 or Lease-purchased Property (valued at
4 two hundred fifty dollars or more but
5 less than one thousand five hundred
6 dollars) (RCW 9A.56.096(4))
7 Possession of Stolen Property 2 (RCW
8 9A.56.160)
9 Forgery (RCW 9A.60.020)
10 Taking Motor Vehicle Without Permission (RCW
11 9A.56.070)
12 Vehicle Prowl 1 (RCW 9A.52.095)
13 Attempting to Elude a Pursuing Police Vehicle
14 (RCW 46.61.024)
15 Malicious Mischief 2 (RCW 9A.48.080)
16 Reckless Burning 1 (RCW 9A.48.040)
17 Unlawful Issuance of Checks or Drafts (RCW
18 9A.56.060)
19 Unlawful Use of Food Stamps (RCW 9.91.140 (2)
20 and (3))
21 False Verification for Welfare (RCW
22 74.08.055)
23 Forged Prescription (RCW 69.41.020)
24 Forged Prescription for a Controlled
25 Substance (RCW 69.50.403)
26 Possess Controlled Substance that is a
27 Narcotic from Schedule III, IV, or V or
28 Non-narcotic from Schedule I-V (except
29 phencyclidine or flunitrazepam) (RCW
30 69.50.401(d))

31 **Sec. 4.** RCW 81.60.070 and 1992 c 7 s 60 are each amended to read
32 as follows:

33 Every person who, in such manner as might, if not discovered,
34 endanger the safety of any engine, motor, car or train, or any person
35 thereon, shall in any manner interfere or tamper with or obstruct any
36 switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle,
37 culvert, embankment, structure, or appliance pertaining to or connected
38 with any railway, or any train, engine, motor, or car on such railway,

1 and every person who shall discharge any firearm or throw any dangerous
2 missile at any train, engine, motor, or car on any railway, shall be
3 punished by imprisonment in a state correctional facility for not more
4 than ((~~twenty-five~~)) ten years.

5 **Sec. 5.** RCW 9.40.120 and 1971 ex.s. c 302 s 4 are each amended to
6 read as follows:

7 Every person who possesses, manufactures, or disposes of an
8 incendiary device knowing it to be such is guilty of a felony, and upon
9 conviction, shall be punished by imprisonment in a state prison for a
10 term of not more than ((~~twenty-five~~)) ten years.

11 NEW SECTION. **Sec. 6.** The code reviser shall alphabetize the
12 offenses within each seriousness level in RCW 9.94A.320, including any
13 offenses added in the 1999 legislative session.

14 NEW SECTION. **Sec. 7.** The amendments made by sections 3 through
15 5 of this act shall apply to offenses committed on or after the
16 effective date of this act except that the amendments made by this act
17 to seriousness level V in RCW 9.94A.320 shall apply to offenses
18 committed on or after July 1, 2000.

19 **Sec. 8.** RCW 9.94A.030 and 1998 c 290 s 3 are each amended to read
20 as follows:

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

23 (1) "Collect," or any derivative thereof, "collect and remit," or
24 "collect and deliver," when used with reference to the department of
25 corrections, means that the department is responsible for monitoring
26 and enforcing the offender's sentence with regard to the legal
27 financial obligation, receiving payment thereof from the offender, and,
28 consistent with current law, delivering daily the entire payment to the
29 superior court clerk without depositing it in a departmental account.

30 (2) "Commission" means the sentencing guidelines commission.

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

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

6 (5) "Community placement" means that period during which the
7 offender is subject to the conditions of community custody and/or
8 postrelease supervision, which begins either upon completion of the
9 term of confinement (postrelease supervision) or at such time as the
10 offender is transferred to community custody in lieu of earned early
11 release. Community placement may consist of entirely community
12 custody, entirely postrelease supervision, or a combination of the two.

13 (6) "Community service" means compulsory service, without
14 compensation, performed for the benefit of the community by the
15 offender.

16 (7) "Community supervision" means a period of time during which a
17 convicted offender is subject to crime-related prohibitions and other
18 sentence conditions imposed by a court pursuant to this chapter or RCW
19 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
20 may include crime-related prohibitions and other conditions imposed
21 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
22 for out-of-state supervision of parolees and probationers, RCW
23 9.95.270, community supervision is the functional equivalent of
24 probation and should be considered the same as probation by other
25 states.

26 (8) "Confinement" means total or partial confinement as defined in
27 this section.

28 (9) "Conviction" means an adjudication of guilt pursuant to Titles
29 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
30 acceptance of a plea of guilty.

31 (10) "Court-ordered legal financial obligation" means a sum of
32 money that is ordered by a superior court of the state of Washington
33 for legal financial obligations which may include restitution to the
34 victim, statutorily imposed crime victims' compensation fees as
35 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
36 drug funds, court-appointed attorneys' fees, and costs of defense,
37 fines, and any other financial obligation that is assessed to the
38 offender as a result of a felony conviction. Upon conviction for
39 vehicular assault while under the influence of intoxicating liquor or

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

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

13 (12) "Criminal history" means the list of a defendant's prior
14 convictions and juvenile adjudications, whether in this state, in
15 federal court, or elsewhere. The history shall include, where known,
16 for each conviction (a) whether the defendant has been placed on
17 probation and the length and terms thereof; and (b) whether the
18 defendant has been incarcerated and the length of incarceration.

19 (13) "Day fine" means a fine imposed by the sentencing judge that
20 equals the difference between the offender's net daily income and the
21 reasonable obligations that the offender has for the support of the
22 offender and any dependents.

23 (14) "Day reporting" means a program of enhanced supervision
24 designed to monitor the defendant's daily activities and compliance
25 with sentence conditions, and in which the defendant is required to
26 report daily to a specific location designated by the department or the
27 sentencing judge.

28 (15) "Department" means the department of corrections.

29 (16) "Determinate sentence" means a sentence that states with
30 exactitude the number of actual years, months, or days of total
31 confinement, of partial confinement, of community supervision, the
32 number of actual hours or days of community service work, or dollars or
33 terms of a legal financial obligation. The fact that an offender
34 through "earned early release" can reduce the actual period of
35 confinement shall not affect the classification of the sentence as a
36 determinate sentence.

37 (17) "Disposable earnings" means that part of the earnings of an
38 individual remaining after the deduction from those earnings of any
39 amount required by law to be withheld. For the purposes of this

1 definition, "earnings" means compensation paid or payable for personal
2 services, whether denominated as wages, salary, commission, bonuses, or
3 otherwise, and, notwithstanding any other provision of law making the
4 payments exempt from garnishment, attachment, or other process to
5 satisfy a court-ordered legal financial obligation, specifically
6 includes periodic payments pursuant to pension or retirement programs,
7 or insurance policies of any type, but does not include payments made
8 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
9 or Title 74 RCW.

10 (18) "Drug offense" means:

11 (a) Any felony violation of chapter 69.50 RCW except possession of
12 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
13 controlled substance (RCW 69.50.403);

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

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

20 (19) "Escape" means:

21 (a) Escape in the first degree (RCW 9A.76.110), escape in the
22 second degree (RCW 9A.76.120), willful failure to return from furlough
23 (RCW 72.66.060), willful failure to return from work release (RCW
24 72.65.070), or willful failure to be available for supervision by the
25 department while in community custody (RCW 72.09.310); or

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

29 (20) "Felony traffic offense" means:

30 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
31 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
32 and-run injury-accident (RCW 46.52.020(4)); or

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

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

38 (22) "First-time offender" means any person who is convicted of a
39 felony (a) not classified as a violent offense or a sex offense under

1 this chapter, or (b) that is not the manufacture, delivery, or
2 possession with intent to manufacture or deliver a controlled substance
3 classified in Schedule I or II that is a narcotic drug or flunitrazepam
4 classified in Schedule IV, nor the manufacture, delivery, or possession
5 with intent to deliver methamphetamine, its salts, isomers, and salts
6 of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for
7 profit of any controlled substance or counterfeit substance classified
8 in Schedule I, RCW 69.50.204, except leaves and flowering tops of
9 marihuana, who previously has never been convicted of a felony in this
10 state, federal court, or another state, and who has never participated
11 in a program of deferred prosecution for a felony offense.

12 (23) "Most serious offense" means any of the following felonies or
13 a felony attempt to commit any of the following felonies, as now
14 existing or hereafter amended:

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

18 (b) Assault in the second degree;

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

20 (d) Child molestation in the second degree;

21 (e) Controlled substance homicide;

22 (f) Extortion in the first degree;

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

24 (h) Indecent liberties;

25 (i) Kidnapping in the second degree;

26 (j) Leading organized crime;

27 (k) Manslaughter in the first degree;

28 (l) Manslaughter in the second degree;

29 (m) Promoting prostitution in the first degree;

30 (n) Rape in the third degree;

31 (o) Robbery in the second degree;

32 (p) Sexual exploitation;

33 (q) Vehicular assault;

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

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

1 (t) Any other felony with a deadly weapon verdict under RCW
2 9.94A.125;

3 (u) Any felony offense in effect at any time prior to December 2,
4 1993, that is comparable to a most serious offense under this
5 subsection, or any federal or out-of-state conviction for an offense
6 that under the laws of this state would be a felony classified as a
7 most serious offense under this subsection;

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

13 (ii) A prior conviction for indecent liberties under RCW
14 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
15 if: (A) The crime was committed against a child under the age of
16 fourteen; or (B) the relationship between the victim and perpetrator is
17 included in the definition of indecent liberties under RCW
18 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
19 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
20 through July 27, 1997.

21 (24) "Nonviolent offense" means an offense which is not a violent
22 offense.

23 (25) "Offender" means a person who has committed a felony
24 established by state law and is eighteen years of age or older or is
25 less than eighteen years of age but whose case is under superior court
26 jurisdiction under RCW 13.04.030 or has been transferred by the
27 appropriate juvenile court to a criminal court pursuant to RCW
28 13.40.110. Throughout this chapter, the terms "offender" and
29 "defendant" are used interchangeably.

30 (26) "Partial confinement" means confinement for no more than one
31 year in a facility or institution operated or utilized under contract
32 by the state or any other unit of government, or, if home detention or
33 work crew has been ordered by the court, in an approved residence, for
34 a substantial portion of each day with the balance of the day spent in
35 the community. Partial confinement includes work release, home
36 detention, work crew, and a combination of work crew and home detention
37 as defined in this section.

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

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

3 (ii) Has, before the commission of the offense under (a) of this
4 subsection, been convicted as an offender on at least two separate
5 occasions, whether in this state or elsewhere, of felonies that under
6 the laws of this state would be considered most serious offenses and
7 would be included in the offender score under RCW 9.94A.360; provided
8 that of the two or more previous convictions, at least one conviction
9 must have occurred before the commission of any of the other most
10 serious offenses for which the offender was previously convicted; or

11 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
12 of a child in the first degree, child molestation in the first degree,
13 rape in the second degree, rape of a child in the second degree, or
14 indecent liberties by forcible compulsion; (B) murder in the first
15 degree, murder in the second degree, homicide by abuse, kidnapping in
16 the first degree, kidnapping in the second degree, assault in the first
17 degree, assault in the second degree, assault of a child in the first
18 degree, or burglary in the first degree, with a finding of sexual
19 motivation; or (C) an attempt to commit any crime listed in this
20 subsection (27)(b)(i); and

21 (ii) Has, before the commission of the offense under (b)(i) of
22 this subsection, been convicted as an offender on at least one
23 occasion, whether in this state or elsewhere, of an offense listed in
24 (b)(i) of this subsection. A conviction for rape of a child in the
25 first degree constitutes a conviction under subsection (27)(b)(i) only
26 when the offender was sixteen years of age or older when the offender
27 committed the offense. A conviction for rape of a child in the second
28 degree constitutes a conviction under subsection (27)(b)(i) only when
29 the offender was eighteen years of age or older when the offender
30 committed the offense.

31 (28) "Postrelease supervision" is that portion of an offender's
32 community placement that is not community custody.

33 (29) "Restitution" means the requirement that the offender pay a
34 specific sum of money over a specific period of time to the court as
35 payment of damages. The sum may include both public and private costs.
36 The imposition of a restitution order does not preclude civil redress.

37 (30) "Serious traffic offense" means:

38 (a) Driving while under the influence of intoxicating liquor or
39 any drug (RCW 46.61.502), actual physical control while under the

1 influence of intoxicating liquor or any drug (RCW 46.61.504), reckless
2 driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW
3 46.52.020(5)); or

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

7 (31) "Serious violent offense" is a subcategory of violent offense
8 and means:

9 (a) Murder in the first degree, homicide by abuse, murder in the
10 second degree, manslaughter in the first degree, assault in the first
11 degree, kidnapping in the first degree, or rape in the first degree,
12 assault of a child in the first degree, or an attempt, criminal
13 solicitation, or criminal conspiracy to commit one of these felonies;
14 or

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

18 (32) "Sentence range" means the sentencing court's discretionary
19 range in imposing a nonappealable sentence.

20 (33) "Sex offense" means:

21 (a) A felony that is a violation of chapter 9A.44 RCW, other than
22 RCW 9A.44.130(10), or RCW 9A.64.020 or 9.68A.090 or a felony that is,
23 under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
24 criminal conspiracy to commit such crimes;

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

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

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

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

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

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

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

10 (38) "Violent offense" means:

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

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

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

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

1 crew. Offenders sentenced for a sex offense as defined in subsection
2 (33) of this section are not eligible for the work crew program.

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

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

14 (42) "Home detention" means a program of partial confinement
15 available to offenders wherein the offender is confined in a private
16 residence subject to electronic surveillance.

17 **Sec. 9.** RCW 9A.44.130 and 1998 c 220 s 1 and 1998 c 139 s 1 are
18 each reenacted and amended to read as follows:

19 (1) Any adult or juvenile residing, or who is a student, is
20 employed, or carries on a vocation in this state who has been found to
21 have committed or has been convicted of any sex offense or kidnapping
22 offense, or who has been found not guilty by reason of insanity under
23 chapter 10.77 RCW of committing any sex offense or kidnapping offense,
24 shall register with the county sheriff for the county of the person's
25 residence, or if the person is not a resident of Washington, the county
26 of the person's school, or place of employment or vocation. Where a
27 person required to register under this section is in custody of the
28 state department of corrections, the state department of social and
29 health services, a local division of youth services, or a local jail or
30 juvenile detention facility as a result of a sex offense or kidnapping
31 offense, the person shall also register at the time of release from
32 custody with an official designated by the agency that has jurisdiction
33 over the person. In addition, any such adult or juvenile who is
34 admitted to a public or private institution of higher education shall,
35 within ten days of enrolling or by the first business day after
36 arriving at the institution, whichever is earlier, notify the sheriff
37 for the county of the person's residence of the person's intent to
38 attend the institution. Persons required to register under this

1 section who are enrolled in a public or private institution of higher
2 education on June 11, 1998, must notify the county sheriff immediately.
3 The sheriff shall notify the institution's department of public safety
4 and shall provide that department with the same information provided to
5 a county sheriff under subsection (3) of this section.

6 (2) This section may not be construed to confer any powers
7 pursuant to RCW 4.24.500 upon the public safety department of any
8 public or private institution of higher education.

9 (3) The person shall provide the following information when
10 registering: (a) Name; (b) address; (c) date and place of birth; (d)
11 place of employment; (e) crime for which convicted; (f) date and place
12 of conviction; (g) aliases used; (h) social security number; (i)
13 photograph; and (j) fingerprints.

14 (4)(a) Offenders shall register with the county sheriff within the
15 following deadlines. For purposes of this section the term
16 "conviction" refers to adult convictions and juvenile adjudications for
17 sex offenses or kidnapping offenses:

18 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
19 offense on, before, or after February 28, 1990, and who, on or after
20 July 28, 1991, are in custody, as a result of that offense, of the
21 state department of corrections, the state department of social and
22 health services, a local division of youth services, or a local jail or
23 juvenile detention facility, and (B) kidnapping offenders who on or
24 after July 27, 1997, are in custody of the state department of
25 corrections, the state department of social and health services, a
26 local division of youth services, or a local jail or juvenile detention
27 facility, must register at the time of release from custody with an
28 official designated by the agency that has jurisdiction over the
29 offender. The agency shall within three days forward the registration
30 information to the county sheriff for the county of the offender's
31 anticipated residence. The offender must also register within twenty-
32 four hours from the time of release with the county sheriff for the
33 county of the person's residence, or if the person is not a resident of
34 Washington, the county of the person's school, or place of employment
35 or vocation. The agency that has jurisdiction over the offender shall
36 provide notice to the offender of the duty to register. Failure to
37 register at the time of release and within twenty-four hours of release
38 constitutes a violation of this section and is punishable as provided
39 in subsection (9) of this section.

1 When the agency with jurisdiction intends to release an offender
2 with a duty to register under this section, and the agency has
3 knowledge that the offender is eligible for developmental disability
4 services from the department of social and health services, the agency
5 shall notify the division of developmental disabilities of the release.
6 Notice shall occur not more than thirty days before the offender is to
7 be released. The agency and the division shall assist the offender in
8 meeting the initial registration requirement under this section.
9 Failure to provide such assistance shall not constitute a defense for
10 any violation of this section.

11 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
12 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
13 but are under the jurisdiction of the indeterminate sentence review
14 board or under the department of correction's active supervision, as
15 defined by the department of corrections, the state department of
16 social and health services, or a local division of youth services, for
17 sex offenses committed before, on, or after February 28, 1990, must
18 register within ten days of July 28, 1991. Kidnapping offenders who,
19 on July 27, 1997, are not in custody but are under the jurisdiction of
20 the indeterminate sentence review board or under the department of
21 correction's active supervision, as defined by the department of
22 corrections, the state department of social and health services, or a
23 local division of youth services, for kidnapping offenses committed
24 before, on, or after July 27, 1997, must register within ten days of
25 July 27, 1997. A change in supervision status of a sex offender who
26 was required to register under this subsection (4)(a)(ii) as of July
27 28, 1991, or a kidnapping offender required to register as of July 27,
28 1997, shall not relieve the offender of the duty to register or to
29 reregister following a change in residence. The obligation to register
30 shall only cease pursuant to RCW 9A.44.140.

31 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
32 or after July 23, 1995, and kidnapping offenders who, on or after July
33 27, 1997, as a result of that offense are in the custody of the United
34 States bureau of prisons or other federal or military correctional
35 agency for sex offenses committed before, on, or after February 28,
36 1990, or kidnapping offenses committed on, before, or after July 27,
37 1997, must register within twenty-four hours from the time of release
38 with the county sheriff for the county of the person's residence, or if
39 the person is not a resident of Washington, the county of the person's

1 school, or place of employment or vocation. Sex offenders who, on July
2 23, 1995, are not in custody but are under the jurisdiction of the
3 United States bureau of prisons, United States courts, United States
4 parole commission, or military parole board for sex offenses committed
5 before, on, or after February 28, 1990, must register within ten days
6 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
7 in custody but are under the jurisdiction of the United States bureau
8 of prisons, United States courts, United States parole commission, or
9 military parole board for kidnapping offenses committed before, on, or
10 after July 27, 1997, must register within ten days of July 27, 1997.
11 A change in supervision status of a sex offender who was required to
12 register under this subsection (4)(a)(iii) as of July 23, 1995, or a
13 kidnapping offender required to register as of July 27, 1997 shall not
14 relieve the offender of the duty to register or to reregister following
15 a change in residence, or if the person is not a resident of
16 Washington, the county of the person's school, or place of employment
17 or vocation. The obligation to register shall only cease pursuant to
18 RCW 9A.44.140.

19 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
20 who are convicted of a sex offense on or after July 28, 1991, for a sex
21 offense that was committed on or after February 28, 1990, and
22 kidnapping offenders who are convicted on or after July 27, 1997, for
23 a kidnapping offense that was committed on or after July 27, 1997, but
24 who are not sentenced to serve a term of confinement immediately upon
25 sentencing, shall report to the county sheriff to register immediately
26 upon completion of being sentenced.

27 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
28 RESIDENTS. Sex offenders and kidnapping offenders who move to
29 Washington state from another state or a foreign country that are not
30 under the jurisdiction of the state department of corrections, the
31 indeterminate sentence review board, or the state department of social
32 and health services at the time of moving to Washington, must register
33 within thirty days of establishing residence or reestablishing
34 residence if the person is a former Washington resident. The duty to
35 register under this subsection applies to sex offenders convicted under
36 the laws of another state or a foreign country, federal or military
37 statutes, or Washington state for offenses committed on or after
38 February 28, 1990, and to kidnapping offenders convicted under the laws
39 of another state or a foreign country, federal or military statutes, or

1 Washington state for offenses committed on or after July 27, 1997. Sex
2 offenders and kidnapping offenders from other states or a foreign
3 country who, when they move to Washington, are under the jurisdiction
4 of the department of corrections, the indeterminate sentence review
5 board, or the department of social and health services must register
6 within twenty-four hours of moving to Washington. The agency that has
7 jurisdiction over the offender shall notify the offender of the
8 registration requirements before the offender moves to Washington.

9 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
10 or juvenile who has been found not guilty by reason of insanity under
11 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
12 February 28, 1990, and who, on or after July 23, 1995, is in custody,
13 as a result of that finding, of the state department of social and
14 health services, or (B) committing a kidnapping offense on, before, or
15 after July 27, 1997, and who on or after July 27, 1997, is in custody,
16 as a result of that finding, of the state department of social and
17 health services, must register within twenty-four hours from the time
18 of release with the county sheriff for the county of the person's
19 residence. The state department of social and health services shall
20 provide notice to the adult or juvenile in its custody of the duty to
21 register. Any adult or juvenile who has been found not guilty by
22 reason of insanity of committing a sex offense on, before, or after
23 February 28, 1990, but who was released before July 23, 1995, or any
24 adult or juvenile who has been found not guilty by reason of insanity
25 of committing a kidnapping offense but who was released before July 27,
26 1997, shall be required to register within twenty-four hours of
27 receiving notice of this registration requirement. The state
28 department of social and health services shall make reasonable attempts
29 within available resources to notify sex offenders who were released
30 before July 23, 1995, and kidnapping offenders who were released before
31 July 27, 1997. Failure to register within twenty-four hours of
32 release, or of receiving notice, constitutes a violation of this
33 section and is punishable as provided in subsection (9) of this
34 section.

35 (b) Failure to register within the time required under this
36 section constitutes a per se violation of this section and is
37 punishable as provided in subsection (9) of this section. The county
38 sheriff shall not be required to determine whether the person is living
39 within the county.

1 (c) An arrest on charges of failure to register, service of an
2 information, or a complaint for a violation of this section, or
3 arraignment on charges for a violation of this section, constitutes
4 actual notice of the duty to register. Any person charged with the
5 crime of failure to register under this section who asserts as a
6 defense the lack of notice of the duty to register shall register
7 immediately following actual notice of the duty through arrest,
8 service, or arraignment. Failure to register as required under this
9 subsection (4)(c) constitutes grounds for filing another charge of
10 failing to register. Registering following arrest, service, or
11 arraignment on charges shall not relieve the offender from criminal
12 liability for failure to register prior to the filing of the original
13 charge.

14 (d) The deadlines for the duty to register under this section do
15 not relieve any sex offender of the duty to register under this section
16 as it existed prior to July 28, 1991.

17 (5)(a) If any person required to register pursuant to this section
18 changes his or her residence address within the same county, the person
19 must send written notice of the change of address to the county sheriff
20 within seventy-two hours of moving. If any person required to register
21 pursuant to this section moves to a new county, the person must send
22 written notice of the change of address at least fourteen days before
23 moving to the county sheriff in the new county of residence and must
24 register with that county sheriff within twenty-four hours of moving.
25 The person must also send written notice within ten days of the change
26 of address in the new county to the county sheriff with whom the person
27 last registered. The county sheriff with whom the person last
28 registered shall promptly forward the information concerning the change
29 of address to the county sheriff for the county of the person's new
30 residence. If any person required to register pursuant to this section
31 moves out of Washington state, the person must also send written notice
32 within ten days of moving to the new state or a foreign country to the
33 county sheriff with whom the person last registered in Washington
34 state. Upon receipt of notice of change of address to a new state, the
35 county sheriff shall promptly forward the information regarding the
36 change of address to the agency designated by the new state as the
37 state's offender registration agency.

38 (b) It is an affirmative defense to a charge that the person
39 failed to send a notice at least fourteen days in advance of moving as

1 required under (a) of this subsection that the person did not know the
2 location of his or her new residence at least fourteen days before
3 moving. The defendant must establish the defense by a preponderance of
4 the evidence and, to prevail on the defense, must also prove by a
5 preponderance that the defendant sent the required notice within
6 twenty-four hours of determining the new address.

7 (6) A sex offender subject to registration requirements under this
8 section who applies to change his or her name under RCW 4.24.130 or any
9 other law shall submit a copy of the application to the county sheriff
10 of the county of the person's residence and to the state patrol not
11 fewer than five days before the entry of an order granting the name
12 change. No sex offender under the requirement to register under this
13 section at the time of application shall be granted an order changing
14 his or her name if the court finds that doing so will interfere with
15 legitimate law enforcement interests, except that no order shall be
16 denied when the name change is requested for religious or legitimate
17 cultural reasons or in recognition of marriage or dissolution of
18 marriage. A sex offender under the requirement to register under this
19 section who receives an order changing his or her name shall submit a
20 copy of the order to the county sheriff of the county of the person's
21 residence and to the state patrol within five days of the entry of the
22 order.

23 (7) The county sheriff shall obtain a photograph of the individual
24 and shall obtain a copy of the individual's fingerprints.

25 (8) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
26 70.48.470, and 72.09.330:

27 (a) "Sex offense" means any offense defined as a sex offense by
28 RCW 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation
29 of a minor), 9.68A.050 (dealing in depictions of minor engaged in
30 sexually explicit conduct), 9.68A.060 (sending, bringing into state
31 depictions of minor engaged in sexually explicit conduct), 9.68A.090
32 (communication with minor for immoral purposes), 9.68A.100 (patronizing
33 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in
34 the second degree), as well as any gross misdemeanor that is, under
35 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
36 criminal conspiracy to commit an offense that is classified as a sex
37 offense under RCW 9.94A.030.

38 (b) "Kidnapping offense" means the crimes of kidnapping in the
39 first degree, kidnapping in the second degree, and unlawful

1 imprisonment as defined in chapter 9A.40 RCW, where the victim is a
2 minor and the offender is not the minor's parent.

3 (c) "Employed" or "carries on a vocation" means employment that is
4 full-time or part-time for a period of time exceeding fourteen days, or
5 for an aggregate period of time exceeding thirty days during any
6 calendar year. A person is employed or carries on a vocation whether
7 the person's employment is financially compensated, volunteered, or for
8 the purpose of government or educational benefit.

9 (d) "Student" means a person who is enrolled, on a full-time or
10 part-time basis, in any public or private educational institution. An
11 educational institution includes any secondary school, trade or
12 professional institution, or institution of higher education.

13 (9) A person who knowingly fails to register with the county
14 sheriff or notify the county sheriff, or who changes his or her name
15 without notifying the county sheriff and the state patrol, as required
16 by this section is guilty of a class C felony if the crime for which
17 the individual was convicted was a felony sex offense as defined in
18 subsection (8)(a) of this section or a federal or out-of-state
19 conviction for an offense that under the laws of this state would be a
20 felony sex offense as defined in subsection (8)(a) of this section. If
21 the crime was other than a felony or a federal or out-of-state
22 conviction for an offense that under the laws of this state would be
23 other than a felony, violation of this section is a gross misdemeanor.

24 (10) A person who knowingly fails to register or who moves without
25 notifying the county sheriff as required by this section is guilty of
26 a class C felony if the crime for which the individual was convicted
27 was a felony kidnapping offense as defined in subsection (8)(b) of this
28 section or a federal or out-of-state conviction for an offense that
29 under the laws of this state would be a felony kidnapping offense as
30 defined in subsection (8)(b) of this section. If the crime was other
31 than a felony or a federal or out-of-state conviction for an offense
32 that under the laws of this state would be other than a felony,
33 violation of this section is a gross misdemeanor.

34 **Sec. 10.** RCW 9.94A.360 and 1998 c 211 s 4 are each amended to
35 read as follows:

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

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

3 (1) A prior conviction is a conviction which exists before the
4 date of sentencing for the offense for which the offender score is
5 being computed. Convictions entered or sentenced on the same date as
6 the conviction for which the offender score is being computed shall be
7 deemed "other current offenses" within the meaning of RCW 9.94A.400.

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

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

37 (4) Score prior convictions for felony anticipatory offenses
38 (attempts, criminal solicitations, and criminal conspiracies) the same
39 as if they were convictions for completed offenses.

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

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

18 (ii) In the case of multiple prior convictions for offenses
19 committed before July 1, 1986, for the purpose of computing the
20 offender score, count all adult convictions served concurrently as one
21 offense, and count all juvenile convictions entered on the same date as
22 one offense. Use the conviction for the offense that yields the
23 highest offender score.

24 (b) As used in this subsection (5), "served concurrently" means
25 that: (i) The latter sentence was imposed with specific reference to
26 the former; (ii) the concurrent relationship of the sentences was
27 judicially imposed; and (iii) the concurrent timing of the sentences
28 was not the result of a probation or parole revocation on the former
29 offense.

30 (6) If the present conviction is one of the anticipatory offenses
31 of criminal attempt, solicitation, or conspiracy, count each prior
32 conviction as if the present conviction were for a completed offense.

33 (7) If the present conviction is for a nonviolent offense and not
34 covered by subsection (11) or (12) of this section, count one point for
35 each adult prior felony conviction and one point for each juvenile
36 prior violent felony conviction and 1/2 point for each juvenile prior
37 nonviolent felony conviction.

38 (8) If the present conviction is for a violent offense and not
39 covered in subsection (9), (10), (11), or (12) of this section, count

1 two points for each prior adult and juvenile violent felony conviction,
2 one point for each prior adult nonviolent felony conviction, and 1/2
3 point for each prior juvenile nonviolent felony conviction.

4 (9) If the present conviction is for (~~Murder 1 or 2, Assault 1,~~
5 ~~Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1~~) a
6 serious violent offense, count three points for prior adult and
7 juvenile convictions for crimes in (~~these categories~~) this category,
8 two points for each prior adult and juvenile violent conviction (not
9 already counted), one point for each prior adult nonviolent felony
10 conviction, and 1/2 point for each prior juvenile nonviolent felony
11 conviction.

12 (10) If the present conviction is for Burglary 1, count prior
13 convictions as in subsection (8) of this section; however count two
14 points for each prior adult Burglary 2 or residential burglary
15 conviction, and one point for each prior juvenile Burglary 2 or
16 residential burglary conviction.

17 (11) If the present conviction is for a felony traffic offense
18 count two points for each adult or juvenile prior conviction for
19 Vehicular Homicide or Vehicular Assault; for each felony offense (~~or~~
20 ~~serious traffic offense,~~) count one point for each adult and 1/2 point
21 for each juvenile prior conviction(~~. This subsection shall not apply~~
22 ~~when additional time is added to a sentence pursuant to RCW~~
23 ~~46.61.520(2))~~; for each serious traffic offense, other than those used
24 for an enhancement pursuant to RCW 46.61.520(2), count one point for
25 each adult and 1/2 point for each juvenile prior conviction.

26 (12) If the present conviction is for a drug offense count three
27 points for each adult prior felony drug offense conviction and two
28 points for each juvenile drug offense. All other adult and juvenile
29 felonies are scored as in subsection (8) of this section if the current
30 drug offense is violent, or as in subsection (7) of this section if the
31 current drug offense is nonviolent.

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

1 (14) 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 (15) If the present conviction is for Burglary 2 or residential
5 burglary, count priors as in subsection (7) 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 (16) If the present conviction is for a sex offense, count priors
11 as in subsections (7) through (15) of this section; however count three
12 points for each adult and juvenile prior sex offense conviction.

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

15 **Sec. 11.** RCW 9.94A.400 and 1998 c 235 s 2 are each amended to
16 read as follows:

17 (1)(a) Except as provided in (b) or (c) of this subsection,
18 whenever a person is to be sentenced for two or more current offenses,
19 the sentence range for each current offense shall be determined by
20 using all other current and prior convictions as if they were prior
21 convictions for the purpose of the offender score: PROVIDED, That if
22 the court enters a finding that some or all of the current offenses
23 encompass the same criminal conduct then those current offenses shall
24 be counted as one crime. Sentences imposed under this subsection shall
25 be served concurrently. Consecutive sentences may only be imposed
26 under the exceptional sentence provisions of RCW 9.94A.120 and
27 9.94A.390(2)(g) or any other provision of RCW 9.94A.390. "Same
28 criminal conduct," as used in this subsection, means two or more crimes
29 that require the same criminal intent, are committed at the same time
30 and place, and involve the same victim. This definition applies in
31 cases involving vehicular assault or vehicular homicide even if the
32 victims occupied the same vehicle.

33 (b) Whenever a person is convicted of two or more serious violent
34 offenses, as defined in RCW 9.94A.030, arising from separate and
35 distinct criminal conduct, the sentence range for the offense with the
36 highest seriousness level under RCW 9.94A.320 shall be determined using
37 the offender's prior convictions and other current convictions that are
38 not serious violent offenses in the offender score and the sentence

1 range for other serious violent offenses shall be determined by using
2 an offender score of zero. The sentence range for any offenses that
3 are not serious violent offenses shall be determined according to (a)
4 of this subsection. All sentences imposed under (b) of this subsection
5 shall be served consecutively to each other and concurrently with
6 sentences imposed under (a) of this subsection.

7 (c) If an offender is convicted under RCW 9.41.040 for unlawful
8 possession of a firearm in the first or second degree and for the
9 felony crimes of theft of a firearm or possession of a stolen firearm,
10 or both, ~~((then))~~ the sentence range for each of these current offenses
11 shall be determined by using all other current and prior convictions,
12 except other current convictions for the felony crimes listed in this
13 subsection (1)(c), as if they were prior convictions. The offender
14 shall serve consecutive sentences for each conviction of the felony
15 crimes listed in this subsection (1)(c), and for each firearm
16 unlawfully possessed.

17 (2)(a) Except as provided in (b) of this subsection, whenever a
18 person while under sentence of felony commits another felony and is
19 sentenced to another term of confinement, the latter term shall not
20 begin until expiration of all prior terms.

21 (b) Whenever a second or later felony conviction results in
22 community supervision with conditions not currently in effect, under
23 the prior sentence or sentences of community supervision the court may
24 require that the conditions of community supervision contained in the
25 second or later sentence begin during the immediate term of community
26 supervision and continue throughout the duration of the consecutive
27 term of community supervision.

28 (3) Subject to subsections (1) and (2) of this section, whenever
29 a person is sentenced for a felony that was committed while the person
30 was not under sentence of a felony, the sentence shall run concurrently
31 with any felony sentence which has been imposed by any court in this or
32 another state or by a federal court subsequent to the commission of the
33 crime being sentenced unless the court pronouncing the current sentence
34 expressly orders that they be served consecutively.

35 (4) Whenever any person granted probation under RCW 9.95.210 or
36 9.92.060, or both, has the probationary sentence revoked and a prison
37 sentence imposed, that sentence shall run consecutively to any sentence
38 imposed pursuant to this chapter, unless the court pronouncing the
39 subsequent sentence expressly orders that they be served concurrently.

1 (5) However, in the case of consecutive sentences, all periods of
2 total confinement shall be served before any partial confinement,
3 community service, community supervision, or any other requirement or
4 conditions of any of the sentences. Except for exceptional sentences
5 as authorized under RCW 9.94A.120(2), if two or more sentences that run
6 consecutively include periods of community supervision, the aggregate
7 of the community supervision period shall not exceed twenty-four
8 months.

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