

2 **2SHB 2338** - S COMM AMD
3 By Committee on Judiciary

4 ADOPTED 03/13/02

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** It is the intent of the legislature to
8 increase the use of effective substance abuse treatment for defendants
9 and offenders in Washington in order to make frugal use of state and
10 local resources, thus reducing recidivism and increasing the likelihood
11 that defendants and offenders will become productive and law-abiding
12 persons. The legislature recognizes that substance abuse treatment can
13 be effective if it is well planned and involves adequate monitoring,
14 and that substance abuse and addiction is a public safety and public
15 health issue that must be more effectively addressed if recidivism is
16 to be reduced. The legislature intends that sentences for drug
17 offenses accurately reflect the adverse impact of substance abuse and
18 addiction on public safety, that the public must have protection from
19 violent offenders, and further intends that such sentences be based on
20 policies that are supported by research and public policy goals
21 established by the legislature.

22 **Sec. 2.** RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300 s
23 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended to
24 read as follows:

25 TABLE 2

26 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

27	XVI	Aggravated Murder 1 (RCW 10.95.020)
28	XV	Homicide by abuse (RCW 9A.32.055)
29		Malicious explosion 1 (RCW 70.74.280(1))
30		Murder 1 (RCW 9A.32.030)
31	XIV	Murder 2 (RCW 9A.32.050)
32	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 Malicious placement of an imitation device
6 1 (RCW 70.74.272(1)(a))
7 Rape 1 (RCW 9A.44.040)
8 Rape of a Child 1 (RCW 9A.44.073)

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

12 X Child Molestation 1 (RCW 9A.44.083)
13 Indecent Liberties (with forcible
14 compulsion) (RCW 9A.44.100(1)(a))
15 Kidnapping 1 (RCW 9A.40.020)
16 Leading Organized Crime (RCW
17 9A.82.060(1)(a))
18 Malicious explosion 3 (RCW 70.74.280(3))
19 Manufacture of methamphetamine (RCW
20 69.50.401(a)(1)(ii))
21 Over 18 and deliver heroin,
22 methamphetamine, a narcotic from
23 Schedule I or II, or flunitrazepam
24 from Schedule IV to someone under 18
25 (RCW 69.50.406)
26 Sexually Violent Predator Escape (RCW
27 9A.76.115)

28 IX Assault of a Child 2 (RCW 9A.36.130)
29 Controlled Substance Homicide (RCW
30 69.50.415)
31 Explosive devices prohibited (RCW
32 70.74.180)
33 Hit and Run--Death (RCW 46.52.020(4)(a))
34 Homicide by Watercraft, by being under the
35 influence of intoxicating liquor or
36 any drug (RCW 79A.60.050)

1 Inciting Criminal Profiteering (RCW
2 9A.82.060(1)(b))
3 Malicious placement of an explosive 2 (RCW
4 70.74.270(2))
5 Over 18 and deliver narcotic from Schedule
6 III, IV, or V or a nonnarcotic, except
7 flunitrazepam or methamphetamine, from
8 Schedule I-V to someone under 18 and 3
9 years junior (RCW 69.50.406)
10 Robbery 1 (RCW 9A.56.200)
11 Sexual Exploitation (RCW 9.68A.040)
12 Vehicular Homicide, by being under the
13 influence of intoxicating liquor or
14 any drug (RCW 46.61.520)

15 VIII Arson 1 (RCW 9A.48.020)
16 Deliver or possess with intent to deliver
17 m e t h a m p h e t a m i n e (R C W
18 69.50.401(a)(1)(ii))
19 Homicide by Watercraft, by the operation of
20 any vessel in a reckless manner (RCW
21 79A.60.050)
22 Manslaughter 2 (RCW 9A.32.070)
23 Manufacture, deliver, or possess with
24 intent to deliver amphetamine (RCW
25 69.50.401(a)(1)(ii))
26 Manufacture, deliver, or possess with
27 intent to deliver heroin or cocaine
28 (when the offender has a criminal
29 history in this state or any other
30 state that includes a sex offense or
31 serious violent offense or the
32 Washington equivalent) (RCW
33 69.50.401(a)(1)(i))
34 Possession of Ephedrine, Pseudoephedrine,
35 or Anhydrous Ammonia with intent to
36 manufacture methamphetamine (RCW
37 69.50.440)
38 Promoting Prostitution 1 (RCW 9A.88.070)

1 Selling for profit (controlled or
2 counterfeit) any controlled substance
3 (RCW 69.50.410)
4 Theft of Anhydrous Ammonia (RCW 69.55.010)
5 Vehicular Homicide, by the operation of any
6 vehicle in a reckless manner (RCW
7 46.61.520)

8 VII Burglary 1 (RCW 9A.52.020)
9 Child Molestation 2 (RCW 9A.44.086)
10 Dealing in depictions of minor engaged in
11 sexually explicit conduct (RCW
12 9.68A.050)
13 Drive-by Shooting (RCW 9A.36.045)
14 Homicide by Watercraft, by disregard for
15 the safety of others (RCW 79A.60.050)
16 Indecent Liberties (without forcible
17 compulsion) (RCW 9A.44.100(1) (b) and
18 (c))
19 Introducing Contraband 1 (RCW 9A.76.140)
20 Involving a minor in drug dealing (RCW
21 69.50.401(f))
22 Malicious placement of an explosive 3 (RCW
23 70.74.270(3))
24 Manufacture, deliver, or possess with
25 intent to deliver heroin or cocaine
26 (except when the offender has a
27 criminal history in this state or any
28 other state that includes a sex
29 offense or serious violent offense or
30 the Washington equivalent) (RCW
31 69.50.401(a)(1)(i))
32 Sending, bringing into state depictions of
33 minor engaged in sexually explicit
34 conduct (RCW 9.68A.060)
35 Unlawful Possession of a Firearm in the
36 first degree (RCW 9.41.040(1)(a))
37 Use of a Machine Gun in Commission of a
38 Felony (RCW 9.41.225)

1 Vehicular Homicide, by disregard for the
2 safety of others (RCW 46.61.520)

3 VI Bail Jumping with Murder 1 (RCW
4 9A.76.170(3)(a))
5 Bribery (RCW 9A.68.010)
6 Incest 1 (RCW 9A.64.020(1))
7 Intimidating a Judge (RCW 9A.72.160)
8 Intimidating a Juror/Witness (RCW
9 9A.72.110, 9A.72.130)
10 Malicious placement of an imitation device
11 2 (RCW 70.74.272(1)(b))
12 Manufacture, deliver, or possess with
13 intent to deliver narcotics from
14 Schedule I or II (except heroin or
15 cocaine) or flunitrazepam from
16 Schedule IV (RCW 69.50.401(a)(1)(i))
17 Rape of a Child 3 (RCW 9A.44.079)
18 Theft of a Firearm (RCW 9A.56.300)
19 Unlawful Storage of Anhydrous Ammonia (RCW
20 69.55.020)

21 V Abandonment of dependent person 1 (RCW
22 9A.42.060)
23 Advancing money or property for
24 extortionate extension of credit (RCW
25 9A.82.030)
26 Bail Jumping with class A Felony (RCW
27 9A.76.170(3)(b))
28 Child Molestation 3 (RCW 9A.44.089)
29 Criminal Mistreatment 1 (RCW 9A.42.020)
30 Custodial Sexual Misconduct 1 (RCW
31 9A.44.160)
32 Delivery of imitation controlled substance
33 by person eighteen or over to person
34 under eighteen (RCW 69.52.030(2))
35 Domestic Violence Court Order Violation
36 (RCW 10.99.040, 10.99.050, 26.09.300,
37 26.10.220, 26.26.138, 26.50.110,
38 26.52.070, or 74.34.145)

1 Extortion 1 (RCW 9A.56.120)
2 Extortionate Extension of Credit (RCW
3 9A.82.020)
4 Extortionate Means to Collect Extensions of
5 Credit (RCW 9A.82.040)
6 Incest 2 (RCW 9A.64.020(2))
7 Kidnapping 2 (RCW 9A.40.030)
8 Perjury 1 (RCW 9A.72.020)
9 Persistent prison misbehavior (RCW
10 9.94.070)
11 Possession of a Stolen Firearm (RCW
12 9A.56.310)
13 Rape 3 (RCW 9A.44.060)
14 Rendering Criminal Assistance 1 (RCW
15 9A.76.070)
16 Sexual Misconduct with a Minor 1 (RCW
17 9A.44.093)
18 Sexually Violating Human Remains (RCW
19 9A.44.105)
20 Stalking (RCW 9A.46.110)
21 IV Arson 2 (RCW 9A.48.030)
22 Assault 2 (RCW 9A.36.021)
23 Assault by Watercraft (RCW 79A.60.060)
24 Bribing a Witness/Bribe Received by Witness
25 (RCW 9A.72.090, 9A.72.100)
26 Commercial Bribery (RCW 9A.68.060)
27 Counterfeiting (RCW 9.16.035(4))
28 Escape 1 (RCW 9A.76.110)
29 Hit and Run--Injury (RCW 46.52.020(4)(b))
30 Hit and Run with Vessel--Injury Accident
31 (RCW 79A.60.200(3))
32 Identity Theft 1 (RCW 9.35.020(2)(a))
33 Indecent Exposure to Person Under Age
34 Fourteen (subsequent sex offense) (RCW
35 9A.88.010)
36 Influencing Outcome of Sporting Event (RCW
37 9A.82.070)
38 Knowingly Trafficking in Stolen Property
39 (RCW 9A.82.050(2))

1 Malicious Harassment (RCW 9A.36.080)
2 Manufacture, deliver, or possess with
3 intent to deliver narcotics from
4 Schedule III, IV, or V or nonnarcotics
5 from Schedule I-V (except marijuana,
6 amphetamine, methamphetamines, or
7 flunitrazepam) (RCW 69.50.401(a)(1)
8 (iii) through (v))
9 Residential Burglary (RCW 9A.52.025)
10 Robbery 2 (RCW 9A.56.210)
11 Theft of Livestock 1 (RCW 9A.56.080)
12 Threats to Bomb (RCW 9.61.160)
13 Use of Proceeds of Criminal Profiteering
14 (RCW 9A.82.080 (1) and (2))
15 Vehicular Assault, by being under the
16 influence of intoxicating liquor or
17 any drug, or by the operation or
18 driving of a vehicle in a reckless
19 manner (RCW 46.61.522)
20 Willful Failure to Return from Furlough
21 (RCW 72.66.060)
22 III Abandonment of dependent person 2 (RCW
23 9A.42.070)
24 Assault 3 (RCW 9A.36.031)
25 Assault of a Child 3 (RCW 9A.36.140)
26 Bail Jumping with class B or C Felony (RCW
27 9A.76.170(3)(c))
28 Burglary 2 (RCW 9A.52.030)
29 Communication with a Minor for Immoral
30 Purposes (RCW 9.68A.090)
31 Criminal Gang Intimidation (RCW 9A.46.120)
32 Criminal Mistreatment 2 (RCW 9A.42.030)
33 Custodial Assault (RCW 9A.36.100)
34 Delivery of a material in lieu of a
35 controlled substance (RCW
36 69.50.401(c))
37 Escape 2 (RCW 9A.76.120)
38 Extortion 2 (RCW 9A.56.130)
39 Harassment (RCW 9A.46.020)

1 Intimidating a Public Servant (RCW
2 9A.76.180)
3 Introducing Contraband 2 (RCW 9A.76.150)
4 Maintaining a Dwelling or Place for
5 Controlled Substances (RCW
6 69.50.402(a)(6))
7 Malicious Injury to Railroad Property (RCW
8 81.60.070)
9 Manufacture, deliver, or possess with
10 intent to deliver marijuana (RCW
11 69.50.401(a)(1)(iii))
12 Manufacture, distribute, or possess with
13 intent to distribute an imitation
14 controlled substance (RCW
15 69.52.030(1))
16 Patronizing a Juvenile Prostitute (RCW
17 9.68A.100)
18 Perjury 2 (RCW 9A.72.030)
19 Possession of Incendiary Device (RCW
20 9.40.120)
21 Possession of Machine Gun or Short-Barreled
22 Shotgun or Rifle (RCW 9.41.190)
23 Promoting Prostitution 2 (RCW 9A.88.080)
24 Recklessly Trafficking in Stolen Property
25 (RCW 9A.82.050(1))
26 Securities Act violation (RCW 21.20.400)
27 Tampering with a Witness (RCW 9A.72.120)
28 Telephone Harassment (subsequent conviction
29 or threat of death) (RCW 9.61.230)
30 Theft of Livestock 2 (RCW 9A.56.080)
31 Unlawful Imprisonment (RCW 9A.40.040)
32 Unlawful possession of firearm in the
33 second degree (RCW 9.41.040(1)(b))
34 Unlawful Use of Building for Drug Purposes
35 (RCW 69.53.010)
36 Vehicular Assault, by the operation or
37 driving of a vehicle with disregard
38 for the safety of others (RCW
39 46.61.522)

1 Willful Failure to Return from Work Release
2 (RCW 72.65.070)

3 II Computer Trespass 1 (RCW 9A.52.110)
4 Counterfeiting (RCW 9.16.035(3))
5 Create, deliver, or possess a counterfeit
6 controlled substance (RCW
7 69.50.401(b))
8 Escape from Community Custody (RCW
9 72.09.310)

10 Health Care False Claims (RCW 48.80.030)
11 Identity Theft 2 (RCW 9.35.020(2)(b))
12 Improperly Obtaining Financial Information
13 (RCW 9.35.010)

14 Malicious Mischief 1 (RCW 9A.48.070)
15 Possession of controlled substance that is
16 either heroin or narcotics from
17 Schedule I or II or flunitrazepam from
18 Schedule IV (RCW 69.50.401(d))
19 Possession of phencyclidine (PCP) (RCW
20 69.50.401(d))
21 Possession of Stolen Property 1 (RCW
22 9A.56.150)

23 Theft 1 (RCW 9A.56.030)
24 Theft of Rental, Leased, or Lease-purchased
25 Property (valued at one thousand five
26 hundred dollars or more) (RCW
27 9A.56.096(4))

28 Trafficking in Insurance Claims (RCW
29 48.30A.015)

30 Unlawful Practice of Law (RCW 2.48.180)
31 Unlicensed Practice of a Profession or
32 Business (RCW 18.130.190(7))

33 I Attempting to Elude a Pursuing Police
34 Vehicle (RCW 46.61.024)
35 False Verification for Welfare (RCW
36 74.08.055)
37 Forged Prescription (RCW 69.41.020)

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

26 **Sec. 3.** RCW 9.94A.525 and 2001 c 264 s 5 are each amended to read
27 as follows:

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

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

32 (1) A prior conviction is a conviction which exists before the date
33 of sentencing for the offense for which the offender score is being
34 computed. Convictions entered or sentenced on the same date as the
35 conviction for which the offender score is being computed shall be
36 deemed "other current offenses" within the meaning of RCW 9.94A.589.

37 (2) Class A and sex prior felony convictions shall always be
38 included in the offender score. Class B prior felony convictions other

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

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

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

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

34 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to
35 encompass the same criminal conduct, shall be counted as one offense,
36 the offense that yields the highest offender score. The current
37 sentencing court shall determine with respect to other prior adult
38 offenses for which sentences were served concurrently or prior juvenile
39 offenses for which sentences were served consecutively, whether those

1 offenses shall be counted as one offense or as separate offenses using
2 the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and
3 if the court finds that they shall be counted as one offense, then the
4 offense that yields the highest offender score shall be used. The
5 current sentencing court may presume that such other prior offenses
6 were not the same criminal conduct from sentences imposed on separate
7 dates, or in separate counties or jurisdictions, or in separate
8 complaints, indictments, or informations;

9 (ii) In the case of multiple prior convictions for offenses
10 committed before July 1, 1986, for the purpose of computing the
11 offender score, count all adult convictions served concurrently as one
12 offense, and count all juvenile convictions entered on the same date as
13 one offense. Use the conviction for the offense that yields the
14 highest offender score.

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

21 (6) If the present conviction is one of the anticipatory offenses
22 of criminal attempt, solicitation, or conspiracy, count each prior
23 conviction as if the present conviction were for a completed offense.
24 When these convictions are used as criminal history, score them the
25 same as a completed crime.

26 (7) If the present conviction is for a nonviolent offense and not
27 covered by subsection (11) or (12) of this section, count one point for
28 each adult prior felony conviction and one point for each juvenile
29 prior violent felony conviction and 1/2 point for each juvenile prior
30 nonviolent felony conviction.

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

36 (9) If the present conviction is for a serious violent offense,
37 count three points for prior adult and juvenile convictions for crimes
38 in this category, two points for each prior adult and juvenile violent
39 conviction (not already counted), one point for each prior adult

1 nonviolent felony conviction, and 1/2 point for each prior juvenile
2 nonviolent felony conviction.

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

8 (11) If the present conviction is for a felony traffic offense
9 count two points for each adult or juvenile prior conviction for
10 Vehicular Homicide or Vehicular Assault; for each felony offense count
11 one point for each adult and 1/2 point for each juvenile prior
12 conviction; for each serious traffic offense, other than those used for
13 an enhancement pursuant to RCW 46.61.520(2), count one point for each
14 adult and 1/2 point for each juvenile prior conviction.

15 (12) If the present conviction is for (~~(a drug offense)~~)
16 manufacture of methamphetamine count three points for each adult prior
17 (~~(felony drug offense)~~) manufacture of methamphetamine conviction and
18 two points for each juvenile (~~(drug)~~) manufacture of methamphetamine
19 offense. If the present conviction is for a drug offense and the
20 offender has a criminal history that includes a sex offense or serious
21 violent offense, count three points for each adult prior felony drug
22 offense conviction and two points for each juvenile drug offense. All
23 other adult and juvenile felonies are scored as in subsection (8) of
24 this section if the current drug offense is violent, or as in
25 subsection (7) of this section if the current drug offense is
26 nonviolent.

27 (13) If the present conviction is for Escape from Community
28 Custody, RCW 72.09.310, count only prior escape convictions in the
29 offender score. Count adult prior escape convictions as one point and
30 juvenile prior escape convictions as 1/2 point.

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

34 (15) If the present conviction is for Burglary 2 or residential
35 burglary, count priors as in subsection (7) of this section; however,
36 count two points for each adult and juvenile prior Burglary 1
37 conviction, two points for each adult prior Burglary 2 or residential
38 burglary conviction, and one point for each juvenile prior Burglary 2
39 or residential burglary conviction.

1 (16) If the present conviction is for a sex offense, count priors
2 as in subsections (7) through (15) of this section; however count three
3 points for each adult and juvenile prior sex offense conviction.

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

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.96A RCW
7 to read as follows:

8 (1) The criminal justice treatment account is created in the state
9 treasury. Moneys in the account may be expended solely for: (a)
10 Substance abuse treatment and treatment support services for offenders
11 with an addiction or a substance abuse problem that, if not treated,
12 would result in addiction, against whom charges are filed by a
13 prosecuting attorney in Washington state; and (b) the provision of drug
14 and alcohol treatment services and treatment support services for
15 nonviolent offenders within a drug court program. Moneys in the
16 account may be spent only after appropriation.

17 (2) For purposes of this section:

18 (a) "Treatment" means services that are critical to a participant's
19 successful completion of his or her substance abuse treatment program,
20 but does not include the following services: Housing other than that
21 provided as part of an inpatient substance abuse treatment program,
22 vocational training, and mental health counseling; and

23 (b) "Treatment support" means transportation to or from inpatient
24 or outpatient treatment services when no viable alternative exists, and
25 child care services that are necessary to ensure a participant's
26 ability to attend outpatient treatment sessions.

27 (3) Revenues to the criminal justice treatment account consist of:
28 (a) Savings to the state general fund resulting from implementation of
29 this act, as calculated pursuant to this section; and (b) any other
30 revenues appropriated to or deposited in the account.

31 (4)(a) The department of corrections, the sentencing guidelines
32 commission, the office of financial management, and the caseload
33 forecast council shall develop a methodology for calculating the
34 projected biennial savings under this section. Savings shall be
35 projected for the fiscal biennium beginning on July 1, 2003, and for
36 each biennium thereafter. By September 1, 2002, the proposed
37 methodology shall be submitted to the governor and the appropriate
38 committees of the legislature. The methodology is deemed approved

1 unless the legislature enacts legislation to modify or reject the
2 methodology.

3 (b) When the department of corrections submits its biennial budget
4 request to the governor in 2002 and in each even-numbered year
5 thereafter, the department of corrections shall use the methodology
6 approved in (a) of this subsection to calculate savings to the state
7 general fund for the ensuing fiscal biennium resulting from reductions
8 in drug offender sentencing as a result of sections 2 and 3, chapter
9 . . . , Laws of 2002 (sections 2 and 3 this act) and sections 7, 8, and
10 9, chapter . . . , Laws of 2002 (sections 7, 8, and 9 this act). The
11 department shall report the dollar amount of the savings to the state
12 treasurer, the office of financial management, and the fiscal
13 committees of the legislature.

14 (c) For the fiscal biennium beginning July 1, 2003, and each fiscal
15 biennium thereafter, the state treasurer shall transfer seventy-five
16 percent of the amount reported in (b) of this subsection from the
17 general fund into the criminal justice treatment account, divided into
18 eight equal quarterly payments. However, the amount transferred to the
19 criminal justice treatment account shall not exceed the limit of eight
20 million two hundred fifty thousand dollars per fiscal year. After the
21 first fiscal year in which the amount to be transferred equals or
22 exceeds eight million two hundred fifty thousand dollars, this limit
23 shall be increased on an annual basis by the implicit price deflator as
24 published by the federal bureau of labor statistics.

25 (d) For the fiscal biennium beginning July 1, 2003, and each
26 biennium thereafter, the state treasurer shall transfer twenty-five
27 percent of the amount reported in (b) of this subsection from the
28 general fund into the violence reduction and drug enforcement account,
29 divided into eight quarterly payments. The amounts transferred
30 pursuant to this subsection (4)(d) shall be used solely for providing
31 drug and alcohol treatment services to offenders confined in a state
32 correctional facility receiving a reduced sentence as a result of
33 implementation of this act and who are assessed with an addiction or a
34 substance abuse problem that if not treated would result in addiction.
35 Any excess funds remaining after providing drug and alcohol treatment
36 services to offenders receiving a reduced sentence as a result of
37 implementation of this act may be expended to provide treatment for
38 offenders confined in a state correctional facility and who are

1 assessed with an addiction or a substance abuse problem that
2 contributed to the crime.

3 (e) In each odd-numbered year, the legislature shall appropriate
4 the amount transferred to the criminal justice treatment account in (c)
5 of this subsection to the division of alcohol and substance abuse for
6 the purposes of subsection (5) of this section.

7 (5) Moneys appropriated to the division of alcohol and substance
8 abuse from the criminal justice treatment account shall be distributed
9 as specified in this subsection. The department shall serve as the
10 fiscal agent for purposes of distribution. Until July 1, 2004, the
11 department may not use moneys appropriated from the criminal justice
12 treatment account for administrative expenses and shall distribute all
13 amounts appropriated under subsection (4)(e) of this section in
14 accordance with this subsection. Beginning in July 1, 2004, the
15 department may retain up to three percent of the amount appropriated
16 under subsection (4)(e) of this section for its administrative costs.

17 (a) Seventy percent of amounts appropriated to the division from
18 the account shall be distributed to counties pursuant to the
19 distribution formula adopted under this section. The division of
20 alcohol and substance abuse, in consultation with the department of
21 corrections, the sentencing guidelines commission, the Washington state
22 association of counties, the Washington state association of drug court
23 professionals, the superior court judges' association, the Washington
24 association of prosecuting attorneys, representatives of the criminal
25 defense bar, representatives of substance abuse treatment providers,
26 and any other person deemed by the division to be necessary, shall
27 establish a fair and reasonable methodology for distribution to
28 counties of moneys in the criminal justice treatment account. County
29 or regional plans submitted for the expenditure of formula funds must
30 be approved by the panel established in (b) of this subsection.

31 (b) Thirty percent of the amounts appropriated to the division from
32 the account shall be distributed as grants for purposes of treating
33 offenders against whom charges are filed by a county prosecuting
34 attorney. The division shall appoint a panel of representatives from
35 the Washington association of prosecuting attorneys, the Washington
36 association of sheriffs and police chiefs, the superior court judges'
37 association, the Washington state association of counties, the
38 Washington defender's association or the Washington association of
39 criminal defense lawyers, the department of corrections, the Washington

1 state association of drug court professionals, substance abuse
2 treatment providers, and the division. The panel shall review county
3 or regional plans for funding under (a) of this subsection and grants
4 approved under this subsection. The panel shall attempt to ensure that
5 treatment as funded by the grants is available to offenders statewide.

6 (6) The county alcohol and drug coordinator, county prosecutor,
7 county sheriff, county superior court, a substance abuse treatment
8 provider appointed by the county legislative authority, a member of the
9 criminal defense bar appointed by the county legislative authority,
10 and, in counties with a drug court, a representative of the drug court
11 shall jointly submit a plan, approved by the county legislative
12 authority or authorities, to the panel established in subsection (5)(b)
13 of this section, for disposition of all the funds provided from the
14 criminal justice treatment account within that county. The funds shall
15 be used solely to provide approved alcohol and substance abuse
16 treatment pursuant to RCW 70.96A.090 and treatment support services.
17 No more than ten percent of the total moneys received under subsections
18 (4) and (5) of this section by a county or group of counties
19 participating in a regional agreement shall be spent for treatment
20 support services.

21 (7) Counties are encouraged to consider regional agreements and
22 submit regional plans for the efficient delivery of treatment under
23 this section.

24 (8) Moneys allocated under this section shall be used to
25 supplement, not supplant, other federal, state, and local funds used
26 for substance abuse treatment.

27 (9) Counties must meet the criteria established in RCW
28 2.28.170(3)(b).

29 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.135 RCW
30 to read as follows:

31 RCW 43.135.035(4) does not apply to the transfers established in
32 section 4 of this act.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.20A RCW
34 to read as follows:

35 The department of social and health services shall annually review
36 and monitor the expenditures made by any county or group of counties
37 which is funded, in whole or in part, with funds provided by this act.

1 Counties shall repay any funds that are not spent in accordance with
2 the requirements of this act.

3 **Sec. 7.** RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300 s
4 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended to
5 read as follows:

6 TABLE 2

7 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

8	XVI	Aggravated Murder 1 (RCW 10.95.020)
9	XV	Homicide by abuse (RCW 9A.32.055)
10		Malicious explosion 1 (RCW 70.74.280(1))
11		Murder 1 (RCW 9A.32.030)
12	XIV	Murder 2 (RCW 9A.32.050)
13	XIII	Malicious explosion 2 (RCW 70.74.280(2))
14		Malicious placement of an explosive 1 (RCW
15		70.74.270(1))
16	XII	Assault 1 (RCW 9A.36.011)
17		Assault of a Child 1 (RCW 9A.36.120)
18		Malicious placement of an imitation device
19		1 (RCW 70.74.272(1)(a))
20		Rape 1 (RCW 9A.44.040)
21		Rape of a Child 1 (RCW 9A.44.073)
22	XI	Manslaughter 1 (RCW 9A.32.060)
23		Rape 2 (RCW 9A.44.050)
24		Rape of a Child 2 (RCW 9A.44.076)
25	X	Child Molestation 1 (RCW 9A.44.083)
26		Indecent Liberties (with forcible
27		compulsion) (RCW 9A.44.100(1)(a))
28		Kidnapping 1 (RCW 9A.40.020)
29		Leading Organized Crime (RCW
30		9A.82.060(1)(a))
31		Malicious explosion 3 (RCW 70.74.280(3))
32		((Manufacture of methamphetamine (RCW
33		69.50.401(a)(1)(ii)))

1 Over 18 and deliver heroin,
2 methamphetamine, a narcotic from
3 Schedule I or II, or flunitrazepam
4 from Schedule IV to someone under 18
5 (~~RCW 69.50.406~~))
6 Sexually Violent Predator Escape (RCW
7 9A.76.115)

8 IX Assault of a Child 2 (RCW 9A.36.130)
9 ((~~Controlled Substance Homicide~~ (RCW
10 ~~69.50.415~~))
11 Explosive devices prohibited (RCW
12 70.74.180)
13 Hit and Run--Death (RCW 46.52.020(4)(a))
14 Homicide by Watercraft, by being under the
15 influence of intoxicating liquor or
16 any drug (RCW 79A.60.050)
17 Inciting Criminal Profiteering (RCW
18 9A.82.060(1)(b))
19 Malicious placement of an explosive 2 (RCW
20 70.74.270(2))
21 ((~~Over 18 and deliver narcotic from~~
22 ~~Schedule III, IV, or V or a~~
23 ~~nonnarcotic, except flunitrazepam or~~
24 ~~methamphetamine, from Schedule I-V to~~
25 ~~someone under 18 and 3 years junior~~
26 ~~(RCW 69.50.406)~~))
27 Robbery 1 (RCW 9A.56.200)
28 Sexual Exploitation (RCW 9.68A.040)
29 Vehicular Homicide, by being under the
30 influence of intoxicating liquor or
31 any drug (RCW 46.61.520)

32 VIII Arson 1 (RCW 9A.48.020)
33 ((~~Deliver or possess with intent to deliver~~
34 ~~m e t h a m p h e t a m i n e~~ (RCW
35 ~~69.50.401(a)(1)(ii)~~))
36 Homicide by Watercraft, by the operation of
37 any vessel in a reckless manner (RCW
38 79A.60.050)

1 Manslaughter 2 (RCW 9A.32.070)
2 ((~~Manufacture, deliver, or possess with~~
3 ~~intent to deliver amphetamine (RCW~~
4 ~~69.50.401(a)(1)(ii))~~)
5 ~~Manufacture, deliver, or possess with~~
6 ~~intent to deliver heroin or cocaine~~
7 ~~(RCW 69.50.401(a)(1)(i))~~)
8 ~~Possession of Ephedrine, Pseudoephedrine,~~
9 ~~or Anhydrous Ammonia with intent to~~
10 ~~manufacture methamphetamine (RCW~~
11 ~~69.50.440))~~)
12 Promoting Prostitution 1 (RCW 9A.88.070)
13 ((~~Selling for profit (controlled or~~
14 ~~counterfeit) any controlled substance~~
15 ~~(RCW 69.50.410))~~)
16 Theft of Anhydrous Ammonia (RCW 69.55.010)
17 Vehicular Homicide, by the operation of any
18 vehicle in a reckless manner (RCW
19 46.61.520)

20 VII Burglary 1 (RCW 9A.52.020)
21 Child Molestation 2 (RCW 9A.44.086)
22 Dealing in depictions of minor engaged in
23 sexually explicit conduct (RCW
24 9.68A.050)
25 Drive-by Shooting (RCW 9A.36.045)
26 Homicide by Watercraft, by disregard for
27 the safety of others (RCW 79A.60.050)
28 Indecent Liberties (without forcible
29 compulsion) (RCW 9A.44.100(1) (b) and
30 (c))
31 Introducing Contraband 1 (RCW 9A.76.140)
32 ((~~Involving a minor in drug dealing (RCW~~
33 ~~69.50.401(f))~~)
34 Malicious placement of an explosive 3 (RCW
35 70.74.270(3))
36 Sending, bringing into state depictions of
37 minor engaged in sexually explicit
38 conduct (RCW 9.68A.060)

1 Unlawful Possession of a Firearm in the
 2 first degree (RCW 9.41.040(1)(a))
 3 Use of a Machine Gun in Commission of a
 4 Felony (RCW 9.41.225)
 5 Vehicular Homicide, by disregard for the
 6 safety of others (RCW 46.61.520)

7 VI Bail Jumping with Murder 1 (RCW
 8 9A.76.170(3)(a))
 9 Bribery (RCW 9A.68.010)
 10 Incest 1 (RCW 9A.64.020(1))
 11 Intimidating a Judge (RCW 9A.72.160)
 12 Intimidating a Juror/Witness (RCW
 13 9A.72.110, 9A.72.130)
 14 Malicious placement of an imitation device
 15 2 (RCW 70.74.272(1)(b))
 16 ~~((Manufacture, deliver, or possess with
 17 intent to deliver narcotics from
 18 Schedule I or II (except heroin or
 19 cocaine) or flunitrazepam from
 20 Schedule IV (RCW 69.50.401(a)(1)(i)))~~)
 21 Rape of a Child 3 (RCW 9A.44.079)
 22 Theft of a Firearm (RCW 9A.56.300)
 23 Unlawful Storage of Anhydrous Ammonia (RCW
 24 69.55.020)

25 V Abandonment of dependent person 1 (RCW
 26 9A.42.060)
 27 Advancing money or property for
 28 extortionate extension of credit (RCW
 29 9A.82.030)
 30 Bail Jumping with class A Felony (RCW
 31 9A.76.170(3)(b))
 32 Child Molestation 3 (RCW 9A.44.089)
 33 Criminal Mistreatment 1 (RCW 9A.42.020)
 34 Custodial Sexual Misconduct 1 (RCW
 35 9A.44.160)
 36 ~~((Delivery of imitation controlled
 37 substance by person eighteen or over~~)

1 to person under eighteen (RCW
2 69.52.030(2)))
3 Domestic Violence Court Order Violation
4 (RCW 10.99.040, 10.99.050, 26.09.300,
5 26.10.220, 26.26.138, 26.50.110,
6 26.52.070, or 74.34.145)
7 Extortion 1 (RCW 9A.56.120)
8 Extortionate Extension of Credit (RCW
9 9A.82.020)
10 Extortionate Means to Collect Extensions of
11 Credit (RCW 9A.82.040)
12 Incest 2 (RCW 9A.64.020(2))
13 Kidnapping 2 (RCW 9A.40.030)
14 Perjury 1 (RCW 9A.72.020)
15 Persistent prison misbehavior (RCW
16 9.94.070)
17 Possession of a Stolen Firearm (RCW
18 9A.56.310)
19 Rape 3 (RCW 9A.44.060)
20 Rendering Criminal Assistance 1 (RCW
21 9A.76.070)
22 Sexual Misconduct with a Minor 1 (RCW
23 9A.44.093)
24 Sexually Violating Human Remains (RCW
25 9A.44.105)
26 Stalking (RCW 9A.46.110)
27 IV Arson 2 (RCW 9A.48.030)
28 Assault 2 (RCW 9A.36.021)
29 Assault by Watercraft (RCW 79A.60.060)
30 Bribing a Witness/Bribe Received by Witness
31 (RCW 9A.72.090, 9A.72.100)
32 Commercial Bribery (RCW 9A.68.060)
33 Counterfeiting (RCW 9.16.035(4))
34 Escape 1 (RCW 9A.76.110)
35 Hit and Run--Injury (RCW 46.52.020(4)(b))
36 Hit and Run with Vessel--Injury Accident
37 (RCW 79A.60.200(3))
38 Identity Theft 1 (RCW 9.35.020(2)(a))

1 Indecent Exposure to Person Under Age
2 Fourteen (subsequent sex offense) (RCW
3 9A.88.010)
4 Influencing Outcome of Sporting Event (RCW
5 9A.82.070)
6 Knowingly Trafficking in Stolen Property
7 (RCW 9A.82.050(2))
8 Malicious Harassment (RCW 9A.36.080)
9 ((Manufacture, deliver, or possess with
10 intent to deliver narcotics from
11 Schedule III, IV, or V or nonnarcotics
12 from Schedule I-V (except marijuana,
13 amphetamine, methamphetamines, or
14 flunitrazepam) (RCW 69.50.401(a)(1)
15 (iii) through (v))))
16 Residential Burglary (RCW 9A.52.025)
17 Robbery 2 (RCW 9A.56.210)
18 Theft of Livestock 1 (RCW 9A.56.080)
19 Threats to Bomb (RCW 9.61.160)
20 Use of Proceeds of Criminal Profiteering
21 (RCW 9A.82.080 (1) and (2))
22 Vehicular Assault, by being under the
23 influence of intoxicating liquor or
24 any drug, or by the operation or
25 driving of a vehicle in a reckless
26 manner (RCW 46.61.522)
27 Willful Failure to Return from Furlough
28 (RCW 72.66.060)
29 III Abandonment of dependent person 2 (RCW
30 9A.42.070)
31 Assault 3 (RCW 9A.36.031)
32 Assault of a Child 3 (RCW 9A.36.140)
33 Bail Jumping with class B or C Felony (RCW
34 9A.76.170(3)(c))
35 Burglary 2 (RCW 9A.52.030)
36 Communication with a Minor for Immoral
37 Purposes (RCW 9.68A.090)
38 Criminal Gang Intimidation (RCW 9A.46.120)
39 Criminal Mistreatment 2 (RCW 9A.42.030)

1 Custodial Assault (RCW 9A.36.100)
2 (~~(Delivery of a material in lieu of a~~
3 ~~controlled substance (RCW~~
4 ~~69.50.401(c)))~~)
5 Escape 2 (RCW 9A.76.120)
6 Extortion 2 (RCW 9A.56.130)
7 Harassment (RCW 9A.46.020)
8 Intimidating a Public Servant (RCW
9 9A.76.180)
10 Introducing Contraband 2 (RCW 9A.76.150)
11 (~~(Maintaining a Dwelling or Place for~~
12 ~~Controlled Substances (RCW~~
13 ~~69.50.402(a)(6)))~~)
14 Malicious Injury to Railroad Property (RCW
15 81.60.070)
16 (~~(Manufacture, deliver, or possess with~~
17 ~~intent to deliver marijuana (RCW~~
18 ~~69.50.401(a)(1)(iii))~~)
19 ~~Manufacture, distribute, or possess with~~
20 ~~intent to distribute an imitation~~
21 ~~controlled substance (RCW~~
22 ~~69.52.030(1)))~~)
23 Patronizing a Juvenile Prostitute (RCW
24 9.68A.100)
25 Perjury 2 (RCW 9A.72.030)
26 Possession of Incendiary Device (RCW
27 9.40.120)
28 Possession of Machine Gun or Short-Barreled
29 Shotgun or Rifle (RCW 9.41.190)
30 Promoting Prostitution 2 (RCW 9A.88.080)
31 Recklessly Trafficking in Stolen Property
32 (RCW 9A.82.050(1))
33 Securities Act violation (RCW 21.20.400)
34 Tampering with a Witness (RCW 9A.72.120)
35 Telephone Harassment (subsequent conviction
36 or threat of death) (RCW 9.61.230)
37 Theft of Livestock 2 (RCW 9A.56.080)
38 Unlawful Imprisonment (RCW 9A.40.040)

1 Unlawful possession of firearm in the
2 second degree (RCW 9.41.040(1)(b))
3 ~~((Unlawful Use of Building for Drug
4 Purposes (RCW 69.53.010))~~
5 Vehicular Assault, by the operation or
6 driving of a vehicle with disregard
7 for the safety of others (RCW
8 46.61.522)
9 Willful Failure to Return from Work Release
10 (RCW 72.65.070)

11 II Computer Trespass 1 (RCW 9A.52.110)
12 Counterfeiting (RCW 9.16.035(3))
13 ~~((Create, deliver, or possess a counterfeit
14 controlled substance (RCW
15 69.50.401(b)))~~
16 Escape from Community Custody (RCW
17 72.09.310)
18 Health Care False Claims (RCW 48.80.030)
19 Identity Theft 2 (RCW 9.35.020(2)(b))
20 Improperly Obtaining Financial Information
21 (RCW 9.35.010)
22 Malicious Mischief 1 (RCW 9A.48.070)
23 ~~((Possession of controlled substance that
24 is either heroin or narcotics from
25 Schedule I or II or flunitrazepam from
26 Schedule IV (RCW 69.50.401(d))~~
27 ~~Possession of phencyclidine (PCP) (RCW
28 69.50.401(d)))~~
29 Possession of Stolen Property 1 (RCW
30 9A.56.150)
31 Theft 1 (RCW 9A.56.030)
32 Theft of Rental, Leased, or Lease-purchased
33 Property (valued at one thousand five
34 hundred dollars or more) (RCW
35 9A.56.096(4))
36 Trafficking in Insurance Claims (RCW
37 48.30A.015)
38 Unlawful Practice of Law (RCW 2.48.180)

1 Unlicensed Practice of a Profession or
2 Business (RCW 18.130.190(7))
3 I Attempting to Elude a Pursuing Police
4 Vehicle (RCW 46.61.024)
5 False Verification for Welfare (RCW
6 74.08.055)
7 ~~((Forged Prescription (RCW 69.41.020)~~
8 ~~Forged Prescription for a Controlled~~
9 ~~Substance (RCW 69.50.403)))~~
10 Forgery (RCW 9A.60.020)
11 Malicious Mischief 2 (RCW 9A.48.080)
12 ~~((Possess Controlled Substance that is a~~
13 ~~Narcotic from Schedule III, IV, or V~~
14 ~~or Non-narcotic from Schedule I-V~~
15 ~~(except phencyclidine or~~
16 ~~flunitrazepam) (RCW 69.50.401(d)))~~
17 Possession of Stolen Property 2 (RCW
18 9A.56.160)
19 Reckless Burning 1 (RCW 9A.48.040)
20 Taking Motor Vehicle Without Permission
21 (RCW 9A.56.070)
22 Theft 2 (RCW 9A.56.040)
23 Theft of Rental, Leased, or Lease-purchased
24 Property (valued at two hundred fifty
25 dollars or more but less than one
26 thousand five hundred dollars) (RCW
27 9A.56.096(4))
28 Unlawful Issuance of Checks or Drafts (RCW
29 9A.56.060)
30 Unlawful Use of Food Stamps (RCW 9.91.140
31 (2) and (3))
32 Vehicle Prowl 1 (RCW 9A.52.095)

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

35 (1)

TABLE 3

36 DRUG OFFENSE SENTENCING GRID

1	Seriousness	Offender Score	Offender Score	Offender Score
2	Level	0 to 2	3 to 5	6 to 9 or more
3	III	51 to 68 months	68+ to 100 months	100+ to 120 months
4	II	12+ to 20 months	20+ to 60 months	60+ to 120 months
5	I	0 to 6 months	6+ to 18 months	12+ to 24 months

6 References to months represent the standard sentence ranges. 12+
7 equals one year and one day.

8 (2) The court may utilize any other sanctions or alternatives as
9 authorized by law, including but not limited to the special drug
10 offender sentencing alternative under RCW 9.94A.660 or drug court under
11 RCW 2.28.170.

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

15 NEW SECTION. **Sec. 9.** A new section is added to chapter 9.94A RCW
16 to read as follows:

17 TABLE 4

18 DRUG OFFENSES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

19	III	Any felony offense under chapter 69.50 RCW
20		with a deadly weapon special verdict
21		under RCW 9.94A.602
22		Controlled Substance Homicide (RCW
23		69.50.415)
24		Delivery of imitation controlled substance
25		by person eighteen or over to person
26		under eighteen (RCW 69.52.030(2))
27		Involving a minor in drug dealing (RCW
28		69.50.401(f))
29		Manufacture of methamphetamine (RCW
30		69.50.401(a)(1)(ii))
31		Over 18 and deliver heroin,
32		methamphetamine, a narcotic from
33		Schedule I or II, or flunitrazepam
34		from Schedule IV to someone under 18
35		(RCW 69.50.406)

1 Over 18 and deliver narcotic from Schedule
2 III, IV, or V or a nonnarcotic, except
3 flunitrazepam or methamphetamine, from
4 Schedule I-V to someone under 18 and 3
5 years junior (RCW 69.50.406)
6 Possession of Ephedrine, Pseudoephedrine,
7 or Anhydrous Ammonia with intent to
8 manufacture methamphetamine (RCW
9 69.50.440)
10 Selling for profit (controlled or
11 counterfeit) any controlled substance
12 (RCW 69.50.410)
13 II Create, deliver, or possess a counterfeit
14 controlled substance (RCW
15 69.50.401(b))
16 Deliver or possess with intent to deliver
17 methamphetamine (RCW
18 69.50.401(a)(1)(ii))
19 Delivery of a material in lieu of a
20 controlled substance (RCW
21 69.50.401(c))
22 Maintaining a Dwelling or Place for
23 Controlled Substances (RCW
24 69.50.402(a)(6))
25 Manufacture, deliver, or possess with
26 intent to deliver amphetamine (RCW
27 69.50.401(a)(1)(ii))
28 Manufacture, deliver, or possess with
29 intent to deliver narcotics from
30 Schedule I or II or flunitrazepam from
31 Schedule IV (RCW 69.50.401(a)(1)(i))
32 Manufacture, deliver, or possess with
33 intent to deliver narcotics from
34 Schedule III, IV, or V or nonnarcotics
35 from Schedule I-V (except marijuana,
36 amphetamine, methamphetamines, or
37 flunitrazepam) (RCW 69.50.401(a)(1)
38 (iii) through (v))

1 Manufacture, distribute, or possess with
 2 intent to distribute an imitation
 3 controlled substance (RCW
 4 69.52.030(1))

5 I Forged Prescription (RCW 69.41.020)
 6 Forged Prescription for a Controlled
 7 Substance (RCW 69.50.403)

8 Manufacture, deliver, or possess with
 9 intent to deliver marijuana (RCW
 10 69.50.401(a)(1)(iii))

11 Possess Controlled Substance that is a
 12 Narcotic from Schedule III, IV, or V
 13 or Non-narcotic from Schedule I-V (RCW
 14 69.50.401(d))

15 Possession of Controlled Substance that is
 16 either heroin or narcotics from
 17 Schedule I or II (RCW 69.50.401(d))

18 Unlawful Use of Building for Drug Purposes
 19 (RCW 69.53.010)

20 **Sec. 10.** RCW 9.94A.510 and 2000 c 132 s 2 and 2000 c 28 s 11 are
 21 each reenacted and amended to read as follows:

22 ((+1))

TABLE 1

23 Sentencing Grid

24 SERIOUSNESS	25 OFFENDER SCORE										
	26 LEVEL	0	1	2	3	4	5	6	7	8	27 9 or more
28 XVI	29 Life Sentence without Parole/Death Penalty										
30 XV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y	
31	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-	
32	320	333	347	361	374	388	416	450	493	548	
33	XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
34	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-	
35	220	234	244	254	265	275	295	316	357	397	

1	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
2		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
3		164	178	192	205	219	233	260	288	342	397
4											
5	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
6		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
7		123	136	147	160	171	184	216	236	277	318
8											
9	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
10		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
11		102	114	125	136	147	158	194	211	245	280
12											
13	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
14		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
15		68	75	82	89	96	102	130	144	171	198
16											
17	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
18		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
19		41	48	54	61	68	75	102	116	144	171
20											
21	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
22		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
23		27	34	41	48	54	61	89	102	116	144
24											
25	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
26		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
27		20	27	34	41	48	54	75	89	102	116
28											
29	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
30		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
31		14	20	27	34	41	48	61	75	89	102
32											
33	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
34		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
35		12	14	17	20	29	43	54	68	82	96
36											
37	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
38		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
39		9	12	14	17	20	29	43	57	70	84
40											
41	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
42		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
43		3	8	12	12	16	22	29	43	57	68
44											
45	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
46		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
47		Days	6	9	12	14	18	22	29	43	57
48											
49	I			3m	4m	5m	8m	13m	16m	20m	2y2m
50		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
51		Days	Days	5	6	8	12	14	18	22	29
52											

1 Numbers in the first horizontal row of each seriousness category
2 represent sentencing midpoints in years(y) and months(m). Numbers in
3 the second and third rows represent standard sentence ranges in months,
4 or in days if so designated. 12+ equals one year and one day.

5 ~~((2) For persons convicted of the anticipatory offenses of~~
6 ~~criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW,~~
7 ~~the standard sentence range is determined by locating the sentencing~~
8 ~~grid sentence range defined by the appropriate offender score and the~~
9 ~~seriousness level of the completed crime, and multiplying the range by~~
10 ~~75 percent.~~

11 ~~(3) The following additional times shall be added to the standard~~
12 ~~sentence range for felony crimes committed after July 23, 1995, if the~~
13 ~~offender or an accomplice was armed with a firearm as defined in RCW~~
14 ~~9.41.010 and the offender is being sentenced for one of the crimes~~
15 ~~listed in this subsection as eligible for any firearm enhancements~~
16 ~~based on the classification of the completed felony crime. If the~~
17 ~~offender is being sentenced for more than one offense, the firearm~~
18 ~~enhancement or enhancements must be added to the total period of~~
19 ~~confinement for all offenses, regardless of which underlying offense is~~
20 ~~subject to a firearm enhancement. If the offender or an accomplice was~~
21 ~~armed with a firearm as defined in RCW 9.41.010 and the offender is~~
22 ~~being sentenced for an anticipatory offense under chapter 9A.28 RCW to~~
23 ~~commit one of the crimes listed in this subsection as eligible for any~~
24 ~~firearm enhancements, the following additional times shall be added to~~
25 ~~the standard sentence range determined under subsection (2) of this~~
26 ~~section based on the felony crime of conviction as classified under RCW~~
27 ~~9A.28.020:~~

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

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

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

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

1 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
2 (4)(a), (b), and/or (c) of this section, or both, all firearm
3 enhancements under this subsection shall be twice the amount of the
4 enhancement listed.

5 (e) Notwithstanding any other provision of law, all firearm
6 enhancements under this section are mandatory, shall be served in total
7 confinement, and shall run consecutively to all other sentencing
8 provisions, including other firearm or deadly weapon enhancements, for
9 all offenses sentenced under this chapter. However, whether or not a
10 mandatory minimum term has expired, an offender serving a sentence
11 under this subsection may be granted an extraordinary medical placement
12 when authorized under RCW 9.94A.728(4).

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

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

25 (4) The following additional times shall be added to the standard
26 sentence range for felony crimes committed after July 23, 1995, if the
27 offender or an accomplice was armed with a deadly weapon other than a
28 firearm as defined in RCW 9.41.010 and the offender is being sentenced
29 for one of the crimes listed in this subsection as eligible for any
30 deadly weapon enhancements based on the classification of the completed
31 felony crime. If the offender is being sentenced for more than one
32 offense, the deadly weapon enhancement or enhancements must be added to
33 the total period of confinement for all offenses, regardless of which
34 underlying offense is subject to a deadly weapon enhancement. If the
35 offender or an accomplice was armed with a deadly weapon other than a
36 firearm as defined in RCW 9.41.010 and the offender is being sentenced
37 for an anticipatory offense under chapter 9A.28 RCW to commit one of
38 the crimes listed in this subsection as eligible for any deadly weapon
39 enhancements, the following additional times shall be added to the

1 standard sentence range determined under subsection (2) of this section
2 based on the felony crime of conviction as classified under RCW
3 9A.28.020:

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

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

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

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

20 (e) Notwithstanding any other provision of law, all deadly weapon
21 enhancements under this section are mandatory, shall be served in total
22 confinement, and shall run consecutively to all other sentencing
23 provisions, including other firearm or deadly weapon enhancements, for
24 all offenses sentenced under this chapter. However, whether or not a
25 mandatory minimum term has expired, an offender serving a sentence
26 under this subsection may be granted an extraordinary medical placement
27 when authorized under RCW 9.94A.728(4).

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

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

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

12 ~~(a) Eighteen months for offenses committed under RCW~~
13 ~~69.50.401(a)(1) (i) or (ii) or 69.50.410;~~

14 ~~(b) Fifteen months for offenses committed under RCW 69.50.401(a)(1)~~
15 ~~(iii), (iv), and (v);~~

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

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

20 ~~(6) An additional twenty four months shall be added to the standard~~
21 ~~sentence range for any ranked offense involving a violation of chapter~~
22 ~~69.50 RCW if the offense was also a violation of RCW 69.50.435 or~~
23 ~~9.94A.605.~~

24 ~~(7) An additional two years shall be added to the standard sentence~~
25 ~~range for vehicular homicide committed while under the influence of~~
26 ~~intoxicating liquor or any drug as defined by RCW 46.61.502 for each~~
27 ~~prior offense as defined in RCW 46.61.5055.))~~

28 NEW SECTION. Sec. 11. A new section is added to chapter 9.94A RCW
29 to read as follows:

30 (1) The provisions of this section apply to the standard sentence
31 ranges determined by RCW 9.94A.510 or section 8 of this act.

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

1 (3) The following additional times shall be added to the standard
2 sentence range for felony crimes committed after July 23, 1995, if the
3 offender or an accomplice was armed with a firearm as defined in RCW
4 9.41.010 and the offender is being sentenced for one of the crimes
5 listed in this subsection as eligible for any firearm enhancements
6 based on the classification of the completed felony crime. If the
7 offender is being sentenced for more than one offense, the firearm
8 enhancement or enhancements must be added to the total period of
9 confinement for all offenses, regardless of which underlying offense is
10 subject to a firearm enhancement. If the offender or an accomplice was
11 armed with a firearm as defined in RCW 9.41.010 and the offender is
12 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
13 commit one of the crimes listed in this subsection as eligible for any
14 firearm enhancements, the following additional times shall be added to
15 the standard sentence range determined under subsection (2) of this
16 section based on the felony crime of conviction as classified under RCW
17 9A.28.020:

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

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

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

27 (d) If the offender is being sentenced for any firearm enhancements
28 under (a), (b), and/or (c) of this subsection and the offender has
29 previously been sentenced for any deadly weapon enhancements after July
30 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
31 (4)(a), (b), and/or (c) of this section, or both, all firearm
32 enhancements under this subsection shall be twice the amount of the
33 enhancement listed;

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

1 under this subsection may be granted an extraordinary medical placement
2 when authorized under RCW 9.94A.728(4);

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

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

15 (4) The following additional times shall be added to the standard
16 sentence range for felony crimes committed after July 23, 1995, if the
17 offender or an accomplice was armed with a deadly weapon other than a
18 firearm as defined in RCW 9.41.010 and the offender is being sentenced
19 for one of the crimes listed in this subsection as eligible for any
20 deadly weapon enhancements based on the classification of the completed
21 felony crime. If the offender is being sentenced for more than one
22 offense, the deadly weapon enhancement or enhancements must be added to
23 the total period of confinement for all offenses, regardless of which
24 underlying offense is subject to a deadly weapon enhancement. If the
25 offender or an accomplice was armed with a deadly weapon other than a
26 firearm as defined in RCW 9.41.010 and the offender is being sentenced
27 for an anticipatory offense under chapter 9A.28 RCW to commit one of
28 the crimes listed in this subsection as eligible for any deadly weapon
29 enhancements, the following additional times shall be added to the
30 standard sentence range determined under subsection (2) of this section
31 based on the felony crime of conviction as classified under RCW
32 9A.28.020:

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

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

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

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

11 (e) Notwithstanding any other provision of law, all deadly weapon
12 enhancements under this section are mandatory, shall be served in total
13 confinement, and shall run consecutively to all other sentencing
14 provisions, including other firearm or deadly weapon enhancements, for
15 all offenses sentenced under this chapter. However, whether or not a
16 mandatory minimum term has expired, an offender serving a sentence
17 under this subsection may be granted an extraordinary medical placement
18 when authorized under RCW 9.94A.728(4);

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

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

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

1 standard sentence range determined under subsection (2) of this
2 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 69.50.401(a)(1)
6 (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 a
9 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 standard
12 sentence range for any ranked offense involving a violation of chapter
13 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
14 9.94A.605.

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

19 NEW SECTION. **Sec. 12.** (1) A joint select committee on the drug
20 offense sentencing grid is established.

21 (2) The committee shall consist of the following persons:

22 (a) One member from each of the two largest caucuses of the senate,
23 appointed by the president of the senate;

24 (b) One member from each of the two largest caucuses of the house
25 of representatives, appointed by the speaker of the house;

26 (c) A superior court judge, selected by the superior court judges'
27 association;

28 (d) A prosecuting attorney, selected by the Washington association
29 of prosecuting attorneys;

30 (e) A member selected by the Washington state bar association,
31 whose practice includes a significant amount of time devoted to
32 criminal defense work;

33 (f) An elected sheriff or a police chief, selected by the
34 Washington association of sheriffs and police chiefs;

35 (g) A representative from the division of alcohol and substance
36 abuse in the department of social and health services;

37 (h) A member of the sentencing guidelines commission;

38 (i) A member of the caseload forecast council;

1 (j) A representative from the governor's office of financial
2 management;

3 (k) A representative from the department of corrections;

4 (l) A representative from the Washington state association of
5 counties;

6 (m) A county chemical dependency treatment provider;

7 (n) A chemical dependency treatment provider; and

8 (o) A representative from the Washington state association of drug
9 court professionals.

10 (3) The chair and vice-chair of the committee shall be chosen by
11 the members of the committee.

12 (4) The committee shall review and make recommendations to the
13 legislature and governor regarding the drug offense sentencing grid
14 created pursuant to section 8 of this act. In preparing the
15 recommendations, the committee shall:

16 (a) Establish a methodology of determining the fiscal consequences
17 to the state and local governments, including the calculation of
18 savings to be dedicated to substance abuse treatment, resulting from
19 the implementation of the grid and any recommended revisions to the
20 grid;

21 (b) Review and recommend any changes in the sentencing levels and
22 penalties in the drug sentencing grid;

23 (c) Consider the proportionality of sentencing based on the
24 quantity of controlled substances;

25 (d) Examine methods for addressing issues of racial
26 disproportionality in sentencing;

27 (e) Recommend a statewide method of evaluating the success of drug
28 courts in terms of reducing recidivism and increasing the number of
29 persons who participate in drug court programs and remain free of
30 substance abuse;

31 (f) Review and make any appropriate revisions in statewide criteria
32 for funding substance abuse treatment programs for defendants and
33 offenders; and

34 (g) Review and make any recommendations for changes in the method
35 of distribution of funding methods established in this act for
36 defendant and offender drug treatment programs.

37 (5) The committee shall complete its review and submit its
38 recommendations to the legislature and governor not later than June 1,
39 2003.

1 (6) The staff of the legislature, the sentencing guidelines
2 commission, and the caseload forecast council shall provide support to
3 the committee.

4 (7) Nonlegislative members of the committee shall serve without
5 compensation, but shall be reimbursed for travel expenses as provided
6 in RCW 43.03.050 and 43.03.060. Legislative members of the committee
7 shall be reimbursed for travel expenses as provided in RCW 44.04.120.

8 (8) This section expires December 31, 2003.

9 **Sec. 13.** RCW 2.28.170 and 1999 c 197 s 9 are each amended to read
10 as follows:

11 (1) Counties may establish and operate drug courts.

12 (2) For the purposes of this section, "drug court" means a court
13 that has special calendars or dockets designed to achieve a reduction
14 in recidivism and substance abuse among nonviolent, substance abusing
15 offenders by increasing their likelihood for successful rehabilitation
16 through early, continuous, and intense judicially supervised treatment;
17 mandatory periodic drug testing; and the use of appropriate sanctions
18 and other rehabilitation services.

19 (3)(a) Any jurisdiction that seeks a state appropriation to fund a
20 drug court program must first:

21 (~~(a)~~) (i) Exhaust all federal funding received from the office of
22 national drug control policy that is available to support the
23 operations of its drug court and associated services; and

24 (~~(b)~~) (ii) Match, on a dollar-for-dollar basis, state moneys
25 allocated for drug court programs with local cash or in-kind resources.
26 Moneys allocated by the state must be used to supplement, not supplant,
27 other federal, state, and local funds for drug court operations and
28 associated services.

29 (b) Any county that establishes a drug court pursuant to this
30 section shall establish minimum requirements for the participation of
31 offenders in the program. The drug court may adopt local requirements
32 that are more stringent than the minimum. The minimum requirements
33 are:

34 (i) The offender would benefit from substance abuse treatment;

35 (ii) The offender has not previously been convicted of a serious
36 violent offense or sex offense as defined in RCW 9.94A.030; and

1 (iii) Without regard to whether proof of any of these elements is
2 required to convict, the offender is not currently charged with or
3 convicted of an offense:

4 (A) That is a sex offense;

5 (B) That is a serious violent offense;

6 (C) During which the defendant used a firearm; or

7 (D) During which the defendant caused substantial or great bodily
8 harm or death to another person.

9 **Sec. 14.** RCW 9.94A.470 and 1995 c 129 s 4 are each amended to read
10 as follows:

11 Notwithstanding the current placement or listing of crimes in
12 categories or classifications of prosecuting standards for deciding to
13 prosecute under RCW 9.94A.411(2), any and all felony crimes involving
14 any deadly weapon special verdict under RCW 9.94A.602, any deadly
15 weapon enhancements under ((~~RCW 9.94A.510~~)) section 11 (3) or (4) of
16 this act, or both, and any and all felony crimes as defined in ((~~RCW~~
17 ~~9.94A.510~~)) section 11 (3)(f) or (4)(f) of this act, or both, which are
18 excluded from the deadly weapon enhancements shall all be treated as
19 crimes against a person and subject to the prosecuting standards for
20 deciding to prosecute under RCW 9.94A.411(2) as crimes against persons.

21 **Sec. 15.** RCW 9.94A.475 and 1997 c 338 s 48 are each amended to
22 read as follows:

23 Any and all recommended sentencing agreements or plea agreements
24 and the sentences for any and all felony crimes shall be made and
25 retained as public records if the felony crime involves:

26 (1) Any violent offense as defined in this chapter;

27 (2) Any most serious offense as defined in this chapter;

28 (3) Any felony with a deadly weapon special verdict under RCW
29 9.94A.602;

30 (4) Any felony with any deadly weapon enhancements under ((~~RCW~~
31 ~~9.94A.510~~)) section 11 (3) or (4) of this act, or both; and/or

32 (5) The felony crimes of possession of a machine gun, possessing a
33 stolen firearm, drive-by shooting, theft of a firearm, unlawful
34 possession of a firearm in the first or second degree, and/or use of a
35 machine gun in a felony.

1 **Sec. 16.** RCW 9.94A.480 and 1997 c 338 s 49 are each amended to
2 read as follows:

3 (1) A current, newly created or reworked judgment and sentence
4 document for each felony sentencing shall record any and all
5 recommended sentencing agreements or plea agreements and the sentences
6 for any and all felony crimes kept as public records under RCW
7 9.94A.475 shall contain the clearly printed name and legal signature of
8 the sentencing judge. The judgment and sentence document as defined in
9 this section shall also provide additional space for the sentencing
10 judge's reasons for going either above or below the presumptive
11 sentence range for any and all felony crimes covered as public records
12 under RCW 9.94A.475. Both the sentencing judge and the prosecuting
13 attorney's office shall each retain or receive a completed copy of each
14 sentencing document as defined in this section for their own records.

15 (2) The sentencing guidelines commission shall be sent a completed
16 copy of the judgment and sentence document upon conviction for each
17 felony sentencing under subsection (1) of this section and shall
18 compile a yearly and cumulative judicial record of each sentencing
19 judge in regards to his or her sentencing practices for any and all
20 felony crimes involving:

21 (a) Any violent offense as defined in this chapter;

22 (b) Any most serious offense as defined in this chapter;

23 (c) Any felony with any deadly weapon special verdict under RCW
24 9.94A.602;

25 (d) Any felony with any deadly weapon enhancements under ((RCW
26 ~~9.94A.510~~) section 11 (3) or (4) of this act, or both; and/or

27 (e) The felony crimes of possession of a machine gun, possessing a
28 stolen firearm, drive-by shooting, theft of a firearm, unlawful
29 possession of a firearm in the first or second degree, and/or use of a
30 machine gun in a felony.

31 (3) The sentencing guidelines commission shall compare each
32 individual judge's sentencing practices to the standard or presumptive
33 sentence range for any and all felony crimes listed in subsection (2)
34 of this section for the appropriate offense level as defined in RCW
35 9.94A.515 or section 9 of this act, offender score as defined in RCW
36 9.94A.525, and any applicable deadly weapon enhancements as defined in
37 ((RCW ~~9.94A.510~~) section 11 (3) or (4) of this act, or both. These
38 comparative records shall be retained and made available to the public

1 for review in a current, newly created or reworked official published
2 document by the sentencing guidelines commission.

3 (4) Any and all felony sentences which are either above or below
4 the standard or presumptive sentence range in subsection (3) of this
5 section shall also mark whether the prosecuting attorney in the case
6 also recommended a similar sentence, if any, which was either above or
7 below the presumptive sentence range and shall also indicate if the
8 sentence was in conjunction with an approved alternative sentencing
9 option including a first-time offender waiver, sex offender sentencing
10 alternative, or other prescribed sentencing option.

11 (5) If any completed judgment and sentence document as defined in
12 subsection (1) of this section is not sent to the sentencing guidelines
13 commission as required in subsection (2) of this section, the
14 sentencing guidelines commission shall have the authority and shall
15 undertake reasonable and necessary steps to assure that all past,
16 current, and future sentencing documents as defined in subsection (1)
17 of this section are received by the sentencing guidelines commission.

18 **Sec. 17.** RCW 9.94A.505 and 2001 2nd sp.s. c 12 s 312 are each
19 amended to read as follows:

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

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

24 (i) Unless another term of confinement applies, the court shall
25 impose a sentence within the standard sentence range established in RCW
26 9.94A.510 or section 8 of this act;

27 (ii) RCW 9.94A.700 and 9.94A.705, relating to community placement;

28 (iii) RCW 9.94A.710 and 9.94A.715, relating to community custody;

29 (iv) RCW 9.94A.545, relating to community custody for offenders
30 whose term of confinement is one year or less;

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

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

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

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

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

38 (x) RCW 9.94A.712, relating to certain sex offenses;

1 (xi) RCW 9.94A.535, relating to exceptional sentences;
2 (xii) RCW 9.94A.589, relating to consecutive and concurrent
3 sentences.

4 (b) If a standard sentence range has not been established for the
5 offender's crime, the court shall impose a determinate sentence which
6 may include not more than one year of confinement; community service
7 work; until July 1, 2000, a term of community supervision not to exceed
8 one year and on and after July 1, 2000, a term of community custody not
9 to exceed one year, subject to conditions and sanctions as authorized
10 in RCW 9.94A.710 (2) and (3); and/or other legal financial obligations.
11 The court may impose a sentence which provides more than one year of
12 confinement if the court finds reasons justifying an exceptional
13 sentence as provided in RCW 9.94A.535.

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

20 (4) If a sentence imposed includes payment of a legal financial
21 obligation, it shall be imposed as provided in RCW 9.94A.750,
22 9.94A.753, and 9.94A.760.

23 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
24 court may not impose a sentence providing for a term of confinement or
25 community supervision, community placement, or community custody which
26 exceeds the statutory maximum for the crime as provided in chapter
27 9A.20 RCW.

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

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

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

37 (9) The court may order an offender whose sentence includes
38 community placement or community supervision to undergo a mental status
39 evaluation and to participate in available outpatient mental health

1 treatment, if the court finds that reasonable grounds exist to believe
2 that the offender is a mentally ill person as defined in RCW 71.24.025,
3 and that this condition is likely to have influenced the offense. An
4 order requiring mental status evaluation or treatment must be based on
5 a presentence report and, if applicable, mental status evaluations that
6 have been filed with the court to determine the offender's competency
7 or eligibility for a defense of insanity. The court may order
8 additional evaluations at a later date if deemed appropriate.

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

13 (11) In sentencing an offender convicted of a crime of domestic
14 violence, as defined in RCW 10.99.020, if the offender has a minor
15 child, or if the victim of the offense for which the offender was
16 convicted has a minor child, the court may, as part of any term of
17 community supervision, community placement, or community custody, order
18 the offender to participate in a domestic violence perpetrator program
19 approved under RCW 26.50.150.

20 **Sec. 18.** RCW 9.94A.530 and 2000 c 28 s 12 are each amended to read
21 as follows:

22 (1) The intersection of the column defined by the offender score
23 and the row defined by the offense seriousness score determines the
24 standard sentence range (see RCW 9.94A.510, (Table 1) and section 8 of
25 this act, (Table 3)). The additional time for deadly weapon findings
26 or for those offenses enumerated in (~~RCW 9.94A.510~~) section 11(4) of
27 this act that were committed in a state correctional facility or county
28 jail shall be added to the entire standard sentence range. The court
29 may impose any sentence within the range that it deems appropriate.
30 All standard sentence ranges are expressed in terms of total
31 confinement.

32 (2) In determining any sentence, the trial court may rely on no
33 more information than is admitted by the plea agreement, or admitted,
34 acknowledged, or proved in a trial or at the time of sentencing.
35 Acknowledgement includes not objecting to information stated in the
36 presentence reports. Where the defendant disputes material facts, the
37 court must either not consider the fact or grant an evidentiary hearing
38 on the point. The facts shall be deemed proved at the hearing by a

1 preponderance of the evidence. Facts that establish the elements of a
2 more serious crime or additional crimes may not be used to go outside
3 the standard sentence range except upon stipulation or when
4 specifically provided for in RCW 9.94A.535(2) (d), (e), (g), and (h).

5 **Sec. 19.** RCW 9.94A.585 and 2000 c 28 s 10 are each amended to read
6 as follows:

7 (1) A sentence within the standard sentence range, under RCW
8 9.94A.510 or section 8 of this act, for ((the)) an offense shall not be
9 appealed. For purposes of this section, a sentence imposed on a first-
10 time offender under RCW 9.94A.650 shall also be deemed to be within the
11 standard sentence range for the offense and shall not be appealed.

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

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

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

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

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

35 (7) The department may petition for a review of a sentence
36 committing an offender to the custody or jurisdiction of the
37 department. The review shall be limited to errors of law. Such
38 petition shall be filed with the court of appeals no later than ninety

1 days after the department has actual knowledge of terms of the
2 sentence. The petition shall include a certification by the department
3 that all reasonable efforts to resolve the dispute at the superior
4 court level have been exhausted.

5 **Sec. 20.** RCW 9.94A.660 and 2001 c 10 s 4 are each amended to read
6 as follows:

7 (1) An offender is eligible for the special drug offender
8 sentencing alternative if:

9 (a) The offender is convicted of a felony that is not a violent
10 offense or sex offense and the violation does not involve a sentence
11 enhancement under (~~RCW 9.94A.510~~) section 11 (3) or (4) of this act;

12 (b) The offender has no current or prior convictions for a sex
13 offense or violent offense in this state, another state, or the United
14 States;

15 (c) For a violation of the Uniform Controlled Substances Act under
16 chapter 69.50 RCW or a criminal solicitation to commit such a violation
17 under chapter 9A.28 RCW, the offense involved only a small quantity of
18 the particular controlled substance as determined by the judge upon
19 consideration of such factors as the weight, purity, packaging, sale
20 price, and street value of the controlled substance; and

21 (d) The offender has not been found by the United States attorney
22 general to be subject to a deportation detainer or order and does not
23 become subject to a deportation order during the period of the
24 sentence.

25 (2) If the standard sentence range is greater than one year and the
26 sentencing court determines that the offender is eligible for this
27 alternative and that the offender and the community will benefit from
28 the use of the alternative, the judge may waive imposition of a
29 sentence within the standard sentence range and impose a sentence that
30 must include a period of total confinement in a state facility for one-
31 half of the midpoint of the standard sentence range. During
32 incarceration in the state facility, offenders sentenced under this
33 subsection shall undergo a comprehensive substance abuse assessment and
34 receive, within available resources, treatment services appropriate for
35 the offender. The treatment services shall be designed by the division
36 of alcohol and substance abuse of the department of social and health
37 services, in cooperation with the department of corrections.

38 The court shall also impose:

1 (a) The remainder of the midpoint of the standard range as a term
2 of community custody which must include appropriate substance abuse
3 treatment in a program that has been approved by the division of
4 alcohol and substance abuse of the department of social and health
5 services;

6 (b) Crime-related prohibitions including a condition not to use
7 illegal controlled substances;

8 (c) A requirement to submit to urinalysis or other testing to
9 monitor that status; and

10 (d) A term of community custody pursuant to RCW 9.94A.715 to be
11 imposed upon failure to complete or administrative termination from the
12 special drug offender sentencing alternative program.

13 The court may prohibit the offender from using alcohol or
14 controlled substances and may require that the monitoring for
15 controlled substances be conducted by the department or by a treatment
16 alternatives to street crime program or a comparable court or agency-
17 referred program. The offender may be required to pay thirty dollars
18 per month while on community custody to offset the cost of monitoring.
19 In addition, the court shall impose three or more of the following
20 conditions:

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

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

25 (iii) Report as directed to a community corrections officer;

26 (iv) Pay all court-ordered legal financial obligations;

27 (v) Perform community service work;

28 (vi) Stay out of areas designated by the sentencing court;

29 (vii) Such other conditions as the court may require such as
30 affirmative conditions.

31 (3) If the offender violates any of the sentence conditions in
32 subsection (2) of this section or is found by the United States
33 attorney general to be subject to a deportation order, a violation
34 hearing shall be held by the department unless waived by the offender.

35 (a) If the department finds that conditions have been willfully
36 violated, the offender may be reclassified to serve the remaining
37 balance of the original sentence.

38 (b) If the department finds that the offender is subject to a valid
39 deportation order, the department may administratively terminate the

1 offender from the program and reclassify the offender to serve the
2 remaining balance of the original sentence.

3 (4) The department shall determine the rules for calculating the
4 value of a day fine based on the offender's income and reasonable
5 obligations which the offender has for the support of the offender and
6 any dependents. These rules shall be developed in consultation with
7 the administrator for the courts, the office of financial management,
8 and the commission.

9 (5) An offender who fails to complete the special drug offender
10 sentencing alternative program or who is administratively terminated
11 from the program shall be reclassified to serve the unexpired term of
12 his or her sentence as ordered by the sentencing court and shall be
13 subject to all rules relating to earned release time. An offender who
14 violates any conditions of supervision as defined by the department
15 shall be sanctioned. Sanctions may include, but are not limited to,
16 reclassifying the offender to serve the unexpired term of his or her
17 sentence as ordered by the sentencing court. If an offender is
18 reclassified to serve the unexpired term of his or her sentence, the
19 offender shall be subject to all rules relating to earned release time.

20 **Sec. 21.** RCW 9.94A.728 and 2000 c 28 s 28 are each amended to read
21 as follows:

22 No person serving a sentence imposed pursuant to this chapter and
23 committed to the custody of the department shall leave the confines of
24 the correctional facility or be released prior to the expiration of the
25 sentence except as follows:

26 (1) Except as otherwise provided for in subsection (2) of this
27 section, the term of the sentence of an offender committed to a
28 correctional facility operated by the department may be reduced by
29 earned release time in accordance with procedures that shall be
30 developed and promulgated by the correctional agency having
31 jurisdiction in which the offender is confined. The earned release
32 time shall be for good behavior and good performance, as determined by
33 the correctional agency having jurisdiction. The correctional agency
34 shall not credit the offender with earned release credits in advance of
35 the offender actually earning the credits. Any program established
36 pursuant to this section shall allow an offender to earn early release
37 credits for presentence incarceration. If an offender is transferred
38 from a county jail to the department, the administrator of a county

1 jail facility shall certify to the department the amount of time spent
2 in custody at the facility and the amount of earned release time. An
3 offender who has been convicted of a felony committed after July 23,
4 1995, that involves any applicable deadly weapon enhancements under
5 (~~RCW 9.94A.510~~) section 11 (3) or (4) of this act, or both, shall not
6 receive any good time credits or earned release time for that portion
7 of his or her sentence that results from any deadly weapon
8 enhancements. In the case of an offender convicted of a serious
9 violent offense, or a sex offense that is a class A felony, committed
10 on or after July 1, 1990, the aggregate earned release time may not
11 exceed fifteen percent of the sentence. In no other case shall the
12 aggregate earned release time exceed one-third of the total sentence;

13 (2)(a) A person convicted of a sex offense or an offense
14 categorized as a serious violent offense, assault in the second degree,
15 vehicular homicide, vehicular assault, assault of a child in the second
16 degree, any crime against persons where it is determined in accordance
17 with RCW 9.94A.602 that the offender or an accomplice was armed with a
18 deadly weapon at the time of commission, or any felony offense under
19 chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become
20 eligible, in accordance with a program developed by the department, for
21 transfer to community custody status in lieu of earned release time
22 pursuant to subsection (1) of this section;

23 (b) A person convicted of a sex offense, a violent offense, any
24 crime against persons under RCW 9.94A.411(2), or a felony offense under
25 chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may
26 become eligible, in accordance with a program developed by the
27 department, for transfer to community custody status in lieu of earned
28 release time pursuant to subsection (1) of this section;

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

33 (4)(a) The secretary may authorize an extraordinary medical
34 placement for an offender when all of the following conditions exist:

35 (i) The offender has a medical condition that is serious enough to
36 require costly care or treatment;

37 (ii) The offender poses a low risk to the community because he or
38 she is physically incapacitated due to age or the medical condition;
39 and

1 (iii) Granting the extraordinary medical placement will result in
2 a cost savings to the state.

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

6 (c) The secretary shall require electronic monitoring for all
7 offenders in extraordinary medical placement unless the electronic
8 monitoring equipment interferes with the function of the offender's
9 medical equipment or results in the loss of funding for the offender's
10 medical care. The secretary shall specify who shall provide the
11 monitoring services and the terms under which the monitoring shall be
12 performed.

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

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

19 (6) No more than the final six months of the sentence may be served
20 in partial confinement designed to aid the offender in finding work and
21 reestablishing himself or herself in the community;

22 (7) The governor may pardon any offender;

23 (8) The department may release an offender from confinement any
24 time within ten days before a release date calculated under this
25 section; and

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

29 Notwithstanding any other provisions of this section, an offender
30 sentenced for a felony crime listed in RCW 9.94A.540 as subject to a
31 mandatory minimum sentence of total confinement shall not be released
32 from total confinement before the completion of the listed mandatory
33 minimum sentence for that felony crime of conviction unless allowed
34 under RCW 9.94A.540, however persistent offenders are not eligible for
35 extraordinary medical placement.

36 **Sec. 22.** RCW 9.94A.850 and 2000 c 28 s 41 are each amended to read
37 as follows:

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

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

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

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

9 (ii) The intent of the legislature to emphasize confinement for the
10 violent offender and alternatives to confinement for the nonviolent
11 offender.

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

15 (b) Recommend to the legislature revisions or modifications to the
16 standard sentence ranges, state sentencing policy, prosecuting
17 standards, and other standards. If implementation of the revisions or
18 modifications would result in exceeding the capacity of correctional
19 facilities, then the commission shall accompany its recommendation with
20 an additional list of standard sentence ranges which are consistent
21 with correction capacity;

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

24 (d)(i) Serve as a clearinghouse and information center for the
25 collection, preparation, analysis, and dissemination of information on
26 state and local adult and juvenile sentencing practices; (ii) develop
27 and maintain a computerized adult and juvenile sentencing information
28 system by individual superior court judge consisting of offender,
29 offense, history, and sentence information entered from judgment and
30 sentence forms for all adult felons; and (iii) conduct ongoing research
31 regarding adult and juvenile sentencing guidelines, use of total
32 confinement and alternatives to total confinement, plea bargaining, and
33 other matters relating to the improvement of the adult criminal justice
34 system and the juvenile justice system;

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

37 (f) Evaluate the effectiveness of existing disposition standards
38 and related statutes in implementing policies set forth in RCW
39 13.40.010 generally, specifically review the guidelines relating to the

1 confinement of minor and first-time offenders as well as the use of
2 diversion, and review the application of current and proposed juvenile
3 sentencing standards and guidelines for potential adverse impacts on
4 the sentencing outcomes of racial and ethnic minority youth;

5 (g) Solicit the comments and suggestions of the juvenile justice
6 community concerning disposition standards, and make recommendations to
7 the legislature regarding revisions or modifications of the standards.
8 The evaluations shall be submitted to the legislature on December 1 of
9 each odd-numbered year. The department of social and health services
10 shall provide the commission with available data concerning the
11 implementation of the disposition standards and related statutes and
12 their effect on the performance of the department's responsibilities
13 relating to juvenile offenders, and with recommendations for
14 modification of the disposition standards. The office of the
15 administrator for the courts shall provide the commission with
16 available data on diversion and dispositions of juvenile offenders
17 under chapter 13.40 RCW; and

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

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

22 (ii) The capacity of state and local juvenile and adult facilities
23 and resources; and

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

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

28 (4) The standard sentence ranges of total and partial confinement
29 under this chapter, except as provided in section 8 of this act, are
30 subject to the following limitations:

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

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

1 in the range shall be no less than fifty percent of the maximum term in
2 the range; and

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

5 (5)(a) Not later than December 31, 1999, the commission shall
6 propose to the legislature the initial community custody ranges to be
7 included in sentences under RCW 9.94A.715 for crimes committed on or
8 after July 1, 2000. Not later than December 31 of each year, the
9 commission may propose modifications to the ranges. The ranges shall
10 be based on the principles in RCW 9.94A.010, and shall take into
11 account the funds available to the department for community custody.
12 The minimum term in each range shall not be less than one-half of the
13 maximum term.

14 (b) The legislature may, by enactment of a legislative bill, adopt
15 or modify the community custody ranges proposed by the commission. If
16 the legislature fails to adopt or modify the initial ranges in its next
17 regular session after they are proposed, the proposed ranges shall take
18 effect without legislative approval for crimes committed on or after
19 July 1, 2000.

20 (c) When the commission proposes modifications to ranges pursuant
21 to this subsection, the legislature may, by enactment of a bill, adopt
22 or modify the ranges proposed by the commission for crimes committed on
23 or after July 1 of the year after they were proposed. Unless the
24 legislature adopts or modifies the commission's proposal in its next
25 regular session, the proposed ranges shall not take effect.

26 (6) The commission shall exercise its duties under this section in
27 conformity with chapter 34.05 RCW.

28 **Sec. 23.** RCW 10.01.210 and 1995 c 129 s 18 are each amended to
29 read as follows:

30 Any and all law enforcement agencies and personnel, criminal
31 justice attorneys, sentencing judges, and state and local correctional
32 facilities and personnel may, but are not required to, give any and all
33 offenders either written or oral notice, or both, of the sanctions
34 imposed and criminal justice changes regarding armed offenders,
35 including but not limited to the subjects of:

36 (1) Felony crimes involving any deadly weapon special verdict under
37 RCW 9.94A.602;

1 (2) Any and all deadly weapon enhancements under ((RCW 9.94A.510))
2 section 11 (3) or (4) of this act, or both, as well as any federal
3 firearm, ammunition, or other deadly weapon enhancements;

4 (3) Any and all felony crimes requiring the possession, display, or
5 use of any deadly weapon as well as the many increased penalties for
6 these crimes including the creation of theft of a firearm and
7 possessing a stolen firearm;

8 (4) New prosecuting standards established for filing charges for
9 all crimes involving any deadly weapons;

10 (5) Removal of good time for any and all deadly weapon
11 enhancements; and

12 (6) Providing the death penalty for those who commit first degree
13 murder: (a) To join, maintain, or advance membership in an
14 identifiable group; (b) as part of a drive-by shooting; or (c) to avoid
15 prosecution as a persistent offender as defined in RCW 9.94A.030.

16 NEW SECTION. Sec. 24. The Washington state institute for public
17 policy shall evaluate the effectiveness of the drug offense sentencing
18 grid in reducing recidivism and its financial impact. The Washington
19 state institute for public policy shall present a preliminary report to
20 the legislature by December 1, 2007, and shall present a final report
21 regarding long-term recidivism and its financial impacts to the
22 legislature by December 1, 2008.

23 NEW SECTION. Sec. 25. A new section is added to chapter 9.94A RCW
24 to read as follows:

25 The Washington state institute for public policy shall by March 1,
26 2003, report on the cost-effectiveness of existing drug courts in
27 Washington and their impacts on reducing recidivism.

28 NEW SECTION. Sec. 26. Nothing in this act creates an entitlement
29 for a criminal defendant to any specific sanction, alternative,
30 sentence option, or substance abuse treatment.

31 NEW SECTION. Sec. 27. If specific funding for the purposes of
32 this act, referencing this act by bill or chapter number, is not
33 provided by June 30, 2002, in the omnibus appropriations act, this act
34 is null and void.

1 NEW SECTION. **Sec. 28.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 29.** Sections 2 and 3 of this act take effect
6 July 1, 2002, and apply to crimes committed on or after July 1, 2002.

7 NEW SECTION. **Sec. 30.** Section 2 of this act expires July 1, 2004.

8 NEW SECTION. **Sec. 31.** Sections 7 through 11 and 14 through 23 of
9 this act take effect July 1, 2004, and apply to crimes committed on or
10 after July 1, 2004.

11 NEW SECTION. **Sec. 32.** Sections 1, 4 through 6, 12, 13, 26, and 27
12 of this act are necessary for the immediate preservation of the public
13 peace, health, or safety, or support of the state government and its
14 existing public institutions, and take effect immediately."

15 **2SHB 2338** - S COMM AMD
16 By Committee on Judiciary

17
18 On page 1, line 2 of the title, after "offenses;" strike the
19 remainder of the title and insert "amending RCW 9.94A.525, 2.28.170,
20 9.94A.470, 9.94A.475, 9.94A.480, 9.94A.505, 9.94A.530, 9.94A.585,
21 9.94A.660, 9.94A.728, 9.94A.850, and 10.01.210; reenacting and amending
22 RCW 9.94A.515, 9.94A.515, and 9.94A.510; adding a new section to
23 chapter 70.96A RCW; adding a new section to chapter 43.135 RCW; adding
24 a new section to chapter 43.20A RCW; adding new sections to chapter
25 9.94A RCW; creating new sections; prescribing penalties; providing
26 effective dates; providing expiration dates; and declaring an
27 emergency."

EFFECT: Level VIII scoring and triple scoring of past drug
offenses remain for sex or serious violent offenders. \$8.25 mill cap
on the CJTA. Up to 10% is for support services. 2 WSIPP studies.

--- END ---