
HOUSE BILL 2338

State of Washington

57th Legislature

2002 Regular Session

By Representatives Kagi, Ballasiotes, O'Brien, Lantz, Dickerson, Linville, McIntire, Conway and Wood

Read first time 01/15/2002. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to the recommendations of the sentencing guidelines
2 commission regarding drug offenses; amending RCW 9.94A.525, 2.28.170,
3 9.94A.470, 9.94A.475, 9.94A.480, 9.94A.505, 9.94A.530, 9.94A.585,
4 9.94A.660, 9.94A.728, 9.94A.850, and 10.01.210; reenacting and amending
5 RCW 9.94A.515, 9.94A.515, and 9.94A.510; adding a new section to
6 chapter 70.96A RCW; adding a new section to chapter 43.135 RCW; adding
7 a new section to chapter 43.20A RCW; adding new sections to chapter
8 9.94A RCW; creating new sections; prescribing penalties; providing
9 effective dates; providing an expiration date; and declaring an
10 emergency.

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

12 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
13 increase the use of effective substance abuse treatment for defendants
14 and offenders in Washington in order to make frugal use of state and
15 local resources, thus reducing recidivism and increasing the likelihood
16 that defendants and offenders will become productive and law-abiding
17 persons. The legislature recognizes that substance abuse treatment can
18 be effective if it is well planned and involves adequate monitoring,
19 and that substance abuse and addiction is a public safety issue that

1 Leading Organized Crime (RCW
2 9A.82.060(1)(a))
3 Malicious explosion 3 (RCW 70.74.280(3))
4 Manufacture of methamphetamine (RCW
5 69.50.401(a)(1)(ii))
6 Over 18 and deliver heroin,
7 methamphetamine, a narcotic from
8 Schedule I or II, or flunitrazepam
9 from Schedule IV to someone under 18
10 (RCW 69.50.406)
11 Sexually Violent Predator Escape (RCW
12 9A.76.115)

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

36 VIII Arson 1 (RCW 9A.48.020)

1 Deliver or possess with intent to deliver
2 methamphetamine (RCW
3 69.50.401(a)(1)(ii))
4 Homicide by Watercraft, by the operation of
5 any vessel in a reckless manner (RCW
6 79A.60.050)
7 Manslaughter 2 (RCW 9A.32.070)
8 Manufacture, deliver, or possess with
9 intent to deliver amphetamine (RCW
10 69.50.401(a)(1)(ii))
11 (~~Manufacture, deliver, or possess with~~
12 ~~intent to deliver heroin or cocaine~~
13 ~~(RCW 69.50.401(a)(1)(i))~~)
14 Possession of Ephedrine, Pseudoephedrine,
15 or Anhydrous Ammonia with intent to
16 manufacture methamphetamine (RCW
17 69.50.440)
18 Promoting Prostitution 1 (RCW 9A.88.070)
19 Selling for profit (controlled or
20 counterfeit) any controlled substance
21 (RCW 69.50.410)
22 Theft of Anhydrous Ammonia (RCW 69.55.010)
23 Vehicular Homicide, by the operation of any
24 vehicle in a reckless manner (RCW
25 46.61.520)
26 VII Burglary 1 (RCW 9A.52.020)
27 Child Molestation 2 (RCW 9A.44.086)
28 Dealing in depictions of minor engaged in
29 sexually explicit conduct (RCW
30 9.68A.050)
31 Drive-by Shooting (RCW 9A.36.045)
32 Homicide by Watercraft, by disregard for
33 the safety of others (RCW 79A.60.050)
34 Indecent Liberties (without forcible
35 compulsion) (RCW 9A.44.100(1) (b) and
36 (c))
37 Introducing Contraband 1 (RCW 9A.76.140)
38 Involving a minor in drug dealing (RCW
39 69.50.401(f))

1 Malicious placement of an explosive 3 (RCW
2 70.74.270(3))
3 Manufacture, deliver, or possess with
4 intent to deliver heroin or cocaine
5 (RCW 69.50.401(a)(1)(i))
6 Sending, bringing into state depictions of
7 minor engaged in sexually explicit
8 conduct (RCW 9.68A.060)
9 Unlawful Possession of a Firearm in the
10 first degree (RCW 9.41.040(1)(a))
11 Use of a Machine Gun in Commission of a
12 Felony (RCW 9.41.225)
13 Vehicular Homicide, by disregard for the
14 safety of others (RCW 46.61.520)

15 VI Bail Jumping with Murder 1 (RCW
16 9A.76.170(3)(a))
17 Bribery (RCW 9A.68.010)
18 Incest 1 (RCW 9A.64.020(1))
19 Intimidating a Judge (RCW 9A.72.160)
20 Intimidating a Juror/Witness (RCW
21 9A.72.110, 9A.72.130)
22 Malicious placement of an imitation device
23 2 (RCW 70.74.272(1)(b))
24 Manufacture, deliver, or possess with
25 intent to deliver narcotics from
26 Schedule I or II (except heroin or
27 cocaine) or flunitrazepam from
28 Schedule IV (RCW 69.50.401(a)(1)(i))
29 Rape of a Child 3 (RCW 9A.44.079)
30 Theft of a Firearm (RCW 9A.56.300)
31 Unlawful Storage of Anhydrous Ammonia (RCW
32 69.55.020)

33 V Abandonment of dependent person 1 (RCW
34 9A.42.060)
35 Advancing money or property for
36 extortionate extension of credit (RCW
37 9A.82.030)

1 Bail Jumping with class A Felony (RCW
2 9A.76.170(3)(b))
3 Child Molestation 3 (RCW 9A.44.089)
4 Criminal Mistreatment 1 (RCW 9A.42.020)
5 Custodial Sexual Misconduct 1 (RCW
6 9A.44.160)
7 Delivery of imitation controlled substance
8 by person eighteen or over to person
9 under eighteen (RCW 69.52.030(2))
10 Domestic Violence Court Order Violation
11 (RCW 10.99.040, 10.99.050, 26.09.300,
12 26.10.220, 26.26.138, 26.50.110,
13 26.52.070, or 74.34.145)
14 Extortion 1 (RCW 9A.56.120)
15 Extortionate Extension of Credit (RCW
16 9A.82.020)
17 Extortionate Means to Collect Extensions of
18 Credit (RCW 9A.82.040)
19 Incest 2 (RCW 9A.64.020(2))
20 Kidnapping 2 (RCW 9A.40.030)
21 Perjury 1 (RCW 9A.72.020)
22 Persistent prison misbehavior (RCW
23 9.94.070)
24 Possession of a Stolen Firearm (RCW
25 9A.56.310)
26 Rape 3 (RCW 9A.44.060)
27 Rendering Criminal Assistance 1 (RCW
28 9A.76.070)
29 Sexual Misconduct with a Minor 1 (RCW
30 9A.44.093)
31 Sexually Violating Human Remains (RCW
32 9A.44.105)
33 Stalking (RCW 9A.46.110)
34 IV Arson 2 (RCW 9A.48.030)
35 Assault 2 (RCW 9A.36.021)
36 Assault by Watercraft (RCW 79A.60.060)
37 Bribing a Witness/Bribe Received by Witness
38 (RCW 9A.72.090, 9A.72.100)
39 Commercial Bribery (RCW 9A.68.060)

1 Counterfeiting (RCW 9.16.035(4))
2 Escape 1 (RCW 9A.76.110)
3 Hit and Run--Injury (RCW 46.52.020(4)(b))
4 Hit and Run with Vessel--Injury Accident
5 (RCW 79A.60.200(3))
6 Identity Theft 1 (RCW 9.35.020(2)(a))
7 Indecent Exposure to Person Under Age
8 Fourteen (subsequent sex offense) (RCW
9 9A.88.010)
10 Influencing Outcome of Sporting Event (RCW
11 9A.82.070)
12 Knowingly Trafficking in Stolen Property
13 (RCW 9A.82.050(2))
14 Malicious Harassment (RCW 9A.36.080)
15 Manufacture, deliver, or possess with
16 intent to deliver narcotics from
17 Schedule III, IV, or V or nonnarcotics
18 from Schedule I-V (except marijuana,
19 amphetamine, methamphetamines, or
20 flunitrazepam) (RCW 69.50.401(a)(1)
21 (iii) through (v))
22 Residential Burglary (RCW 9A.52.025)
23 Robbery 2 (RCW 9A.56.210)
24 Theft of Livestock 1 (RCW 9A.56.080)
25 Threats to Bomb (RCW 9.61.160)
26 Use of Proceeds of Criminal Profiteering
27 (RCW 9A.82.080 (1) and (2))
28 Vehicular Assault, by being under the
29 influence of intoxicating liquor or
30 any drug, or by the operation or
31 driving of a vehicle in a reckless
32 manner (RCW 46.61.522)
33 Willful Failure to Return from Furlough
34 (RCW 72.66.060)
35 III Abandonment of dependent person 2 (RCW
36 9A.42.070)
37 Assault 3 (RCW 9A.36.031)
38 Assault of a Child 3 (RCW 9A.36.140)

1 Bail Jumping with class B or C Felony (RCW
2 9A.76.170(3)(c))
3 Burglary 2 (RCW 9A.52.030)
4 Communication with a Minor for Immoral
5 Purposes (RCW 9.68A.090)
6 Criminal Gang Intimidation (RCW 9A.46.120)
7 Criminal Mistreatment 2 (RCW 9A.42.030)
8 Custodial Assault (RCW 9A.36.100)
9 Delivery of a material in lieu of a
10 controlled substance (RCW
11 69.50.401(c))
12 Escape 2 (RCW 9A.76.120)
13 Extortion 2 (RCW 9A.56.130)
14 Harassment (RCW 9A.46.020)
15 Intimidating a Public Servant (RCW
16 9A.76.180)
17 Introducing Contraband 2 (RCW 9A.76.150)
18 Maintaining a Dwelling or Place for
19 Controlled Substances (RCW
20 69.50.402(a)(6))
21 Malicious Injury to Railroad Property (RCW
22 81.60.070)
23 Manufacture, deliver, or possess with
24 intent to deliver marijuana (RCW
25 69.50.401(a)(1)(iii))
26 Manufacture, distribute, or possess with
27 intent to distribute an imitation
28 controlled substance (RCW
29 69.52.030(1))
30 Patronizing a Juvenile Prostitute (RCW
31 9.68A.100)
32 Perjury 2 (RCW 9A.72.030)
33 Possession of Incendiary Device (RCW
34 9.40.120)
35 Possession of Machine Gun or Short-Barreled
36 Shotgun or Rifle (RCW 9.41.190)
37 Promoting Prostitution 2 (RCW 9A.88.080)
38 Recklessly Trafficking in Stolen Property
39 (RCW 9A.82.050(1))

1 Securities Act violation (RCW 21.20.400)
2 Tampering with a Witness (RCW 9A.72.120)
3 Telephone Harassment (subsequent conviction
4 or threat of death) (RCW 9.61.230)
5 Theft of Livestock 2 (RCW 9A.56.080)
6 Unlawful Imprisonment (RCW 9A.40.040)
7 Unlawful possession of firearm in the
8 second degree (RCW 9.41.040(1)(b))
9 Unlawful Use of Building for Drug Purposes
10 (RCW 69.53.010)
11 Vehicular Assault, by the operation or
12 driving of a vehicle with disregard
13 for the safety of others (RCW
14 46.61.522)
15 Willful Failure to Return from Work Release
16 (RCW 72.65.070)
17 II Computer Trespass 1 (RCW 9A.52.110)
18 Counterfeiting (RCW 9.16.035(3))
19 Create, deliver, or possess a counterfeit
20 controlled substance (RCW
21 69.50.401(b))
22 Escape from Community Custody (RCW
23 72.09.310)
24 Health Care False Claims (RCW 48.80.030)
25 Identity Theft 2 (RCW 9.35.020(2)(b))
26 Improperly Obtaining Financial Information
27 (RCW 9.35.010)
28 Malicious Mischief 1 (RCW 9A.48.070)
29 Possession of controlled substance that is
30 either heroin or narcotics from
31 Schedule I or II or flunitrazepam from
32 Schedule IV (RCW 69.50.401(d))
33 Possession of phencyclidine (PCP) (RCW
34 69.50.401(d))
35 Possession of Stolen Property 1 (RCW
36 9A.56.150)
37 Theft 1 (RCW 9A.56.030)
38 Theft of Rental, Leased, or Lease-purchased
39 Property (valued at one thousand five

1 hundred dollars or more) (RCW
2 9A.56.096(4))
3 Trafficking in Insurance Claims (RCW
4 48.30A.015)
5 Unlawful Practice of Law (RCW 2.48.180)
6 Unlicensed Practice of a Profession or
7 Business (RCW 18.130.190(7))

8 I Attempting to Elude a Pursuing Police
9 Vehicle (RCW 46.61.024)
10 False Verification for Welfare (RCW
11 74.08.055)
12 Forged Prescription (RCW 69.41.020)
13 Forged Prescription for a Controlled
14 Substance (RCW 69.50.403)
15 Forgery (RCW 9A.60.020)
16 Malicious Mischief 2 (RCW 9A.48.080)
17 Possess Controlled Substance that is a
18 Narcotic from Schedule III, IV, or V
19 or Non-narcotic from Schedule I-V
20 (except phencyclidine or
21 flunitrazepam) (RCW 69.50.401(d))
22 Possession of Stolen Property 2 (RCW
23 9A.56.160)
24 Reckless Burning 1 (RCW 9A.48.040)
25 Taking Motor Vehicle Without Permission
26 (RCW 9A.56.070)
27 Theft 2 (RCW 9A.56.040)
28 Theft of Rental, Leased, or Lease-purchased
29 Property (valued at two hundred fifty
30 dollars or more but less than one
31 thousand five hundred dollars) (RCW
32 9A.56.096(4))
33 Unlawful Issuance of Checks or Drafts (RCW
34 9A.56.060)
35 Unlawful Use of Food Stamps (RCW 9.91.140
36 (2) and (3))
37 Vehicle Prowl 1 (RCW 9A.52.095)

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

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

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

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

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

32 (3) Out-of-state convictions for offenses shall be classified
33 according to the comparable offense definitions and sentences provided
34 by Washington law. Federal convictions for offenses shall be
35 classified according to the comparable offense definitions and
36 sentences provided by Washington law. If there is no clearly
37 comparable offense under Washington law or the offense is one that is
38 usually considered subject to exclusive federal jurisdiction, the

1 offense shall be scored as a class C felony equivalent if it was a
2 felony under the relevant federal statute.

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

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

9 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to
10 encompass the same criminal conduct, shall be counted as one offense,
11 the offense that yields the highest offender score. The current
12 sentencing court shall determine with respect to other prior adult
13 offenses for which sentences were served concurrently or prior juvenile
14 offenses for which sentences were served consecutively, whether those
15 offenses shall be counted as one offense or as separate offenses using
16 the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and
17 if the court finds that they shall be counted as one offense, then the
18 offense that yields the highest offender score shall be used. The
19 current sentencing court may presume that such other prior offenses
20 were not the same criminal conduct from sentences imposed on separate
21 dates, or in separate counties or jurisdictions, or in separate
22 complaints, indictments, or informations;

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

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

35 (6) If the present conviction is one of the anticipatory offenses
36 of criminal attempt, solicitation, or conspiracy, count each prior
37 conviction as if the present conviction were for a completed offense.
38 When these convictions are used as criminal history, score them the
39 same as a completed crime.

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

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

11 (9) If the present conviction is for a serious violent offense,
12 count three points for prior adult and juvenile convictions for crimes
13 in this category, two points for each prior adult and juvenile violent
14 conviction (not already counted), one point for each prior adult
15 nonviolent felony conviction, and 1/2 point for each prior juvenile
16 nonviolent felony conviction.

17 (10) If the present conviction is for Burglary 1, count prior
18 convictions as in subsection (8) of this section; however count two
19 points for each prior adult Burglary 2 or residential burglary
20 conviction, and one point for each prior juvenile Burglary 2 or
21 residential burglary conviction.

22 (11) If the present conviction is for a felony traffic offense
23 count two points for each adult or juvenile prior conviction for
24 Vehicular Homicide or Vehicular Assault; for each felony offense count
25 one point for each adult and 1/2 point for each juvenile prior
26 conviction; for each serious traffic offense, other than those used for
27 an enhancement pursuant to RCW 46.61.520(2), count one point for each
28 adult and 1/2 point for each juvenile prior conviction.

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

37 (13) If the present conviction is for Escape from Community
38 Custody, RCW 72.09.310, count only prior escape convictions in the

1 offender score. Count adult prior escape convictions as one point and
2 juvenile prior escape convictions as 1/2 point.

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

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

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

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

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

19 (1) The criminal justice treatment account is created in the state
20 treasury. Moneys in the account may be expended solely for: (a)
21 Substance abuse treatment for offenders with an addiction or a
22 substance abuse problem that, if not treated, would result in
23 addiction, against whom charges are filed by a prosecuting attorney in
24 Washington state; and (b) the provision of drug and alcohol services
25 for nonviolent offenders within a drug court program. Moneys in the
26 account may be spent only after appropriation.

27 (2) Revenues to the criminal justice treatment account consist of:
28 (a) Savings to the state general fund resulting from reductions in drug
29 offender sentencing as a result of sections 2 and 3, chapter . . . ,
30 Laws of 2002 (sections 2 and 3 of this act), as calculated pursuant to
31 this section; and (b) any other revenues appropriated to or deposited
32 in the account.

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

1 methodology shall be submitted to the governor and the appropriate
2 committees of the legislature. The methodology is deemed approved
3 unless the legislature enacts legislation to modify or reject the
4 methodology.

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

16 (c) For the fiscal biennium beginning July 1, 2003, and each fiscal
17 biennium thereafter, the state treasurer shall transfer seventy-five
18 percent of the amount reported in (b) of this subsection from the
19 general fund into the criminal justice treatment account, divided into
20 eight equal quarterly payments.

21 (d) For the fiscal biennium beginning July 1, 2003, and each
22 biennium thereafter, the state treasurer shall transfer twenty-five
23 percent of the amount reported in (b) of this subsection from the
24 general fund into the violence reduction and drug enforcement account,
25 divided into eight quarterly payments. The amounts transferred
26 pursuant to this subsection (3)(d) shall be used solely for providing
27 drug and alcohol treatment services to offenders receiving a reduced
28 sentence as a result of sections 2 and 3, chapter . . . , Laws of 2002
29 (sections 2 and 3 of this act) and who are assessed with an addiction
30 or a substance abuse problem that if not treated would result in
31 addiction. Any excess funds remaining after providing drug and alcohol
32 treatment services to offenders receiving a reduced sentence as a
33 result of sections 2 and 3, chapter . . . , Laws of 2002 (sections 2 and
34 3 of this act) may be expended to provide treatment for sex or violent
35 offenders confined in a state correctional facility and who are
36 assessed with an addiction or a substance abuse problem that
37 contributed to the crime.

38 (e) In each odd-numbered year, the legislature shall appropriate
39 the amount transferred to the criminal justice treatment account in (c)

1 of this subsection to the division of alcohol and substance abuse for
2 the purposes of subsection (4) of this section.

3 (4) Moneys appropriated to the division of alcohol and substance
4 abuse from the criminal justice treatment account shall be distributed
5 as specified in this subsection. The department shall serve as the
6 fiscal agent for purposes of distribution.

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

21 (b) Thirty percent of the amounts appropriated to the division from
22 the account shall be distributed as grants for purposes of treating
23 offenders against whom charges are filed by a county prosecuting
24 attorney. The division shall appoint a panel of representatives from
25 the Washington association of prosecuting attorneys, the Washington
26 association of sheriffs and police chiefs, the superior court judges'
27 association, the Washington state association of counties, the
28 Washington defender's association or the Washington association of
29 criminal defense lawyers, the department of corrections, substance
30 abuse treatment providers, and the division. The panel shall award the
31 grants to eligible counties or groups of counties that have submitted
32 plans pursuant to (a) of this subsection and shall approve expenditure
33 plans for grant funds. The panel shall attempt to ensure that
34 treatment as funded by the grants is available to offenders statewide.

35 (5) The county chemical dependency specialist, county prosecutor,
36 county sheriff, county superior court, a substance abuse treatment
37 provider appointed by the county legislative authority, and a member of
38 the criminal defense bar appointed by the county legislative authority
39 shall jointly submit a plan, approved by the county legislative

1 authority or authorities, to the panel established in subsection (4)(b)
2 of this section, for disposition of all the funds provided from the
3 criminal justice treatment account within that county. The funds shall
4 be used solely to provide approved alcohol and substance abuse
5 treatment pursuant to RCW 70.96A.090.

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

9 (7) Moneys allocated under this section shall be used to
10 supplement, not supplant, other federal, state, and local funds used
11 for substance abuse treatment.

12 (8) Counties must meet the criteria established in RCW
13 2.28.170(3)(b).

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

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

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

20 The department of social and health services shall annually review
21 and monitor the expenditures made by any county or group of counties
22 which is funded, in whole or in part, with funds provided by this act.
23 Counties shall repay any funds that are not spent in accordance with
24 the requirements of this act.

25 **Sec. 7.** RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300 s
26 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended to
27 read as follows:

28 TABLE 2

29 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

30	XVI	Aggravated Murder 1 (RCW 10.95.020)
31	XV	Homicide by abuse (RCW 9A.32.055)
32		Malicious explosion 1 (RCW 70.74.280(1))
33		Murder 1 (RCW 9A.32.030)
34	XIV	Murder 2 (RCW 9A.32.050)

1 XIII Malicious explosion 2 (RCW 70.74.280(2))
2 Malicious placement of an explosive 1 (RCW
3 70.74.270(1))

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

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

13 X Child Molestation 1 (RCW 9A.44.083)
14 Indecent Liberties (with forcible
15 compulsion) (RCW 9A.44.100(1)(a))
16 Kidnapping 1 (RCW 9A.40.020)
17 Leading Organized Crime (RCW
18 9A.82.060(1)(a))
19 Malicious explosion 3 (RCW 70.74.280(3))
20 (~~Manufacture of methamphetamine (RCW~~
21 ~~69.50.401(a)(1)(ii))~~
22 ~~Over 18 and deliver heroin,~~
23 ~~methamphetamine, a narcotic from~~
24 ~~Schedule I or II, or flunitrazepam~~
25 ~~from Schedule IV to someone under 18~~
26 ~~(RCW 69.50.406))~~)
27 Sexually Violent Predator Escape (RCW
28 9A.76.115)

29 IX Assault of a Child 2 (RCW 9A.36.130)
30 (~~Controlled Substance Homicide (RCW~~
31 ~~69.50.415))~~)
32 Explosive devices prohibited (RCW
33 70.74.180)
34 Hit and Run--Death (RCW 46.52.020(4)(a))
35 Homicide by Watercraft, by being under the
36 influence of intoxicating liquor or
37 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~~
6 ~~Schedule III, IV, or V or a~~
7 ~~nonnarcotic, except flunitrazepam or~~
8 ~~methamphetamine, from Schedule I-V to~~
9 ~~someone under 18 and 3 years junior~~
10 ~~(RCW 69.50.406))~~)
11 Robbery 1 (RCW 9A.56.200)
12 Sexual Exploitation (RCW 9.68A.040)
13 Vehicular Homicide, by being under the
14 influence of intoxicating liquor or
15 any drug (RCW 46.61.520)

16 VIII Arson 1 (RCW 9A.48.020)
17 (~~Deliver or possess with intent to deliver~~
18 ~~methamphetamine (RCW~~
19 ~~69.50.401(a)(1)(ii))~~)
20 Homicide by Watercraft, by the operation of
21 any vessel in a reckless manner (RCW
22 79A.60.050)
23 Manslaughter 2 (RCW 9A.32.070)
24 (~~Manufacture, deliver, or possess with~~
25 ~~intent to deliver amphetamine (RCW~~
26 ~~69.50.401(a)(1)(ii))~~)
27 ~~Manufacture, deliver, or possess with~~
28 ~~intent to deliver heroin or cocaine~~
29 ~~(RCW 69.50.401(a)(1)(i))~~)
30 ~~Possession of Ephedrine, Pseudoephedrine,~~
31 ~~or Anhydrous Ammonia with intent to~~
32 ~~manufacture methamphetamine (RCW~~
33 ~~69.50.440))~~)
34 Promoting Prostitution 1 (RCW 9A.88.070)
35 (~~Selling for profit (controlled or~~
36 ~~counterfeit) any controlled substance~~
37 ~~(RCW 69.50.410))~~)
38 Theft of Anhydrous Ammonia (RCW 69.55.010)

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

4 VII Burglary 1 (RCW 9A.52.020)
5 Child Molestation 2 (RCW 9A.44.086)
6 Dealing in depictions of minor engaged in
7 sexually explicit conduct (RCW
8 9.68A.050)
9 Drive-by Shooting (RCW 9A.36.045)
10 Homicide by Watercraft, by disregard for
11 the safety of others (RCW 79A.60.050)
12 Indecent Liberties (without forcible
13 compulsion) (RCW 9A.44.100(1) (b) and
14 (c))
15 Introducing Contraband 1 (RCW 9A.76.140)
16 (~~(Involving a minor in drug dealing (RCW~~
17 ~~69.50.401(f)))~~)
18 Malicious placement of an explosive 3 (RCW
19 70.74.270(3))
20 Sending, bringing into state depictions of
21 minor engaged in sexually explicit
22 conduct (RCW 9.68A.060)
23 Unlawful Possession of a Firearm in the
24 first degree (RCW 9.41.040(1)(a))
25 Use of a Machine Gun in Commission of a
26 Felony (RCW 9.41.225)
27 Vehicular Homicide, by disregard for the
28 safety of others (RCW 46.61.520)

29 VI Bail Jumping with Murder 1 (RCW
30 9A.76.170(3)(a))
31 Bribery (RCW 9A.68.010)
32 Incest 1 (RCW 9A.64.020(1))
33 Intimidating a Judge (RCW 9A.72.160)
34 Intimidating a Juror/Witness (RCW
35 9A.72.110, 9A.72.130)
36 Malicious placement of an imitation device
37 2 (RCW 70.74.272(1)(b))

1 ((Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule I or II (except heroin or
4 cocaine) or flunitrazepam from
5 Schedule IV (RCW 69.50.401(a)(1)(i)))
6 Rape of a Child 3 (RCW 9A.44.079)
7 Theft of a Firearm (RCW 9A.56.300)
8 Unlawful Storage of Anhydrous Ammonia (RCW
9 69.55.020)

10 V Abandonment of dependent person 1 (RCW
11 9A.42.060)
12 Advancing money or property for
13 extortionate extension of credit (RCW
14 9A.82.030)
15 Bail Jumping with class A Felony (RCW
16 9A.76.170(3)(b))
17 Child Molestation 3 (RCW 9A.44.089)
18 Criminal Mistreatment 1 (RCW 9A.42.020)
19 Custodial Sexual Misconduct 1 (RCW
20 9A.44.160)
21 ((Delivery of imitation controlled
22 substance by person eighteen or over
23 to person under eighteen (RCW
24 69.52.030(2))))
25 Domestic Violence Court Order Violation
26 (RCW 10.99.040, 10.99.050, 26.09.300,
27 26.10.220, 26.26.138, 26.50.110,
28 26.52.070, or 74.34.145)
29 Extortion 1 (RCW 9A.56.120)
30 Extortionate Extension of Credit (RCW
31 9A.82.020)
32 Extortionate Means to Collect Extensions of
33 Credit (RCW 9A.82.040)
34 Incest 2 (RCW 9A.64.020(2))
35 Kidnapping 2 (RCW 9A.40.030)
36 Perjury 1 (RCW 9A.72.020)
37 Persistent prison misbehavior (RCW
38 9.94.070)

1 Possession of a Stolen Firearm (RCW
2 9A.56.310)
3 Rape 3 (RCW 9A.44.060)
4 Rendering Criminal Assistance 1 (RCW
5 9A.76.070)
6 Sexual Misconduct with a Minor 1 (RCW
7 9A.44.093)
8 Sexually Violating Human Remains (RCW
9 9A.44.105)
10 Stalking (RCW 9A.46.110)
11 IV Arson 2 (RCW 9A.48.030)
12 Assault 2 (RCW 9A.36.021)
13 Assault by Watercraft (RCW 79A.60.060)
14 Bribing a Witness/Bribe Received by Witness
15 (RCW 9A.72.090, 9A.72.100)
16 Commercial Bribery (RCW 9A.68.060)
17 Counterfeiting (RCW 9.16.035(4))
18 Escape 1 (RCW 9A.76.110)
19 Hit and Run--Injury (RCW 46.52.020(4)(b))
20 Hit and Run with Vessel--Injury Accident
21 (RCW 79A.60.200(3))
22 Identity Theft 1 (RCW 9.35.020(2)(a))
23 Indecent Exposure to Person Under Age
24 Fourteen (subsequent sex offense) (RCW
25 9A.88.010)
26 Influencing Outcome of Sporting Event (RCW
27 9A.82.070)
28 Knowingly Trafficking in Stolen Property
29 (RCW 9A.82.050(2))
30 Malicious Harassment (RCW 9A.36.080)
31 (~~(Manufacture, deliver, or possess with~~
32 ~~intent to deliver narcotics from~~
33 ~~Schedule III, IV, or V or nonnarcotics~~
34 ~~from Schedule I-V (except marijuana,~~
35 ~~amphetamine, methamphetamines, or~~
36 ~~flunitrazepam) (RCW 69.50.401(a)(1)~~
37 ~~(iii) through (v)))~~)
38 Residential Burglary (RCW 9A.52.025)
39 Robbery 2 (RCW 9A.56.210)

1 Theft of Livestock 1 (RCW 9A.56.080)
2 Threats to Bomb (RCW 9.61.160)
3 Use of Proceeds of Criminal Profiteering
4 (RCW 9A.82.080 (1) and (2))
5 Vehicular Assault, by being under the
6 influence of intoxicating liquor or
7 any drug, or by the operation or
8 driving of a vehicle in a reckless
9 manner (RCW 46.61.522)
10 Willful Failure to Return from Furlough
11 (RCW 72.66.060)

12 III Abandonment of dependent person 2 (RCW
13 9A.42.070)
14 Assault 3 (RCW 9A.36.031)
15 Assault of a Child 3 (RCW 9A.36.140)
16 Bail Jumping with class B or C Felony (RCW
17 9A.76.170(3)(c))
18 Burglary 2 (RCW 9A.52.030)
19 Communication with a Minor for Immoral
20 Purposes (RCW 9.68A.090)
21 Criminal Gang Intimidation (RCW 9A.46.120)
22 Criminal Mistreatment 2 (RCW 9A.42.030)
23 Custodial Assault (RCW 9A.36.100)
24 ~~((Delivery of a material in lieu of a~~
25 ~~controlled substance (RCW~~
26 ~~69.50.401(c)))~~
27 Escape 2 (RCW 9A.76.120)
28 Extortion 2 (RCW 9A.56.130)
29 Harassment (RCW 9A.46.020)
30 Intimidating a Public Servant (RCW
31 9A.76.180)
32 Introducing Contraband 2 (RCW 9A.76.150)
33 ~~((Maintaining a Dwelling or Place for~~
34 ~~Controlled Substances (RCW~~
35 ~~69.50.402(a)(6)))~~
36 Malicious Injury to Railroad Property (RCW
37 81.60.070)

1 (~~(Manufacture, deliver, or possess with~~
2 ~~intent to deliver marijuana (RCW~~
3 ~~69.50.401(a)(1)(iii))~~
4 ~~Manufacture, distribute, or possess with~~
5 ~~intent to distribute an imitation~~
6 ~~controlled substance (RCW~~
7 ~~69.52.030(1))~~
8 Patronizing a Juvenile Prostitute (RCW
9 9.68A.100)
10 Perjury 2 (RCW 9A.72.030)
11 Possession of Incendiary Device (RCW
12 9.40.120)
13 Possession of Machine Gun or Short-Barreled
14 Shotgun or Rifle (RCW 9.41.190)
15 Promoting Prostitution 2 (RCW 9A.88.080)
16 Recklessly Trafficking in Stolen Property
17 (RCW 9A.82.050(1))
18 Securities Act violation (RCW 21.20.400)
19 Tampering with a Witness (RCW 9A.72.120)
20 Telephone Harassment (subsequent conviction
21 or threat of death) (RCW 9.61.230)
22 Theft of Livestock 2 (RCW 9A.56.080)
23 Unlawful Imprisonment (RCW 9A.40.040)
24 Unlawful possession of firearm in the
25 second degree (RCW 9.41.040(1)(b))
26 Unlawful Use of Building for Drug Purposes
27 (RCW 69.53.010)
28 Vehicular Assault, by the operation or
29 driving of a vehicle with disregard
30 for the safety of others (RCW
31 46.61.522)
32 Willful Failure to Return from Work Release
33 (RCW 72.65.070)
34 II Computer Trespass 1 (RCW 9A.52.110)
35 Counterfeiting (RCW 9.16.035(3))
36 (~~(Create, deliver, or possess a counterfeit~~
37 ~~controlled substance (RCW~~
38 ~~69.50.401(b))~~)

1 Escape from Community Custody (RCW
2 72.09.310)
3 Health Care False Claims (RCW 48.80.030)
4 Identity Theft 2 (RCW 9.35.020(2)(b))
5 Improperly Obtaining Financial Information
6 (RCW 9.35.010)
7 Malicious Mischief 1 (RCW 9A.48.070)
8 ~~((Possession of controlled substance that
9 is either heroin or narcotics from
10 Schedule I or II or flunitrazepam from
11 Schedule IV (RCW 69.50.401(d))
12 Possession of phencyclidine (PCP) (RCW
13 69.50.401(d))))~~
14 Possession of Stolen Property 1 (RCW
15 9A.56.150)
16 Theft 1 (RCW 9A.56.030)
17 Theft of Rental, Leased, or Lease-purchased
18 Property (valued at one thousand five
19 hundred dollars or more) (RCW
20 9A.56.096(4))
21 Trafficking in Insurance Claims (RCW
22 48.30A.015)
23 Unlawful Practice of Law (RCW 2.48.180)
24 Unlicensed Practice of a Profession or
25 Business (RCW 18.130.190(7))
26 I Attempting to Elude a Pursuing Police
27 Vehicle (RCW 46.61.024)
28 False Verification for Welfare (RCW
29 74.08.055)
30 ~~((Forged Prescription (RCW 69.41.020)
31 Forged Prescription for a Controlled
32 Substance (RCW 69.50.403))))~~
33 Forgery (RCW 9A.60.020)
34 Malicious Mischief 2 (RCW 9A.48.080)
35 ~~((Possess Controlled Substance that is a
36 Narcotic from Schedule III, IV, or V
37 or Non-narcotic from Schedule I-V
38 (except phencyclidine or
39 flunitrazepam) (RCW 69.50.401(d))))~~

1 Possession of Stolen Property 2 (RCW
 2 9A.56.160)
 3 Reckless Burning 1 (RCW 9A.48.040)
 4 Taking Motor Vehicle Without Permission
 5 (RCW 9A.56.070)
 6 Theft 2 (RCW 9A.56.040)
 7 Theft of Rental, Leased, or Lease-purchased
 8 Property (valued at two hundred fifty
 9 dollars or more but less than one
 10 thousand five hundred dollars) (RCW
 11 9A.56.096(4))
 12 Unlawful Issuance of Checks or Drafts (RCW
 13 9A.56.060)
 14 Unlawful Use of Food Stamps (RCW 9.91.140
 15 (2) and (3))
 16 Vehicle Prowl 1 (RCW 9A.52.095)

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

19 (1) TABLE 3

20 DRUG OFFENSE SENTENCING GRID

21 Seriousness	Offender Score	Offender Score	Offender Score
22 Level	0 to 2	3 to 5	6 to 9 or more
23 III	51 to 68 months	68 to 100 months	100 to 120 months
24	Option 1: DOSA	Option 1: DOSA	Option 1: DOSA
25	Option 2: Standard Sentence Range	Option 2: Standard Sentence Range	Option 2: Standard Sentence Range
26 II	12+ to 20 months	20 to 60 months	60 to 120 months
27	Option 1: Drug Court	Option 1: DOSA	Option 1: DOSA
28	Option 2: DOSA	Option 2: Standard Sentence Range	Option 2: Standard Sentence Range
29	Option 3: Standard Sentence Range		
30 I	0 to 6 months	6 to 18 months	12+ to 24 months
31	Option 1: Drug Court	Option 1: Drug Court	Option 1: Drug Court
32	Option 2: Standard Sentence Range	Option 2: DOSA	Option 2: DOSA
33		Option 3: Standard Sentence Range	Option 3: Standard Sentence Range

34 References to months represent the standard sentence ranges. 12+
 35 equals one year and one day. "DOSA" means the drug offender sentencing
 36 alternative.

1 (2) The options set forth in subsection (1) of this section are not
2 exclusive and the court may also impose any other sanctions authorized
3 by law.

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

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

8 TABLE 4

9 DRUG OFFENSES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

10 III Any felony offense under chapter 69.50 RCW
11 with a deadly weapon special verdict
12 under RCW 9.94A.602
13 Controlled Substance Homicide (RCW
14 69.50.415)
15 Delivery of imitation controlled substance
16 by person eighteen or over to person
17 under eighteen (RCW 69.52.030(2))
18 Involving a minor in drug dealing (RCW
19 69.50.401(f))
20 Manufacture of methamphetamine (RCW
21 69.50.401(a)(1)(ii))
22 Over 18 and deliver heroin,
23 methamphetamine, a narcotic from
24 Schedule I or II, or flunitrazepam
25 from Schedule IV to someone under 18
26 (RCW 69.50.406)
27 Over 18 and deliver narcotic from Schedule
28 III, IV, or V or a nonnarcotic, except
29 flunitrazepam or methamphetamine, from
30 Schedule I-V to someone under 18 and 3
31 years junior (RCW 69.50.406)
32 Possession of Ephedrine, Pseudoephedrine,
33 or Anhydrous Ammonia with intent to
34 manufacture methamphetamine (RCW
35 69.50.440)

1 Selling for profit (controlled or
2 counterfeit) any controlled substance
3 (RCW 69.50.410)

4 II Create, deliver, or possess a counterfeit
5 controlled substance (RCW
6 69.50.401(b))

7 Deliver or possess with intent to deliver
8 methamphetamine (RCW
9 69.50.401(a)(1)(ii))

10 Delivery of a material in lieu of a
11 controlled substance (RCW
12 69.50.401(c))

13 Maintaining a Dwelling or Place for
14 Controlled Substances (RCW
15 69.50.402(a)(6))

16 Manufacture, deliver, or possess with
17 intent to deliver amphetamine (RCW
18 69.50.401(a)(1)(ii))

19 Manufacture, deliver, or possess with
20 intent to deliver narcotics from
21 Schedule I or II or flunitrazepam from
22 Schedule IV (RCW 69.50.401(a)(1)(i))

23 Manufacture, deliver, or possess with
24 intent to deliver narcotics from
25 Schedule III, IV, or V or nonnarcotics
26 from Schedule I-V (except marijuana,
27 amphetamine, methamphetamines, or
28 flunitrazepam) (RCW 69.50.401(a)(1)
29 (iii) through (v))

30 Manufacture, distribute, or possess with
31 intent to distribute an imitation
32 controlled substance (RCW
33 69.52.030(1))

34 I Forged Prescription (RCW 69.41.020)

35 Forged Prescription for a Controlled
36 Substance (RCW 69.50.403)

1 Manufacture, deliver, or possess with
 2 intent to deliver marijuana (RCW
 3 69.50.401(a)(1)(iii))
 4 Possess Controlled Substance that is a
 5 Narcotic from Schedule III, IV, or V
 6 or Non-narcotic from Schedule I-V (RCW
 7 69.50.401(d))
 8 Possession of Controlled Substance that is
 9 either heroin or narcotics from
 10 Schedule I or II (RCW 69.50.401(d))

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

13 ((~~1~~)) TABLE 1
 14 Sentencing Grid

SERIOUSNESS LEVEL		OFFENDER SCORE								
		0	1	2	3	4	5	6	7	8
XVI	Life Sentence without Parole/Death Penalty									
XV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
	320	333	347	361	374	388	416	450	493	548
XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	220	234	244	254	265	275	295	316	357	397
XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	164	178	192	205	219	233	260	288	342	397
XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
	93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
	123	136	147	160	171	184	216	236	277	318
XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
	78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
	102	114	125	136	147	158	194	211	245	280

1	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
2		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
3		68	75	82	89	96	102	130	144	171	198
4											
5	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
6		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
7		41	48	54	61	68	75	102	116	144	171
8											
9	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
10		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
11		27	34	41	48	54	61	89	102	116	144
12											
13	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
14		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
15		20	27	34	41	48	54	75	89	102	116
16											
17	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
18		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
19		14	20	27	34	41	48	61	75	89	102
20											
21	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
22		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
23		12	14	17	20	29	43	54	68	82	96
24											
25	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
26		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
27		9	12	14	17	20	29	43	57	70	84
28											
29	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
30		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
31		3	8	12	12	16	22	29	43	57	68
32											
33	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
34		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
35		Days	6	9	12	14	18	22	29	43	57
36											
37	I			3m	4m	5m	8m	13m	16m	20m	2y2m
38		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
39		Days	Days	5	6	8	12	14	18	22	29
40											

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

45 ~~((2) For persons convicted of the anticipatory offenses of~~
46 ~~criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW,~~
47 ~~the standard sentence range is determined by locating the sentencing~~
48 ~~grid sentence range defined by the appropriate offender score and the~~

1 seriousness level of the completed crime, and multiplying the range by
2 75 percent.

3 (3) The following additional times shall be added to the standard
4 sentence range for felony crimes committed after July 23, 1995, if the
5 offender or an accomplice was armed with a firearm as defined in RCW
6 9.41.010 and the offender is being sentenced for one of the crimes
7 listed in this subsection as eligible for any firearm enhancements
8 based on the classification of the completed felony crime. If the
9 offender is being sentenced for more than one offense, the firearm
10 enhancement or enhancements must be added to the total period of
11 confinement for all offenses, regardless of which underlying offense is
12 subject to a firearm enhancement. If the offender or an accomplice was
13 armed with a firearm as defined in RCW 9.41.010 and the offender is
14 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
15 commit one of the crimes listed in this subsection as eligible for any
16 firearm enhancements, the following additional times shall be added to
17 the standard sentence range determined under subsection (2) of this
18 section based on the felony crime of conviction as classified under RCW
19 9A.28.020:

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

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

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

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

36 (e) Notwithstanding any other provision of law, all firearm
37 enhancements under this section are mandatory, shall be served in total
38 confinement, and shall run consecutively to all other sentencing
39 provisions, including other firearm or deadly weapon enhancements, for

1 all offenses sentenced under this chapter. However, whether or not a
2 mandatory minimum term has expired, an offender serving a sentence
3 under this subsection may be granted an extraordinary medical placement
4 when authorized under RCW 9.94A.728(4).

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

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

17 (4) The following additional times shall be added to the standard
18 sentence range for felony crimes committed after July 23, 1995, if the
19 offender or an accomplice was armed with a deadly weapon other than a
20 firearm as defined in RCW 9.41.010 and the offender is being sentenced
21 for one of the crimes listed in this subsection as eligible for any
22 deadly weapon enhancements based on the classification of the completed
23 felony crime. If the offender is being sentenced for more than one
24 offense, the deadly weapon enhancement or enhancements must be added to
25 the total period of confinement for all offenses, regardless of which
26 underlying offense is subject to a deadly weapon enhancement. 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 an anticipatory offense under chapter 9A.28 RCW to commit one of
30 the crimes listed in this subsection as eligible for any deadly weapon
31 enhancements, the following additional times shall be added to the
32 standard sentence range determined under subsection (2) of this section
33 based on the felony crime of conviction as classified under RCW
34 9A.28.020:

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

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

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

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

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

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

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

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

1 and the offender is being sentenced for an anticipatory offense under
2 chapter 9A.28 RCW to commit one of the crimes listed in this
3 subsection, the following additional times shall be added to the
4 standard sentence range determined under subsection (2) of this
5 section:

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

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

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

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

14 (6) ~~An additional twenty four months shall be added to the standard~~
15 ~~sentence range for any ranked offense involving a violation of chapter~~
16 ~~69.50 RCW if the offense was also a violation of RCW 69.50.435 or~~
17 ~~9.94A.605.~~

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

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

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

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

32 (3) The following additional times shall be added to the standard
33 sentence range for felony crimes committed after July 23, 1995, if the
34 offender or an accomplice was armed with a firearm as defined in RCW
35 9.41.010 and the offender is being sentenced for one of the crimes
36 listed in this subsection as eligible for any firearm enhancements
37 based on the classification of the completed felony crime. If the
38 offender is being sentenced for more than one offense, the firearm

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

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

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

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

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

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

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

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

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

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

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

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

35 (d) If the offender is being sentenced under (a), (b), and/or (c)
36 of this subsection for any deadly weapon enhancements and the offender
37 has previously been sentenced for any deadly weapon enhancements after
38 July 23, 1995, under (a), (b), and/or (c) of this subsection or
39 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly

1 weapon enhancements under this subsection shall be twice the amount of
2 the enhancement listed;

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

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

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

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

34 (a) Eighteen months for offenses committed under RCW
35 69.50.401(a)(1) (i) or (ii) or 69.50.410;

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

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

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

4 (6) An additional twenty-four months shall be added to the standard
5 sentence range for any ranked offense involving a violation of chapter
6 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
7 9.94A.605.

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

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

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

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

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

19 (c) A superior court judge, selected by the superior court judges
20 association;

21 (d) A prosecuting attorney, selected by the Washington association
22 of prosecuting attorneys;

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

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

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

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

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

32 (j) A representative from the governor's office of financial
33 management;

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

35 (l) A representative from the association of Washington counties;

36 (m) A chemical dependency treatment provider; and

37 (n) A representative from the association of drug court
38 professionals.

1 (3) The chair of the committee shall be chosen by the members of
2 the committee.

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

7 (a) Establish a methodology of determining the fiscal consequences
8 to the state and local governments, including the calculation of
9 savings to be dedicated to substance abuse treatment, resulting from
10 the implementation of the grid and any recommended revisions to the
11 grid;

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

14 (c) Consider the proportionality of sentencing based on the
15 quantity of controlled substances;

16 (d) Examine methods for addressing issues of racial
17 disproportionality in sentencing;

18 (e) Recommend a statewide method of evaluating the success of drug
19 courts in terms of reducing recidivism and increasing the number of
20 persons who participate in drug court programs and remain free of
21 substance abuse;

22 (f) Review and make any appropriate revisions in statewide criteria
23 for funding substance abuse treatment programs for defendants and
24 offenders; and

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

28 (5) The committee shall complete its review and submit its
29 recommendations to the legislature and governor not later than June 1,
30 2003.

31 (6) The staff of the legislature, the sentencing guidelines
32 commission, and the caseload forecast council shall provide support to
33 the committee.

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

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

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

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

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

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

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

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

21 (b) Any county that establishes a drug court pursuant to this
22 section shall establish minimum requirements for the participation of
23 offenders in the program. The drug court may adopt local requirements
24 that are more stringent than the minimum. The minimum requirements
25 are:

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

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

29 (iii) Without regard to whether proof of any of these elements is
30 required to convict, the offender is not currently charged with or
31 convicted of an offense during the course of which the offender:

32 (A) Carried, possessed, or used a firearm or other dangerous
33 weapon;

34 (B) Used force against another person;

35 (C) Caused substantial or great bodily harm to any person; or

36 (D) Caused the death of another person.

37 (4) The drug court shall have the discretion to admit or deny a
38 person's entry into drug court regardless of whether the person meets

1 the criteria set forth in subsection (3)(b) of this section. A
2 decision to admit or deny entry shall not be appealable.

3 (5) If a court finds that the offender meets the criteria for entry
4 into drug court, the court on its own motion, or the motion of the
5 state or the offender, may admit the defendant into drug court.

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

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

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

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

- 23 (1) Any violent offense as defined in this chapter;
24 (2) Any most serious offense as defined in this chapter;
25 (3) Any felony with a deadly weapon special verdict under RCW
26 9.94A.602;
27 (4) Any felony with any deadly weapon enhancements under ((~~RCW~~
28 ~~9.94A.510~~)) section 11 (3) or (4) of this act, or both; and/or
29 (5) The felony crimes of possession of a machine gun, possessing a
30 stolen firearm, drive-by shooting, theft of a firearm, unlawful
31 possession of a firearm in the first or second degree, and/or use of a
32 machine gun in a felony.

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

35 (1) A current, newly created or reworked judgment and sentence
36 document for each felony sentencing shall record any and all

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

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

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

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

19 (c) Any felony with any deadly weapon special verdict under RCW
20 9.94A.602;

21 (d) Any felony with any deadly weapon enhancements under ((RCW
22 9.94A.510)) section 11 (3) or (4) of this act, or both; and/or

23 (e) The felony crimes of possession of a machine gun, possessing a
24 stolen firearm, drive-by shooting, theft of a firearm, unlawful
25 possession of a firearm in the first or second degree, and/or use of a
26 machine gun in a felony.

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

37 (4) Any and all felony sentences which are either above or below
38 the standard or presumptive sentence range in subsection (3) of this
39 section shall also mark whether the prosecuting attorney in the case

1 also recommended a similar sentence, if any, which was either above or
2 below the presumptive sentence range and shall also indicate if the
3 sentence was in conjunction with an approved alternative sentencing
4 option including a first-time offender waiver, sex offender sentencing
5 alternative, or other prescribed sentencing option.

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

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

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

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

19 (i) Unless another term of confinement applies, the court shall
20 impose a sentence within the standard sentence range established in RCW
21 9.94A.510 or section 8 of this act;

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

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

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

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

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

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

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

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

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

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

35 (xii) RCW 9.94A.589, relating to consecutive and concurrent
36 sentences.

37 (b) If a standard sentence range has not been established for the
38 offender's crime, the court shall impose a determinate sentence which

1 may include not more than one year of confinement; community service
2 work; until July 1, 2000, a term of community supervision not to exceed
3 one year and on and after July 1, 2000, a term of community custody not
4 to exceed one year, subject to conditions and sanctions as authorized
5 in RCW 9.94A.710 (2) and (3); and/or other legal financial obligations.
6 The court may impose a sentence which provides more than one year of
7 confinement if the court finds reasons justifying an exceptional
8 sentence as provided in RCW 9.94A.535.

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

15 (4) If a sentence imposed includes payment of a legal financial
16 obligation, it shall be imposed as provided in RCW 9.94A.750,
17 9.94A.753, and 9.94A.760.

18 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
19 court may not impose a sentence providing for a term of confinement or
20 community supervision, community placement, or community custody which
21 exceeds the statutory maximum for the crime as provided in chapter
22 9A.20 RCW.

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

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

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

32 (9) The court may order an offender whose sentence includes
33 community placement or community supervision to undergo a mental status
34 evaluation and to participate in available outpatient mental health
35 treatment, if the court finds that reasonable grounds exist to believe
36 that the offender is a mentally ill person as defined in RCW 71.24.025,
37 and that this condition is likely to have influenced the offense. An
38 order requiring mental status evaluation or treatment must be based on
39 a presentence report and, if applicable, mental status evaluations that

1 have been filed with the court to determine the offender's competency
2 or eligibility for a defense of insanity. The court may order
3 additional evaluations at a later date if deemed appropriate.

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

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

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

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

27 (2) In determining any sentence, the trial court may rely on no
28 more information than is admitted by the plea agreement, or admitted,
29 acknowledged, or proved in a trial or at the time of sentencing.
30 Acknowledgement includes not objecting to information stated in the
31 presentence reports. Where the defendant disputes material facts, the
32 court must either not consider the fact or grant an evidentiary hearing
33 on the point. The facts shall be deemed proved at the hearing by a
34 preponderance of the evidence. Facts that establish the elements of a
35 more serious crime or additional crimes may not be used to go outside
36 the standard sentence range except upon stipulation or when
37 specifically provided for in RCW 9.94A.535(2) (d), (e), (g), and (h).

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

3 (1) A sentence within the standard sentence range for the offense
4 shall not be appealed. Any sentence imposed under section 8 of this
5 act shall not be appealed. For purposes of this section, a sentence
6 imposed on a first-time offender under RCW 9.94A.650 shall also be
7 deemed to be within the standard sentence range for the offense and
8 shall not be appealed.

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

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

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

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

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

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

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

3 (1) An offender is eligible for the special drug offender
4 sentencing alternative if:

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

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

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

17 (d) The offender has not been found by the United States attorney
18 general to be subject to a deportation detainer or order and does not
19 become subject to a deportation order during the period of the
20 sentence.

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

34 The court shall also impose:

35 (a) The remainder of the midpoint of the standard range as a term
36 of community custody which must include appropriate substance abuse
37 treatment in a program that has been approved by the division of
38 alcohol and substance abuse of the department of social and health
39 services;

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

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

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

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

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

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

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

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

22 (v) Perform community service work;

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

24 (vii) Such other conditions as the court may require such as
25 affirmative conditions.

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

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

33 (b) If the department finds that the offender is subject to a valid
34 deportation order, the department may administratively terminate the
35 offender from the program and reclassify the offender to serve the
36 remaining balance of the original sentence.

37 (4) The department shall determine the rules for calculating the
38 value of a day fine based on the offender's income and reasonable
39 obligations which the offender has for the support of the offender and

1 any dependents. These rules shall be developed in consultation with
2 the administrator for the courts, the office of financial management,
3 and the commission.

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

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

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

21 (1) Except as otherwise provided for in subsection (2) of this
22 section, the term of the sentence of an offender committed to a
23 correctional facility operated by the department may be reduced by
24 earned release time in accordance with procedures that shall be
25 developed and promulgated by the correctional agency having
26 jurisdiction in which the offender is confined. The earned release
27 time shall be for good behavior and good performance, as determined by
28 the correctional agency having jurisdiction. The correctional agency
29 shall not credit the offender with earned release credits in advance of
30 the offender actually earning the credits. Any program established
31 pursuant to this section shall allow an offender to earn early release
32 credits for presentence incarceration. If an offender is transferred
33 from a county jail to the department, the administrator of a county
34 jail facility shall certify to the department the amount of time spent
35 in custody at the facility and the amount of earned release time. An
36 offender who has been convicted of a felony committed after July 23,
37 1995, that involves any applicable deadly weapon enhancements under
38 (~~RCW 9.94A.510~~) section 11 (3) or (4) of this act, or both, shall not

1 receive any good time credits or earned release time for that portion
2 of his or her sentence that results from any deadly weapon
3 enhancements. In the case of an offender convicted of a serious
4 violent offense, or a sex offense that is a class A felony, committed
5 on or after July 1, 1990, the aggregate earned release time may not
6 exceed fifteen percent of the sentence. In no other case shall the
7 aggregate earned release time exceed one-third of the total sentence;

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

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

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

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

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

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

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

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

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

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

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

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

17 (7) The governor may pardon any offender;

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

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

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

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

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

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

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

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

4 (ii) The intent of the legislature to emphasize confinement for the
5 violent offender and alternatives to confinement for the nonviolent
6 offender.

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

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

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

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

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

32 (f) Evaluate the effectiveness of existing disposition standards
33 and related statutes in implementing policies set forth in RCW
34 13.40.010 generally, specifically review the guidelines relating to the
35 confinement of minor and first-time offenders as well as the use of
36 diversion, and review the application of current and proposed juvenile
37 sentencing standards and guidelines for potential adverse impacts on
38 the sentencing outcomes of racial and ethnic minority youth;

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

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

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

18 (ii) The capacity of state and local juvenile and adult facilities
19 and resources; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (3) Any and all felony crimes requiring the possession, display, or
38 use of any deadly weapon as well as the many increased penalties for

1 these crimes including the creation of theft of a firearm and
2 possessing a stolen firearm;

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

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

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

11 NEW SECTION. **Sec. 24.** Nothing in this act creates an entitlement
12 for a criminal defendant to any specific sentence option or substance
13 abuse treatment.

14 NEW SECTION. **Sec. 25.** If specific funding for the purposes of
15 this act, referencing this act by bill or chapter number, is not
16 provided by June 30, 2002, in the omnibus appropriations act, this act
17 is null and void.

18 NEW SECTION. **Sec. 26.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

22 NEW SECTION. **Sec. 27.** Sections 2 and 3 of this act take effect
23 July 1, 2002, and apply to crimes committed on or after July 1, 2002.

24 NEW SECTION. **Sec. 28.** Section 2 of this act expires July 1, 2004.

25 NEW SECTION. **Sec. 29.** Sections 7 through 11 and 14 through 23 of
26 this act take effect July 1, 2004, and apply to crimes committed on or
27 after July 1, 2004.

28 NEW SECTION. **Sec. 30.** Sections 1, 4 through 6, 12, 13, 24, and 25
29 of this act are necessary for the immediate preservation of the public
30 peace, health, or safety, or support of the state government and its
31 existing public institutions, and take effect immediately.

1 NEW SECTION. **Sec. 31.** If specific funding for the purposes of
2 this act, referencing this act by bill or chapter number, is not
3 appropriated by the legislature for any future biennium, sections 2, 3,
4 7 through 11, and 14 through 16 of this act are null and void.

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