



1 (1) A term of confinement ordered in a sentence pursuant to this  
2 chapter shall be tolled by any period of time during which the offender  
3 has absented himself or herself from confinement without the prior  
4 approval of the entity in whose custody the offender has been placed.  
5 A term of partial confinement shall be tolled during any period of time  
6 spent in total confinement pursuant to a new conviction (~~or pursuant~~  
7 ~~to sanctions for violation of sentence conditions on a separate felony~~  
8 ~~conviction~~)).

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

13 (3)(a) For offenders other than sex offenders serving a sentence  
14 for a sex offense as defined in RCW 9.94A.030, any period of community  
15 custody shall be tolled during any period of time the offender is in  
16 confinement for any reason(~~(. However, if an)) unless the~~ offender is  
17 detained pursuant to RCW 9.94A.740 or 9.94A.631 (~~and is later found~~  
18 not to have violated a condition or requirement of community custody,  
19 time spent in confinement due to such detention shall not toll the  
20 period of community custody)) for the period of time prior to the  
21 hearing or for confinement pursuant to sanctions imposed for violation  
22 of sentence conditions, in which case, the period of community custody  
23 shall not toll. However, sanctions that result in the imposition of  
24 the remaining sentence or the original sentence will continue to toll  
25 the period of community custody. In addition, inpatient treatment  
26 ordered by the court in lieu of jail time shall not toll the period of  
27 community custody.

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

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

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

1       **Sec. 2.** RCW 9.94A.501 and 2010 c 267 s 10 and 2010 c 224 s 3 are  
2 each reenacted and amended to read as follows:

3       (1) The department shall supervise up to one year every offender  
4 (~~((convicted of a misdemeanor or gross misdemeanor offense who is))~~)  
5 sentenced to probation in superior court, pursuant to RCW 9.92.060,  
6 9.95.204, or 9.95.210, (~~((for an offense included in (a) and (b) of this~~  
7 ~~subsection. The superior court shall order probation for:~~

8       ~~(a) Offenders convicted of fourth degree assault, violation of a~~  
9 ~~domestic violence court order pursuant to RCW 10.99.040, 10.99.050,~~  
10 ~~26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145,~~  
11 ~~and who also have a prior conviction for one or more of the following:~~

12       ~~(i) A violent offense;~~

13       ~~(ii) A sex offense;~~

14       ~~(iii) A crime against a person as provided in RCW 9.94A.411;~~

15       ~~(iv) Fourth degree assault; or~~

16       ~~(v) Violation of a domestic violence court order; and~~

17       ~~(b) Offenders convicted of:~~

18       ~~(i) Sexual misconduct with a minor second degree;~~

19       ~~(ii) Custodial sexual misconduct second degree;~~

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

21       ~~(iv) Violation of RCW 9A.44.132(2) (failure to register))~~ and who

22 has:

23       (a) A current conviction for a repetitive domestic violence offense  
24 where domestic violence has been plead and proven after August 1, 2011;

25 and

26       (b) A prior conviction for a repetitive domestic violence offense  
27 or domestic violence felony offense where domestic violence has been  
28 plead and proven after August 1, 2011.

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

32       (3) The department shall supervise every felony offender sentenced  
33 to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk  
34 assessment(~~(, conducted pursuant to subsection (6) of this section,)~~)  
35 classifies the offender as one who is at a high risk to reoffend.

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

1 (a) Has a current conviction for a sex offense or a serious violent  
2 offense (~~(as defined in RCW 9.94A.030)~~) and was sentenced to a term of  
3 community custody pursuant to RCW 9.94A.701 or 9.94A.507;

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

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

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

11 (e) Has a current conviction for a domestic violence felony offense  
12 where domestic violence has been plead and proven after August 1, 2011,  
13 and a prior conviction for a repetitive domestic violence offense or  
14 domestic violence felony offense where domestic violence has been plead  
15 and proven after August 1, 2011;

16 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or  
17 9.94A.670; or

18 (~~(f)~~) (g) Is subject to supervision pursuant to RCW 9.94A.745.

19 (5) The department is not authorized to, and may not, supervise any  
20 offender sentenced to a term of community custody or any probationer  
21 unless the offender or probationer is one for whom supervision is  
22 required under (~~(subsection (1), (2), (3), or (4) of)~~) this section or  
23 section 3 of this act.

24 (6) The department shall conduct a risk assessment for every felony  
25 offender sentenced to a term of community custody who may be subject to  
26 supervision under this section or section 3 of this act.

27 NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW  
28 to read as follows:

29 (1) The department shall supervise every offender convicted prior  
30 to August 2, 2011, of a misdemeanor or gross misdemeanor offense who is  
31 sentenced to probation in superior court, pursuant to RCW 9.92.060,  
32 9.95.204, or 9.95.210, for an offense as provided in this subsection.  
33 The superior court shall order probation for offenders who have:

34 (a) A current conviction for fourth degree assault or violation of  
35 a domestic violence court order pursuant to RCW 10.99.040, 10.99.050,  
36 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145;  
37 and

- 1 (b) A prior conviction for one or more of the following:  
2 (i) A violent offense;  
3 (ii) A sex offense;  
4 (iii) A crime against a person as provided in RCW 9.94A.411;  
5 (iv) Fourth degree assault; or  
6 (v) Violation of a domestic violence court order.  
7 (2) This section expires August 1, 2014.

8 **Sec. 4.** RCW 9.94A.729 and 2010 c 224 s 7 are each amended to read  
9 as follows:

10 (1)(a) The term of the sentence of an offender committed to a  
11 correctional facility operated by the department may be reduced by  
12 earned release time in accordance with procedures that shall be  
13 developed and adopted by the correctional agency having jurisdiction in  
14 which the offender is confined. The earned release time shall be for  
15 good behavior and good performance, as determined by the correctional  
16 agency having jurisdiction. The correctional agency shall not credit  
17 the offender with earned release credits in advance of the offender  
18 actually earning the credits.

19 (b) Any program established pursuant to this section shall allow an  
20 offender to earn early release credits for presentence incarceration.  
21 If an offender is transferred from a county jail to the department, the  
22 administrator of a county jail facility shall certify to the department  
23 the amount of time spent in custody at the facility and the amount of  
24 earned release time. The department may approve a jail certification  
25 from a correctional agency that calculates earned release time based on  
26 the actual amount of confinement time served by the offender before  
27 sentencing when an erroneous calculation of confinement time served by  
28 the offender before sentencing appears on the judgment and sentence.

29 (2) An offender who has been convicted of a felony committed after  
30 July 23, 1995, that involves any applicable deadly weapon enhancements  
31 under RCW 9.94A.533 (3) or (4), or both, shall not receive any good  
32 time credits or earned release time for that portion of his or her  
33 sentence that results from any deadly weapon enhancements.

34 (3) An offender may earn early release time as follows:

35 (a) In the case of an offender convicted of a serious violent  
36 offense, or a sex offense that is a class A felony, committed on or

1 after July 1, 1990, and before July 1, 2003, the aggregate earned  
2 release time may not exceed fifteen percent of the sentence.

3 (b) In the case of an offender convicted of a serious violent  
4 offense, or a sex offense that is a class A felony, committed on or  
5 after July 1, 2003, the aggregate earned release time may not exceed  
6 ten percent of the sentence.

7 (c) An offender is qualified to earn up to fifty percent of  
8 aggregate earned release time if he or she:

9 (i) Is not classified as an offender who is at a high risk to  
10 reoffend as provided in subsection (4) of this section;

11 (ii) Is not confined pursuant to a sentence for:

12 (A) A sex offense;

13 (B) A violent offense;

14 (C) A crime against persons as defined in RCW 9.94A.411;

15 (D) A felony that is domestic violence as defined in RCW 10.99.020;

16 (E) A violation of RCW 9A.52.025 (residential burglary);

17 (F) A violation of, or an attempt, solicitation, or conspiracy to  
18 violate, RCW 69.50.401 by manufacture or delivery or possession with  
19 intent to deliver methamphetamine; or

20 (G) A violation of, or an attempt, solicitation, or conspiracy to  
21 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

22 (iii) Has no prior conviction for the offenses listed in (c)(ii) of  
23 this subsection;

24 (iv) Participates in programming or activities as directed by the  
25 offender's individual reentry plan as provided under RCW 72.09.270 to  
26 the extent that such programming or activities are made available by  
27 the department; and

28 (v) Has not committed a new felony after July 22, 2007, while under  
29 community custody.

30 (d) In no other case shall the aggregate earned release time exceed  
31 one-third of the total sentence.

32 (4) The department shall perform a risk assessment of each offender  
33 who may qualify for earned early release under subsection (3)(c) of  
34 this section utilizing the risk assessment tool recommended by the  
35 Washington state institute for public policy. Subsection (3)(c) of  
36 this section does not apply to offenders convicted after July 1, 2010.

37 (5)(a) A person who is eligible for earned early release as  
38 provided in this section and who (~~is convicted of a sex offense, a~~

1 ~~violent offense, any crime against persons under RCW 9.94A.411(2), or~~  
2 ~~a felony offense under chapter 69.50 or 69.52 RCW))~~ will be supervised  
3 by the department pursuant to RCW 9.94A.501 or section 3 of this act,  
4 shall be transferred to community custody in lieu of earned release  
5 time;

6 (b) The department shall, as a part of its program for release to  
7 the community in lieu of earned release, require the offender to  
8 propose a release plan that includes an approved residence and living  
9 arrangement. All offenders with community custody terms eligible for  
10 release to community custody in lieu of earned release shall provide an  
11 approved residence and living arrangement prior to release to the  
12 community;

13 (c) The department may deny transfer to community custody in lieu  
14 of earned release time if the department determines an offender's  
15 release plan, including proposed residence location and living  
16 arrangements, may violate the conditions of the sentence or conditions  
17 of supervision, place the offender at risk to violate the conditions of  
18 the sentence, place the offender at risk to reoffend, or present a risk  
19 to victim safety or community safety. The department's authority under  
20 this section is independent of any court-ordered condition of sentence  
21 or statutory provision regarding conditions for community custody;

22 (d) If the department is unable to approve the offender's release  
23 plan, the department may do one or more of the following:

24 (i) Transfer an offender to partial confinement in lieu of earned  
25 early release for a period not to exceed three months. The three  
26 months in partial confinement is in addition to that portion of the  
27 offender's term of confinement that may be served in partial  
28 confinement as provided in RCW 9.94A.728(5);

29 (ii) Provide rental vouchers to the offender for a period not to  
30 exceed three months if rental assistance will result in an approved  
31 release plan. The voucher must be provided in conjunction with  
32 additional transition support programming or services that enable an  
33 offender to participate in services including, but not limited to,  
34 substance abuse treatment, mental health treatment, sex offender  
35 treatment, educational programming, or employment programming;

36 (e) For each offender who is the recipient of a rental voucher, the  
37 department shall include, concurrent with the data that the department

1 otherwise obtains and records, the housing status of the offender for  
2 the duration of the offender's supervision.

3 (6) An offender serving a term of confinement imposed under RCW  
4 9.94A.670(5)(a) is not eligible for earned release credits under this  
5 section.

6 **Sec. 5.** RCW 9.92.060 and 2005 c 362 s 2 are each amended to read  
7 as follows:

8 (1) Whenever any person is convicted of any crime except murder,  
9 burglary in the first degree, arson in the first degree, robbery, rape  
10 of a child, or rape, the superior court may, in its discretion, at the  
11 time of imposing sentence upon such person, direct that such sentence  
12 be stayed and suspended until otherwise ordered by the superior court,  
13 and, upon such terms as the superior court may determine, that the  
14 sentenced person be placed under the charge of:

15 (a) A community corrections officer employed by the department of  
16 corrections, if the person is subject to supervision under RCW  
17 9.94A.501 or section 3 of this act; or (~~if the county elects to assume~~  
18 ~~responsibility for the supervision of all superior court misdemeanor~~  
19 ~~probationers))~~

20 (b) A probation officer employed or contracted for by the county,  
21 (~~upon such terms as the superior court may determine~~) if the county  
22 has elected to assume responsibility for the supervision of superior  
23 court misdemeanor probationers.

24 (2) As a condition to suspension of sentence, the superior court  
25 shall require the payment of the penalty assessment required by RCW  
26 7.68.035. In addition, the superior court may require the convicted  
27 person to make such monetary payments, on such terms as the superior  
28 court deems appropriate under the circumstances, as are necessary: (a)  
29 To comply with any order of the court for the payment of family  
30 support; (b) to make restitution to any person or persons who may have  
31 suffered loss or damage by reason of the commission of the crime in  
32 question or when the offender pleads guilty to a lesser offense or  
33 fewer offenses and agrees with the prosecutor's recommendation that the  
34 offender be required to pay restitution to a victim of an offense or  
35 offenses which are not prosecuted pursuant to a plea agreement; (c) to  
36 pay any fine imposed and not suspended and the court or other costs  
37 incurred in the prosecution of the case, including reimbursement of the

1 state for costs of extradition if return to this state by extradition  
2 was required; and (d) to contribute to a county or interlocal drug  
3 fund.

4 (3) As a condition of the suspended sentence, the superior court  
5 may order the probationer to report to the secretary of corrections or  
6 such officer as the secretary may designate and as a condition of the  
7 probation to follow the instructions of the secretary. If the county  
8 legislative authority has elected to assume responsibility for the  
9 supervision of superior court misdemeanor probationers within its  
10 jurisdiction, the superior court misdemeanor probationer shall report  
11 to a probation officer employed or contracted for by the county. In  
12 cases where a superior court misdemeanor probationer is sentenced in  
13 one county, but resides within another county, there must be provisions  
14 for the probationer to report to the agency having supervision  
15 responsibility for the probationer's county of residence.

16 (4) If restitution to the victim has been ordered under subsection  
17 (2)(b) of this section and the superior court has ordered supervision,  
18 the officer supervising the probationer shall make a reasonable effort  
19 to ascertain whether restitution has been made as ordered. If the  
20 superior court has ordered supervision and restitution has not been  
21 made, the officer shall inform the prosecutor of that violation of the  
22 terms of the suspended sentence not less than three months prior to the  
23 termination of the suspended sentence.

24 ~~((5) The provisions of RCW 9.94A.501 apply to sentences imposed  
25 under this section.))~~

26 **Sec. 6.** RCW 9.95.204 and 2005 c 400 s 2 and 2005 c 362 s 3 are  
27 each reenacted and amended to read as follows:

28 (1) When a superior court places a defendant convicted of a  
29 misdemeanor or gross misdemeanor on probation and orders supervision  
30 under RCW 9.92.060 or 9.95.210, the department of corrections has  
31 ~~((initial))~~ responsibility for supervision of ~~((that))~~ defendants  
32 pursuant to RCW 9.94A.501 and section 3 of this act.

33 (2) A county legislative authority may assume responsibility for  
34 the supervision of ~~((all))~~ defendants within its jurisdiction who have  
35 been convicted of a misdemeanor or gross misdemeanor and sentenced to  
36 probation by a superior court. If a county legislative authority

1 chooses to assume responsibility for defendants supervised by the  
2 department, the assumption of responsibility shall be made by contract  
3 with the department of corrections on a biennial basis.

4 ~~(3) ((If a county assumes supervision responsibility, the county~~  
5 ~~shall supervise all superior court misdemeanor probationers within~~  
6 ~~that county for the duration of the biennium, as set forth in the~~  
7 ~~contract with the department of corrections.~~

8 ~~(4) A contract between a county legislative authority and the~~  
9 ~~department of corrections for the transfer of supervision~~  
10 ~~responsibility must include, at a minimum, the following provisions:~~

11 ~~(a) The county's agreement to supervise all misdemeanor~~  
12 ~~probationers who are sentenced by a superior court within that county~~  
13 ~~and who reside within that county;~~

14 ~~(b) A reciprocal agreement regarding the supervision of superior~~  
15 ~~court misdemeanor probationers sentenced in one county but who reside~~  
16 ~~in another county;~~

17 ~~(c) The county's agreement to comply with the minimum standards for~~  
18 ~~classification and supervision of offenders as required under RCW~~  
19 ~~9.95.206;~~

20 ~~(d) The amount of funds available from the department of~~  
21 ~~corrections to the county for supervision of superior court~~  
22 ~~misdemeanant probationers, calculated according to a formula~~  
23 ~~established by the department of corrections;~~

24 ~~(e) A method for the payment of funds by the department of~~  
25 ~~corrections to the county;~~

26 ~~(f) The county's agreement that any funds received by the county~~  
27 ~~under the contract will be expended only to cover costs of supervision~~  
28 ~~of superior court misdemeanor probationers;~~

29 ~~(g) The county's agreement to account to the department of~~  
30 ~~corrections for the expenditure of all funds received under the~~  
31 ~~contract and to submit to audits for compliance with the supervision~~  
32 ~~standards and financial requirements of this section;~~

33 ~~(h) Provisions regarding rights and remedies in the event of a~~  
34 ~~possible breach of contract or default by either party; and~~

35 ~~(i) Provisions allowing for voluntary termination of the contract~~  
36 ~~by either party, with good cause, after sixty days' written notice.~~

37 ~~(5) If the contract between the county and the department of~~  
38 ~~corrections is terminated for any reason, the department of corrections~~

1 shall ~~reassume responsibility for supervision of superior court~~  
2 ~~misdemeanant probationers within that county. In such an event, the~~  
3 ~~department of corrections retains any and all rights and remedies~~  
4 ~~available by law and under the contract.~~

5 ~~(6))~~ The state of Washington, the department of corrections and  
6 its employees, community corrections officers, and volunteers who  
7 assist community corrections officers are not liable for any harm  
8 caused by the actions of a superior court misdemeanor probationer who  
9 is under the supervision of a county. A county, its probation  
10 department and employees, probation officers, and volunteers who assist  
11 probation officers are not liable for any harm caused by the actions of  
12 a superior court misdemeanor probationer who is under the supervision  
13 of the department of corrections. ~~((This subsection applies regardless~~  
14 ~~of whether the supervising entity is in compliance with the standards~~  
15 ~~of supervision at the time of the misdemeanor probationer's actions.~~

16 ~~(7))~~ (4) The state of Washington, the department of corrections  
17 and its employees, community corrections officers, any county ~~((under~~  
18 ~~contract with the department of corrections))~~ providing supervision  
19 services pursuant to this section and its employees, probation  
20 officers, and volunteers who assist community corrections officers and  
21 probation officers in the superior court misdemeanor probation program  
22 are not liable for civil damages resulting from any act or omission in  
23 the rendering of superior court misdemeanor probation activities  
24 unless the act or omission constitutes gross negligence. For purposes  
25 of this section, "volunteers" is defined according to RCW 51.12.035.

26 ~~((8) The provisions of RCW 9.94A.501 apply to sentences imposed~~  
27 ~~under this section.~~

28 ~~(9))~~ (5)(a) If a misdemeanor probationer requests permission to  
29 travel or transfer to another state, the assigned probation officer  
30 employed or contracted for by the county shall determine whether such  
31 request is subject to RCW 9.94A.745, the interstate compact for adult  
32 offender supervision. If such request is subject to the compact, the  
33 probation officer shall:

34 (i) Notify the department of corrections of the probationer's  
35 request;

36 (ii) Provide the department of corrections with the supporting  
37 documentation it requests for processing an application for transfer;

1 (iii) Notify the probationer of the fee due to the department of  
2 corrections for processing an application under the compact;

3 (iv) Cease supervision of the probationer while another state  
4 supervises the probationer pursuant to the compact;

5 (v) Resume supervision if the probationer returns to this state  
6 before the term of probation expires.

7 (b) The probationer shall receive credit for time served while  
8 being supervised by another state.

9 **Sec. 7.** RCW 9.95.210 and 2005 c 362 s 4 are each amended to read  
10 as follows:

11 (1) In granting probation, the superior court may suspend the  
12 imposition or the execution of the sentence and may direct that the  
13 suspension may continue upon such conditions and for such time as it  
14 shall designate, not exceeding the maximum term of sentence or two  
15 years, whichever is longer.

16 (2) In the order granting probation and as a condition thereof, the  
17 superior court may in its discretion imprison the defendant in the  
18 county jail for a period not exceeding one year and may fine the  
19 defendant any sum not exceeding the statutory limit for the offense  
20 committed, and court costs. As a condition of probation, the superior  
21 court shall require the payment of the penalty assessment required by  
22 RCW 7.68.035. The superior court may also require the defendant to  
23 make such monetary payments, on such terms as it deems appropriate  
24 under the circumstances, as are necessary: (a) To comply with any  
25 order of the court for the payment of family support; (b) to make  
26 restitution to any person or persons who may have suffered loss or  
27 damage by reason of the commission of the crime in question or when the  
28 offender pleads guilty to a lesser offense or fewer offenses and agrees  
29 with the prosecutor's recommendation that the offender be required to  
30 pay restitution to a victim of an offense or offenses which are not  
31 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be  
32 imposed and court costs, including reimbursement of the state for costs  
33 of extradition if return to this state by extradition was required; (d)  
34 following consideration of the financial condition of the person  
35 subject to possible electronic monitoring, to pay for the costs of  
36 electronic monitoring if that monitoring was required by the court as  
37 a condition of release from custody or as a condition of probation; (e)

1 to contribute to a county or interlocal drug fund; and (f) to make  
2 restitution to a public agency for the costs of an emergency response  
3 under RCW 38.52.430, and may require bonds for the faithful observance  
4 of any and all conditions imposed in the probation.

5 (3) The superior court shall order restitution in all cases where  
6 the victim is entitled to benefits under the crime victims'  
7 compensation act, chapter 7.68 RCW. If the superior court does not  
8 order restitution and the victim of the crime has been determined to be  
9 entitled to benefits under the crime victims' compensation act, the  
10 department of labor and industries, as administrator of the crime  
11 victims' compensation program, may petition the superior court within  
12 one year of imposition of the sentence for entry of a restitution  
13 order. Upon receipt of a petition from the department of labor and  
14 industries, the superior court shall hold a restitution hearing and  
15 shall enter a restitution order.

16 (4) In granting probation, the superior court may order the  
17 probationer to report to the secretary of corrections or such officer  
18 as the secretary may designate and as a condition of the probation to  
19 follow the instructions of the secretary. If the county legislative  
20 authority has elected to assume responsibility for the supervision of  
21 superior court misdemeanor probationers within its jurisdiction, the  
22 superior court misdemeanor probationer shall report to a probation  
23 officer employed or contracted for by the county. In cases where a  
24 superior court misdemeanor probationer is sentenced in one county, but  
25 resides within another county, there must be provisions for the  
26 probationer to report to the agency having supervision responsibility  
27 for the probationer's county of residence.

28 (5) If the probationer has been ordered to make restitution and the  
29 superior court has ordered supervision, the officer supervising the  
30 probationer shall make a reasonable effort to ascertain whether  
31 restitution has been made. If the superior court has ordered  
32 supervision and restitution has not been made as ordered, the officer  
33 shall inform the prosecutor of that violation of the terms of probation  
34 not less than three months prior to the termination of the probation  
35 period. The secretary of corrections will promulgate rules and  
36 regulations for the conduct of the person during the term of probation.  
37 For defendants found guilty in district court, like functions as the

1 secretary performs in regard to probation may be performed by probation  
2 officers employed for that purpose by the county legislative authority  
3 of the county wherein the court is located.

4 (6) The provisions of RCW 9.94A.501 and section 3 of this act apply  
5 to sentences imposed under this section.

6 **Sec. 8.** RCW 9.94A.030 and 2010 c 274 s 401, 2010 c 267 s 9, 2010  
7 c 227 s 11, and 2010 c 224 s 1 are each reenacted and amended to read  
8 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (13) "Criminal street gang associate or member" means any person

1 who actively participates in any criminal street gang and who  
2 intentionally promotes, furthers, or assists in any criminal act by the  
3 criminal street gang.

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

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

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

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

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

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

20 (f) To provide the gang with any advantage in, or any control or  
21 dominance over any criminal market sector, including, but not limited  
22 to, manufacturing, delivering, or selling any controlled substance  
23 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
24 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
25 RCW); human trafficking (RCW 9A.40.100); or promoting pornography  
26 (chapter 9.68 RCW).

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

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

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

37 (18) "Determinate sentence" means a sentence that states with  
38 exactitude the number of actual years, months, or days of total

1 confinement, of partial confinement, of community custody, the number  
2 of actual hours or days of community restitution work, or dollars or  
3 terms of a legal financial obligation. The fact that an offender  
4 through earned release can reduce the actual period of confinement  
5 shall not affect the classification of the sentence as a determinate  
6 sentence.

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

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

21 (21) "Drug offender sentencing alternative" is a sentencing option  
22 available to persons convicted of a felony offense other than a violent  
23 offense or a sex offense and who are eligible for the option under RCW  
24 9.94A.660.

25 (22) "Drug offense" means:

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

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

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

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

37 (24) "Escape" means:

1 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
2 first degree (RCW 9A.76.110), escape in the second degree (RCW  
3 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
4 willful failure to return from work release (RCW 72.65.070), or willful  
5 failure to be available for supervision by the department while in  
6 community custody (RCW 72.09.310); or

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

10 (25) "Felony traffic offense" means:

11 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
12 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
13 run injury-accident (RCW 46.52.020(4)), felony driving while under the  
14 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or  
15 felony physical control of a vehicle while under the influence of  
16 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

26 (28) "Home detention" means a program of partial confinement  
27 available to offenders wherein the offender is confined in a private  
28 residence subject to electronic surveillance.

29 (29) "Legal financial obligation" means a sum of money that is  
30 ordered by a superior court of the state of Washington for legal  
31 financial obligations which may include restitution to the victim,  
32 statutorily imposed crime victims' compensation fees as assessed  
33 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,  
34 court-appointed attorneys' fees, and costs of defense, fines, and any  
35 other financial obligation that is assessed to the offender as a result  
36 of a felony conviction. Upon conviction for vehicular assault while  
37 under the influence of intoxicating liquor or any drug, RCW  
38 46.61.522(1)(b), or vehicular homicide while under the influence of

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

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

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

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

13 (b) Assault in the second degree;

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

15 (d) Child molestation in the second degree;

16 (e) Controlled substance homicide;

17 (f) Extortion in the first degree;

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

19 (h) Indecent liberties;

20 (i) Kidnapping in the second degree;

21 (j) Leading organized crime;

22 (k) Manslaughter in the first degree;

23 (l) Manslaughter in the second degree;

24 (m) Promoting prostitution in the first degree;

25 (n) Rape in the third degree;

26 (o) Robbery in the second degree;

27 (p) Sexual exploitation;

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

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

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

1 (t) Any other felony with a deadly weapon verdict under RCW  
2 9.94A.825;

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

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

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

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

28 (32) "Nonviolent offense" means an offense which is not a violent  
29 offense.

30 (33) "Offender" means a person who has committed a felony  
31 established by state law and is eighteen years of age or older or is  
32 less than eighteen years of age but whose case is under superior court  
33 jurisdiction under RCW 13.04.030 or has been transferred by the  
34 appropriate juvenile court to a criminal court pursuant to RCW  
35 13.40.110. In addition, for the purpose of community custody  
36 requirements under this chapter, "offender" also means a (~~misdemeanor~~  
37 ~~or gross misdemeanor~~) misdemeanant or gross misdemeanant probationer  
38 (~~(convicted of an offense included in RCW 9.94A.501(1) and)~~) ordered by

1 a superior court to probation (~~under the supervision of the~~  
2 ~~department~~)) pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and  
3 supervised by the department pursuant to RCW 9.94A.501 and section 3 of  
4 this act. Throughout this chapter, the terms "offender" and  
5 "defendant" are used interchangeably.

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

15 (35) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (xiii) Malicious Mischief 1 (RCW 9A.48.070);  
2 (xiv) Malicious Mischief 2 (RCW 9A.48.080);  
3 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);  
4 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);  
5 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);  
6 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
7 9A.56.075);  
8 (xix) Extortion 1 (RCW 9A.56.120);  
9 (xx) Extortion 2 (RCW 9A.56.130);  
10 (xxi) Intimidating a Witness (RCW 9A.72.110);  
11 (xxii) Tampering with a Witness (RCW 9A.72.120);  
12 (xxiii) Reckless Endangerment (RCW 9A.36.050);  
13 (xxiv) Coercion (RCW 9A.36.070);  
14 (xxv) Harassment (RCW 9A.46.020); or  
15 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

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

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

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

24 (36) "Persistent offender" is an offender who:

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

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

35 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
36 of a child in the first degree, child molestation in the first degree,  
37 rape in the second degree, rape of a child in the second degree, or  
38 indecent liberties by forcible compulsion; (B) any of the following

1 offenses with a finding of sexual motivation: Murder in the first  
2 degree, murder in the second degree, homicide by abuse, kidnapping in  
3 the first degree, kidnapping in the second degree, assault in the first  
4 degree, assault in the second degree, assault of a child in the first  
5 degree, assault of a child in the second degree, or burglary in the  
6 first degree; or (C) an attempt to commit any crime listed in this  
7 subsection (36)(b)(i); and

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

20 (37) "Predatory" means: (a) The perpetrator of the crime was a  
21 stranger to the victim, as defined in this section; (b) the perpetrator  
22 established or promoted a relationship with the victim prior to the  
23 offense and the victimization of the victim was a significant reason  
24 the perpetrator established or promoted the relationship; or (c) the  
25 perpetrator was: (i) A teacher, counselor, volunteer, or other person  
26 in authority in any public or private school and the victim was a  
27 student of the school under his or her authority or supervision. For  
28 purposes of this subsection, "school" does not include home-based  
29 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,  
30 volunteer, or other person in authority in any recreational activity  
31 and the victim was a participant in the activity under his or her  
32 authority or supervision; (iii) a pastor, elder, volunteer, or other  
33 person in authority in any church or religious organization, and the  
34 victim was a member or participant of the organization under his or her  
35 authority; or (iv) a teacher, counselor, volunteer, or other person in  
36 authority providing home-based instruction and the victim was a student  
37 receiving home-based instruction while under his or her authority or  
38 supervision. For purposes of this subsection: (A) "Home-based

1 instruction" has the same meaning as defined in RCW 28A.225.010; and  
2 (B) "teacher, counselor, volunteer, or other person in authority" does  
3 not include the parent or legal guardian of the victim.

4 (38) "Private school" means a school regulated under chapter  
5 28A.195 or 28A.205 RCW.

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

7 (40) "Repetitive domestic violence offense" means any:

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

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

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

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

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

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

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

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

30 (43) "Serious traffic offense" means:

31 (a) Nonfelony driving while under the influence of intoxicating  
32 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
33 while under the influence of intoxicating liquor or any drug (RCW  
34 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
35 attended vehicle (RCW 46.52.020(5)); or

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

1 (44) "Serious violent offense" is a subcategory of violent offense  
2 and means:  
3 (a)(i) Murder in the first degree;  
4 (ii) Homicide by abuse;  
5 (iii) Murder in the second degree;  
6 (iv) Manslaughter in the first degree;  
7 (v) Assault in the first degree;  
8 (vi) Kidnapping in the first degree;  
9 (vii) Rape in the first degree;  
10 (viii) Assault of a child in the first degree; or  
11 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
12 commit one of these felonies; or  
13 (b) Any federal or out-of-state conviction for an offense that  
14 under the laws of this state would be a felony classified as a serious  
15 violent offense under (a) of this subsection.  
16 (45) "Sex offense" means:  
17 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than  
18 RCW 9A.44.132;  
19 (ii) A violation of RCW 9A.64.020;  
20 (iii) A felony that is a violation of chapter 9.68A RCW other than  
21 RCW 9.68A.080;  
22 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,  
23 criminal solicitation, or criminal conspiracy to commit such crimes; or  
24 (v) A felony violation of RCW 9A.44.132(1) (failure to register) if  
25 the person has been convicted of violating RCW 9A.44.132(1) (failure to  
26 register) on at least one prior occasion;  
27 (b) Any conviction for a felony offense in effect at any time prior  
28 to July 1, 1976, that is comparable to a felony classified as a sex  
29 offense in (a) of this subsection;  
30 (c) A felony with a finding of sexual motivation under RCW  
31 9.94A.835 or 13.40.135; or  
32 (d) Any federal or out-of-state conviction for an offense that  
33 under the laws of this state would be a felony classified as a sex  
34 offense under (a) of this subsection.  
35 (46) "Sexual motivation" means that one of the purposes for which  
36 the defendant committed the crime was for the purpose of his or her  
37 sexual gratification.

1 (47) "Standard sentence range" means the sentencing court's  
2 discretionary range in imposing a nonappealable sentence.

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

7 (49) "Stranger" means that the victim did not know the offender  
8 twenty-four hours before the offense.

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

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

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

22 (53) "Violent offense" means:

23 (a) Any of the following felonies:

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

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

28 (iii) Manslaughter in the first degree;

29 (iv) Manslaughter in the second degree;

30 (v) Indecent liberties if committed by forcible compulsion;

31 (vi) Kidnapping in the second degree;

32 (vii) Arson in the second degree;

33 (viii) Assault in the second degree;

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

35 (x) Extortion in the first degree;

36 (xi) Robbery in the second degree;

37 (xii) Drive-by shooting;

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

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

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

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

15 (54) "Work crew" means a program of partial confinement consisting  
16 of civic improvement tasks for the benefit of the community that  
17 complies with RCW 9.94A.725.

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

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

28 **Sec. 9.** RCW 9.94A.650 and 2008 c 231 s 29 are each amended to read  
29 as follows:

30 (1) This section applies to offenders who have never been  
31 previously convicted of a felony in this state, federal court, or  
32 another state, and who have never participated in a program of deferred  
33 prosecution for a felony, and who are convicted of a felony that is  
34 not:

35 (a) Classified as a violent offense or a sex offense under this  
36 chapter;

1 (b) Manufacture, delivery, or possession with intent to manufacture  
2 or deliver a controlled substance classified in Schedule I or II that  
3 is a narcotic drug or flunitrazepam classified in Schedule IV;

4 (c) Manufacture, delivery, or possession with intent to deliver a  
5 methamphetamine, its salts, isomers, and salts of its isomers as  
6 defined in RCW 69.50.206(d)(2);

7 (d) The selling for profit of any controlled substance or  
8 counterfeit substance classified in Schedule I, RCW 69.50.204, except  
9 leaves and flowering tops of marijuana; or

10 (e) Felony driving while under the influence of intoxicating liquor  
11 or any drug or felony physical control of a vehicle while under the  
12 influence of intoxicating liquor or any drug.

13 (2) In sentencing a first-time offender the court may waive the  
14 imposition of a sentence within the standard sentence range and impose  
15 a sentence which may include up to ninety days of confinement in a  
16 facility operated or utilized under contract by the county and a  
17 requirement that the offender refrain from committing new offenses.

18 (3) The court may impose up to (~~one year~~) six months of community  
19 custody unless treatment is ordered, in which case the period of  
20 community custody may include up to the period of treatment, but shall  
21 not exceed (~~two years~~) one year.

22 (4) As a condition of community custody, in addition to any  
23 conditions authorized in RCW 9.94A.703, the court may order the  
24 offender to pay all court-ordered legal financial obligations and/or  
25 perform community restitution work.

## 26 PART II

### 27 Cost Of Supervision

28 **Sec. 10.** RCW 9.94A.780 and 2008 c 231 s 37 are each amended to  
29 read as follows:

30 (1) Whenever a punishment imposed under this chapter requires  
31 supervision services to be provided, the offender shall pay to the  
32 department of corrections the (~~monthly assessment~~) supervision intake  
33 fee, prescribed under subsection (2) of this section, (~~which shall be~~  
34 ~~for the duration of the terms of supervision and~~) which shall be  
35 considered as payment or part payment of the cost of (~~providing~~)

1 establishing supervision to the offender. The department may exempt or  
2 defer a person from the payment of all or any part of the  
3 ((assessment)) intake fee based upon any of the following factors:

4 (a) The offender has diligently attempted but has been unable to  
5 obtain employment that provides the offender sufficient income to make  
6 such a payment((s)).

7 (b) The offender is a student in a school, college, university, or  
8 a course of vocational or technical training designed to fit the  
9 student for gainful employment.

10 (c) The offender has an employment handicap, as determined by an  
11 examination acceptable to or ordered by the department.

12 (d) The offender's age prevents him or her from obtaining  
13 employment.

14 (e) The offender is responsible for the support of dependents and  
15 the payment of the ((assessment)) intake fee constitutes an undue  
16 hardship on the offender.

17 (f) Other extenuating circumstances as determined by the  
18 department.

19 (2) The department of corrections shall adopt a rule prescribing  
20 the amount of the assessment. The ~~((department may, if it finds it  
21 appropriate, prescribe a schedule of assessments that shall vary in  
22 accordance with the intensity or cost of the supervision. The  
23 department may not prescribe any assessment that is less than ten  
24 dollars nor more than fifty dollars))~~ supervision intake fee shall be  
25 imposed after the determination of eligibility for supervision has been  
26 completed. For offenders whose crime was committed on or after October  
27 1, 2011, the intake fee prescribed shall be not less than four hundred  
28 dollars or more than six hundred dollars, and shall be assessed for  
29 each judgment and sentence imposed by the superior court in which  
30 supervision by the department is required.

31 (3) For offenders whose offense date was before October 1, 2011,  
32 the monthly rate shall be converted to a one-time fee. The amount due  
33 shall be based upon the most recent monthly fee amount by the months of  
34 supervision left to serve, but in no case shall exceed six hundred  
35 dollars.

36 (4) Nothing in this act shall affect the amount or dates payments  
37 are due for any prior balances owed by an offender for the cost of  
38 supervision.

1        ~~((3))~~ (5) All amounts required to be paid under this section  
2 shall be collected by the department of corrections and deposited by  
3 the department in the dedicated fund established pursuant to RCW  
4 72.11.040.

5        ~~((4))~~ (6) This section shall not apply to probation services  
6 provided under an interstate compact pursuant to chapter 9.95 RCW or to  
7 probation services provided for persons placed on probation prior to  
8 June 10, 1982.

9        ~~((5))~~ (7) If a county clerk assumes responsibility for collection  
10 of unpaid legal financial obligations under RCW 9.94A.760, or under any  
11 agreement with the department under that section, whether before or  
12 after the completion of any period of community custody, the clerk may  
13 impose a monthly or annual assessment for the cost of collections. The  
14 amount of the assessment shall not exceed the actual cost of  
15 collections. The county clerk may exempt or defer payment of all or  
16 part of the assessment based upon any of the factors listed in  
17 subsection (1) of this section. The offender shall pay the assessment  
18 under this subsection to the county clerk who shall apply it to the  
19 cost of collecting legal financial obligations under RCW 9.94A.760.

20        **Sec. 11.** RCW 9.95.214 and 2005 c 400 s 3 are each amended to read  
21 as follows:

22        Whenever a defendant convicted of a misdemeanor or gross  
23 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and  
24 the defendant is supervised by ~~((the department of corrections or))~~ a  
25 county probation department, the ~~((department or))~~ county probation  
26 department may assess and collect from the defendant for the duration  
27 of the term of supervision a monthly assessment not to exceed one  
28 hundred dollars per month. Whenever a defendant convicted of a  
29 misdemeanor or gross misdemeanor is placed on probation under RCW  
30 9.92.060 or 9.95.210, and the defendant is supervised by the department  
31 of corrections, the department may collect supervision intake fees  
32 pursuant to RCW 9.94A.780. This assessment shall be paid to the agency  
33 supervising the defendant and shall be applied, along with funds  
34 appropriated by the legislature, toward the payment or part payment of  
35 the cost of supervising the defendant. The ~~((department or))~~ county  
36 probation department shall suspend such assessment while the defendant

1 is being supervised by another state pursuant to RCW 9.94A.745, the  
2 interstate compact for adult offender supervision.

3 **Sec. 12.** RCW 72.04A.120 and 1991 c 104 s 2 are each amended to  
4 read as follows:

5 (1) Any person placed on parole shall be required to pay the  
6 (~~monthly assessment~~) supervision intake fee, prescribed under  
7 (~~subsection (2) of this section, which shall be for the duration of~~  
8 ~~the parole and which shall be considered as payment or part payment of~~  
9 ~~the cost of providing parole supervision to the parolee~~) RCW  
10 9.94A.780(3). The department may exempt a person from the payment of  
11 all or any part of the assessment based upon any of the following  
12 factors:

13 (a) The offender has diligently attempted but has been unable to  
14 obtain employment which provides the offender sufficient income to make  
15 such payments.

16 (b) The offender is a student in a school, college, university, or  
17 a course of vocational or technical training designed to fit the  
18 student for gainful employment.

19 (c) The offender has an employment handicap, as determined by an  
20 examination acceptable to or ordered by the department.

21 (d) The offender's age prevents him from obtaining employment.

22 (e) The offender is responsible for the support of dependents and  
23 the payment of the assessment constitutes an undue hardship on the  
24 offender.

25 (f) Other extenuating circumstances as determined by the  
26 department.

27 (2) The department of corrections shall adopt a rule prescribing  
28 the amount of the assessment. (~~The department may, if it finds it~~  
29 ~~appropriate, prescribe a schedule of assessments which shall vary in~~  
30 ~~accordance with the intensity or cost of the supervision. The~~  
31 ~~department may not prescribe any assessment which is less than ten~~  
32 ~~dollars nor more than fifty dollars.))~~

33 (3) Payment of the assessed amount shall constitute a condition of  
34 parole for purposes of the application of RCW 72.04A.090.

35 (4) All amounts required to be paid under this section shall be  
36 collected by the department of corrections and deposited by the  
37 department in the dedicated fund established pursuant to RCW 72.11.040.



1 consist of a (~~chairman~~) chair and four other members, each of whom  
2 shall be appointed by the governor with the consent of the senate.  
3 Each member shall hold office for a term of five years, and until his  
4 or her successor is appointed and qualified. The terms shall expire on  
5 April 15th of the expiration year. Vacancies in the membership of the  
6 board shall be filled by appointment by the governor with the consent  
7 of the senate. In the event of the inability of any member to act, the  
8 governor shall appoint some competent person to act in his stead during  
9 the continuance of such inability. The members shall not be removable  
10 during their respective terms except for cause determined by the  
11 superior court of Thurston county. The governor in appointing the  
12 members shall designate one of them to serve as (~~chairman~~) chair at  
13 the governor's pleasure. The appointed (~~chairman~~) chair shall serve  
14 as a fully participating board member (~~and as the director of the~~  
15 ~~agency~~)).

16 (2) The department shall provide administrative and staff support  
17 for the board. The secretary may employ a senior administrative  
18 officer and such other personnel as may be necessary to assist the  
19 board in carrying out its duties.

20 (3) The members of the board and (~~its officers and employees~~)  
21 staff assigned to the board shall not engage in any other business or  
22 profession or hold any other public office without the prior approval  
23 of the executive ethics board indicating compliance with RCW 42.52.020,  
24 42.52.030, 42.52.040 and 42.52.120; nor shall they, at the time of  
25 appointment or employment or during their incumbency, serve as the  
26 representative of any political party on an executive committee or  
27 other governing body thereof, or as an executive officer or employee of  
28 any political committee or association. The members of the board shall  
29 each severally receive salaries fixed by the governor in accordance  
30 with the provisions of RCW 43.03.040, and in addition shall receive  
31 travel expenses incurred in the discharge of their official duties in  
32 accordance with RCW 43.03.050 and 43.03.060.

33 (~~The board may employ, and fix, with the approval of the governor,~~  
34 ~~the compensation of and prescribe the duties of a senior administrative~~  
35 ~~officer and such officers, employees, and assistants as may be~~  
36 ~~necessary, and provide necessary quarters, supplies, and equipment.~~)

1        NEW SECTION.    **Sec. 16.**    (1) The indeterminate sentence review board  
2 is transferred to the department of corrections.

3        (2)(a) All reports, documents, surveys, books, records, files,  
4 papers, or written materials in the possession of the indeterminate  
5 sentence review board shall be delivered to the custody of the  
6 department of corrections. All cabinets, furniture, office equipment,  
7 motor vehicles, and other tangible property employed by the  
8 indeterminate sentence review board shall be made available to the  
9 department of corrections. All funds, credits, or other assets held by  
10 the indeterminate sentence review board shall be assigned to the  
11 department of corrections.

12        (b) Any appropriations made to the indeterminate sentence review  
13 board shall, on the effective date of this section, be transferred and  
14 credited to the department of corrections.

15        (c) If any question arises as to the transfer of any personnel,  
16 funds, books, documents, records, papers, files, equipment, or other  
17 tangible property used or held in the exercise of the powers and the  
18 performance of the duties and functions transferred, the director of  
19 financial management shall make a determination as to the proper  
20 allocation and certify the same to the state agencies concerned.

21        (3) All employees of the indeterminate sentence review board are  
22 transferred to the jurisdiction of the department of corrections. All  
23 employees classified under chapter 41.06 RCW, the state civil service  
24 law, are assigned to the department of corrections to perform their  
25 usual duties upon the same terms as formerly, without any loss of  
26 rights, subject to any action that may be appropriate thereafter in  
27 accordance with the laws and rules governing state civil service.

28        (4) All rules and all pending business before the indeterminate  
29 sentence review board shall be continued and acted upon by the  
30 department of corrections. All existing contracts and obligations  
31 shall remain in full force and shall be performed by the department of  
32 corrections.

33        (5) The transfer of the powers, duties, functions, and personnel of  
34 the indeterminate sentence review board shall not affect the validity  
35 of any act performed before the effective date of this section.

36        (6) If apportionments of budgeted funds are required because of the  
37 transfers directed by this section, the director of financial  
38 management shall certify the apportionments to the agencies affected,

1 the state auditor, and the state treasurer. Each of these shall make  
2 the appropriate transfer and adjustments in funds and appropriation  
3 accounts and equipment records in accordance with the certification.

4 (7) All classified employees of the indeterminate sentence review  
5 board assigned to the department of corrections under this act whose  
6 positions are within an existing bargaining unit description at the  
7 department of corrections shall become a part of the existing  
8 bargaining unit at the department of corrections and shall be  
9 considered an appropriate inclusion or modification of the existing  
10 bargaining unit under the provisions of chapter 41.80 RCW.

11 (8) Notwithstanding any provision of this act and despite the  
12 transfer of the indeterminate sentence review board to the department  
13 of corrections, the members of the indeterminate sentence review board  
14 will possess and shall exercise independent judgment when making any  
15 decisions concerning offenders. These decisions include, but are not  
16 limited to, decisions concerning offenders' release, revocation,  
17 reinstatement, or the imposition of conditions of supervision.

18 **Sec. 17.** RCW 9.95.005 and 2001 2nd sp.s. c 12 s 318 are each  
19 amended to read as follows:

20 The board shall meet at major state correctional institutions at  
21 such times as may be necessary for a full and complete study of the  
22 cases of all convicted persons whose durations of confinement are to be  
23 determined by it; whose community custody supervision is under the  
24 board's authority; or whose applications for parole come before it.  
25 Other times and places of meetings may also be fixed by the board.

26 The superintendents of the different institutions shall provide  
27 suitable quarters for the board (~~and assistants~~) while in the  
28 discharge of their duties.

29 **Sec. 18.** RCW 9.95.007 and 1986 c 224 s 5 are each amended to read  
30 as follows:

31 The board may meet and transact business in panels. Each board  
32 panel shall consist of at least two members of the board. In all  
33 matters concerning the internal affairs of the board and policy-making  
34 decisions, a majority of the full board must concur in such matters.  
35 The (~~chairman~~) chair of the board with the consent of a majority of  
36 the board may designate any two members to exercise all the powers and

1 duties of the board in connection with any hearing before the board.  
2 If the two members so designated cannot unanimously agree as to the  
3 disposition of the hearing assigned to them, such hearing shall be  
4 reheard by the full board. All actions of the full board shall be by  
5 concurrence of a majority of the sitting board members.

6 **Sec. 19.** RCW 9.95.140 and 2009 c 28 s 29 are each amended to read  
7 as follows:

8 (1) The board shall cause a complete record to be kept of every  
9 prisoner under the jurisdiction of the board released on parole or  
10 community custody. Such records shall be organized in accordance with  
11 the most modern methods of filing and indexing so that there will be  
12 always immediately available complete information about each such  
13 prisoner. Subject to information sharing provisions related to  
14 (~~mentally-ill~~) offenders(~~(,)~~) with mental illness and the end of  
15 sentence review committee, (~~and the department of corrections,~~) the  
16 board may make rules as to the privacy of such records and their use by  
17 others than the board and (~~its~~) the department staff assigned to  
18 perform board-related duties. Sex offenders convicted of crimes  
19 committed before July 1, 1984, who are under the board's jurisdiction  
20 shall be subject to the determinations of the end of sentence review  
21 committee regarding risk level and subject to sex offender registration  
22 and community notification. The board and the department staff  
23 assigned to perform board-related duties shall be immune from liability  
24 for the release of information concerning sex offenders as provided in  
25 RCW 4.24.550.

26 The superintendents of state correctional facilities and all  
27 officers and employees thereof and all other public officials shall at  
28 all times cooperate with the board and furnish to the board(~~(, its~~  
29 ~~officers, and employees)~~) and staff assigned to perform board-related  
30 duties such information as may be necessary to enable it to perform its  
31 functions, and such superintendents and other employees shall at all  
32 times give the members of the board(~~(, its officers, and employees)~~)  
33 and staff assigned to perform board-related duties free access to all  
34 prisoners confined in the state correctional facilities.

35 (2) Offenders sentenced under RCW 9.94A.507 shall be subject to the  
36 determinations of the end of sentence review committee regarding risk

1 level and subject to sex offender registration and community  
2 notification.

3 (3) The end of sentence review committee shall make law enforcement  
4 notifications for offenders under board jurisdiction on the same basis  
5 that it notifies law enforcement regarding offenders sentenced under  
6 chapter 9.94A RCW for crimes committed after July 1, 1984.

7 **Sec. 20.** RCW 9.95.280 and 2001 2nd sp.s. c 12 s 344 are each  
8 amended to read as follows:

9 The secretary, upon recommendation by the board, may deputize any  
10 person (regularly employed by another state) to act as an officer and  
11 agent of this state in effecting the return of any person convicted of  
12 a crime committed before July 1, 1984, who has violated the terms and  
13 conditions of parole or probation as granted by this state. In any  
14 matter relating to the return of such a person, any agent so deputized  
15 shall have all the powers of a police officer of this state.

16 **Sec. 21.** RCW 9.95.300 and 2001 2nd sp.s. c 12 s 346 are each  
17 amended to read as follows:

18 The secretary, upon recommendation by the board, may enter into  
19 contracts with similar officials of any other state or states for the  
20 purpose of sharing an equitable portion of the cost of effecting the  
21 return of any person who has violated the terms and conditions of  
22 parole, probation, or community custody as granted by this state.

23 **Sec. 22.** RCW 9.96.050 and 2009 c 325 s 4 are each amended to read  
24 as follows:

25 (1)(a) When an offender on parole has performed all obligations of  
26 his or her release, including any and all legal financial obligations,  
27 for such time as shall satisfy the indeterminate sentence review board  
28 that his or her final release is not incompatible with the best  
29 interests of society and the welfare of the paroled individual, the  
30 board may make a final order of discharge and issue a certificate of  
31 discharge to the offender.

32 (b) The board retains the jurisdiction to issue a certificate of  
33 discharge after the expiration of the offender's or parolee's maximum  
34 statutory sentence. If not earlier granted and any and all legal  
35 financial obligations have been paid, the board shall issue a final

1 order of discharge three years from the date of parole unless the  
2 parolee is on suspended or revoked status at the expiration of the  
3 three years.

4 (c) The discharge, regardless of when issued, shall have the effect  
5 of restoring all civil rights not already restored by RCW 29A.08.520,  
6 and the certification of discharge shall so state.

7 (d) This restoration of civil rights shall not restore the right to  
8 receive, possess, own, or transport firearms.

9 (e) The board shall issue a certificate of discharge to the  
10 offender in person or by mail to the offender's last known address.

11 (2) (~~The board shall send to the department of corrections~~) A  
12 copy of every signed certificate of discharge for offender sentences  
13 under the authority of the department of corrections shall be placed in  
14 the department's files.

15 (3) The discharge provided for in this section shall be considered  
16 as a part of the sentence of the convicted person and shall not in any  
17 manner be construed as affecting the powers of the governor to pardon  
18 any such person.

19 **Sec. 23.** RCW 71.05.385 and 2009 c 320 s 2 are each amended to read  
20 as follows:

21 (1) A mental health service provider shall release to the persons  
22 authorized under subsection (2) of this section, upon request:

23 (a) The fact, place, and date of an involuntary commitment, the  
24 fact and date of discharge or release, and the last known address of a  
25 person who has been committed under this chapter.

26 (b) Information related to mental health services, in the format  
27 determined under subsection (9) of this section, concerning a person  
28 who:

29 (i) Is currently committed to the custody or supervision of the  
30 department of corrections or the indeterminate sentence review board  
31 under chapter 9.94A or 9.95 RCW;

32 (ii) Has been convicted or found not guilty by reason of insanity  
33 of a serious violent offense; or

34 (iii) Was charged with a serious violent offense and such charges  
35 were dismissed under RCW 10.77.086.

36 Legal counsel may release such information to the persons  
37 authorized under subsection (2) of this section on behalf of the mental

1 health service provider, provided that nothing in this subsection shall  
2 require the disclosure of attorney work product or attorney-client  
3 privileged information.

4 (2) The information subject to release under subsection (1) of this  
5 section shall be released to law enforcement officers, personnel of a  
6 county or city jail, designated mental health professionals, public  
7 health officers, therapeutic court personnel, or personnel of the  
8 department of corrections, (~~or — personnel — of~~) including the  
9 indeterminate sentence review board and personnel assigned to perform  
10 board-related duties, when such information is requested during the  
11 course of business and for the purpose of carrying out the  
12 responsibilities of the requesting person's office. No mental health  
13 service provider or person employed by a mental health service  
14 provider, or its legal counsel, shall be liable for information  
15 released to or used under the provisions of this section or rules  
16 adopted under this section except under RCW 71.05.440.

17 (3) A person who requests information under subsection (1)(b) of  
18 this section must comply with the following restrictions:

19 (a) Information must be requested only for the purposes permitted  
20 by this subsection and for the purpose of carrying out the  
21 responsibilities of the requesting person's office. Appropriate  
22 purposes for requesting information under this section include:

23 (i) Completing presentence investigations or risk assessment  
24 reports;

25 (ii) Assessing a person's risk to the community;

26 (iii) Assessing a person's risk of harm to self or others when  
27 confined in a city or county jail;

28 (iv) Planning for and provision of supervision of an offender,  
29 including decisions related to sanctions for violations of conditions  
30 of community supervision; and

31 (v) Responding to an offender's failure to report for department of  
32 corrections supervision.

33 (b) Information shall not be requested under this section unless  
34 the requesting person has reasonable suspicion that the individual who  
35 is the subject of the information:

36 (i) Has engaged in activity indicating that a crime or a violation  
37 of community custody or parole has been committed or, based upon his or

1 her current or recent past behavior, is likely to be committed in the  
2 near future; or

3 (ii) Is exhibiting signs of a deterioration in mental functioning  
4 which may make the individual appropriate for civil commitment under  
5 this chapter.

6 (c) Any information received under this section shall be held  
7 confidential and subject to the limitations on disclosure outlined in  
8 this chapter, except:

9 (i) Such information may be shared with other persons who have the  
10 right to request similar information under subsection (2) of this  
11 section, solely for the purpose of coordinating activities related to  
12 the individual who is the subject of the information in a manner  
13 consistent with the official responsibilities of the persons involved;

14 (ii) Such information may be shared with a prosecuting attorney  
15 acting in an advisory capacity for a person who receives information  
16 under this section. A prosecuting attorney under this subsection shall  
17 be subject to the same restrictions and confidentiality limitations as  
18 the person who requested the information; and

19 (iii) As provided in RCW 72.09.585.

20 (4) A request for information related to mental health services  
21 under this section shall not require the consent of the subject of the  
22 records. Such request shall be provided in writing, except to the  
23 extent authorized in subsection (5) of this section. A written request  
24 may include requests made by e-mail or facsimile so long as the  
25 requesting person is clearly identified. The request must specify the  
26 information being requested.

27 (5) In the event of an emergency situation that poses a significant  
28 risk to the public or the offender, a mental health service provider,  
29 or its legal counsel, shall release information related to mental  
30 health services delivered to the offender and, if known, information  
31 regarding where the offender is likely to be found to the department of  
32 corrections or law enforcement upon request. The initial request may  
33 be written or oral. All oral requests must be subsequently confirmed  
34 in writing. Information released in response to an oral request is  
35 limited to a statement as to whether the offender is or is not being  
36 treated by the mental health service provider and the address or  
37 information about the location or whereabouts of the offender.

1 (6) Disclosure under this section to state or local law enforcement  
2 authorities is mandatory for the purposes of the health insurance  
3 portability and accountability act.

4 (7) Whenever federal law or federal regulations restrict the  
5 release of information contained in the treatment records of any  
6 patient who receives treatment for alcoholism or drug dependency, the  
7 release of the information may be restricted as necessary to comply  
8 with federal law and regulations.

9 (8) This section does not modify the terms and conditions of  
10 disclosure of information related to sexually transmitted diseases  
11 under chapter 70.24 RCW.

12 (9) In collaboration with interested organizations, the department  
13 shall develop a standard form for requests for information related to  
14 mental health services made under this section and a standard format  
15 for information provided in response to such requests. Consistent with  
16 the goals of the health information privacy provisions of the federal  
17 health insurance portability and accountability act, in developing the  
18 standard form for responsive information, the department shall design  
19 the form in such a way that the information disclosed is limited to the  
20 minimum necessary to serve the purpose for which the information is  
21 requested.

22 **Sec. 24.** RCW 72.09.585 and 2004 c 166 s 5 are each amended to read  
23 as follows:

24 (1) When the department is determining an offender's risk  
25 management level, the department shall inquire of the offender and  
26 shall be told whether the offender is subject to court-ordered  
27 treatment for mental health services or chemical dependency services.  
28 The department shall request and the offender shall provide an  
29 authorization to release information form that meets applicable state  
30 and federal requirements and shall provide the offender with written  
31 notice that the department will request the offender's mental health  
32 and substance abuse treatment information. An offender's failure to  
33 inform the department of court-ordered treatment is a violation of the  
34 conditions of supervision if the offender is in the community and an  
35 infraction if the offender is in confinement, and the violation or  
36 infraction is subject to sanctions.

1 (2) When an offender discloses that he or she is subject to court-  
2 ordered mental health services or chemical dependency treatment, the  
3 department shall provide the mental health services provider or  
4 chemical dependency treatment provider with a written request for  
5 information and any necessary authorization to release information  
6 forms. The written request shall comply with rules adopted by the  
7 department of social and health services or protocols developed jointly  
8 by the department and the department of social and health services. A  
9 single request shall be valid for the duration of the offender's  
10 supervision in the community. Disclosures of information related to  
11 mental health services made pursuant to a department request shall not  
12 require consent of the offender.

13 (3) The information received by the department under RCW 71.05.445  
14 or (~~(71.34.225)~~) 71.34.345 may be released to the indeterminate  
15 sentence review board as relevant to carry out its responsibility of  
16 planning and ensuring community protection with respect to persons  
17 under its jurisdiction. Further disclosure by the indeterminate  
18 sentence review board is subject to the limitations set forth in  
19 subsections (5) and (6) of this section and must be consistent with the  
20 written policy of the indeterminate sentence review board. The  
21 decision to disclose or not shall not result in civil liability for the  
22 indeterminate sentence review board or (~~(its employees)~~) staff assigned  
23 to perform board-related duties provided that the decision was reached  
24 in good faith and without gross negligence.

25 (4) The information received by the department under RCW 71.05.445  
26 or (~~(71.34.225)~~) 71.34.345 may be used to meet the statutory duties of  
27 the department to provide evidence or report to the court. Disclosure  
28 to the public of information provided to the court by the department  
29 related to mental health services shall be limited in accordance with  
30 RCW 9.94A.500 or this section.

31 (5) The information received by the department under RCW 71.05.445  
32 or (~~(71.34.225)~~) 71.34.345 may be disclosed by the department to other  
33 state and local agencies as relevant to plan for and provide offenders  
34 transition, treatment, and supervision services, or as relevant and  
35 necessary to protect the public and counteract the danger created by a  
36 particular offender, and in a manner consistent with the written policy  
37 established by the secretary. The decision to disclose or not shall  
38 not result in civil liability for the department or its employees so

1 long as the decision was reached in good faith and without gross  
2 negligence. The information received by a state or local agency from  
3 the department shall remain confidential and subject to the limitations  
4 on disclosure set forth in chapters 70.02, 71.05, and 71.34 RCW and,  
5 subject to these limitations, may be released only as relevant and  
6 necessary to counteract the danger created by a particular offender.

7 (6) The information received by the department under RCW 71.05.445  
8 or (~~71.34.225~~) 71.34.345 may be disclosed by the department to  
9 individuals only with respect to offenders who have been determined by  
10 the department to have a high risk of reoffending by a risk assessment,  
11 as defined in RCW 9.94A.030, only as relevant and necessary for those  
12 individuals to take reasonable steps for the purpose of self-  
13 protection, or as provided in RCW 72.09.370(2). The information may  
14 not be disclosed for the purpose of engaging the public in a system of  
15 supervision, monitoring, and reporting offender behavior to the  
16 department. The department must limit the disclosure of information  
17 related to mental health services to the public to descriptions of an  
18 offender's behavior, risk he or she may present to the community, and  
19 need for mental health treatment, including medications, and shall not  
20 disclose or release to the public copies of treatment documents or  
21 records, except as otherwise provided by law. All disclosure of  
22 information to the public must be done in a manner consistent with the  
23 written policy established by the secretary. The decision to disclose  
24 or not shall not result in civil liability for the department or its  
25 employees so long as the decision was reached in good faith and without  
26 gross negligence. Nothing in this subsection prevents any person from  
27 reporting to law enforcement or the department behavior that he or she  
28 believes creates a public safety risk.

29 NEW SECTION. **Sec. 25.** RCW 4.24.5502 is decodified.

30 **PART IV**

31 **Sentencing Guidelines Commission and Related Duties**

32 NEW SECTION. **Sec. 26.** A new section is added to chapter 9.94A RCW  
33 to read as follows:

34 The standard sentence ranges of total and partial confinement under

1 this chapter, except as provided in RCW 9.94A.517, are subject to the  
2 following limitations:

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

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

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

16 **Sec. 27.** RCW 9.94A.480 and 2002 c 290 s 16 are each amended to  
17 read as follows:

18 (1) A current, newly created or reworked judgment and sentence  
19 document for each felony sentencing shall record any and all  
20 recommended sentencing agreements or plea agreements and the sentences  
21 for any and all felony crimes kept as public records under RCW  
22 9.94A.475 shall contain the clearly printed name and legal signature of  
23 the sentencing judge. The judgment and sentence document as defined in  
24 this section shall also provide additional space for the sentencing  
25 judge's reasons for going either above or below the presumptive  
26 sentence range for any and all felony crimes covered as public records  
27 under RCW 9.94A.475. Both the sentencing judge and the prosecuting  
28 attorney's office shall each retain or receive a completed copy of each  
29 sentencing document as defined in this section for their own records.

30 (2) The ~~((sentencing-guidelines-commission))~~ caseload\_forecast  
31 council shall be sent a completed copy of the judgment and sentence  
32 document upon conviction for each felony sentencing under subsection  
33 (1) of this section ~~((and-shall-compile-a-yearly-and-cumulative~~  
34 ~~judicial-record-of-each-sentencing-judge-in-regards-to-his-or-her~~  
35 ~~sentencing-practices-for-any-and-all-felony-crimes-involving:~~

- 36 ~~(a) Any violent offense as defined in this chapter;~~
- 37 ~~(b) Any most serious offense as defined in this chapter;~~

1 ~~(c) Any felony with any deadly weapon special verdict under RCW~~  
2 ~~9.94A.602;~~

3 ~~(d) Any felony with any deadly weapon enhancements under RCW~~  
4 ~~9.94A.533 (3) or (4), or both; and/or~~

5 ~~(e) The felony crimes of possession of a machine gun, possessing a~~  
6 ~~stolen firearm, drive-by shooting, theft of a firearm, unlawful~~  
7 ~~possession of a firearm in the first or second degree, and/or use of a~~  
8 ~~machine gun in a felony.~~

9 ~~(3) The sentencing guidelines commission shall compare each~~  
10 ~~individual judge's sentencing practices to the standard or presumptive~~  
11 ~~sentence range for any and all felony crimes listed in subsection (2)~~  
12 ~~of this section for the appropriate offense level as defined in RCW~~  
13 ~~9.94A.515 or 9.94A.518, offender score as defined in RCW 9.94A.525, and~~  
14 ~~any applicable deadly weapon enhancements as defined in RCW 9.94A.533~~  
15 ~~(3) or (4), or both. These comparative records shall be retained and~~  
16 ~~made available to the public for review in a current, newly created or~~  
17 ~~reworked official published document by the sentencing guidelines~~  
18 ~~commission.~~

19 ~~(4) Any and all felony sentences which are either above or below~~  
20 ~~the standard or presumptive sentence range in subsection (3) of this~~  
21 ~~section shall also mark whether the prosecuting attorney in the case~~  
22 ~~also recommended a similar sentence, if any, which was either above or~~  
23 ~~below the presumptive sentence range and shall also indicate if the~~  
24 ~~sentence was in conjunction with an approved alternative sentencing~~  
25 ~~option including a first-time offender waiver, sex offender sentencing~~  
26 ~~alternative, or other prescribed sentencing option.~~

27 ~~(5)) )~~

28 (3) If any completed judgment and sentence document as defined in  
29 subsection (1) of this section is not sent to the ~~((sentencing~~  
30 ~~guidelines commission))~~ caseload forecast council as required in  
31 subsection (2) of this section, the ~~((sentencing guidelines~~  
32 ~~commission))~~ caseload forecast council shall have the authority and  
33 shall undertake reasonable and necessary steps to assure that all past,  
34 current, and future sentencing documents as defined in subsection (1)  
35 of this section are received by the ~~((sentencing guidelines~~  
36 ~~commission))~~ caseload forecast council.

1        NEW SECTION.    **Sec. 28.**    A new section is added to chapter 43.88C  
2    RCW to read as follows:

3        (1) The caseload forecast council shall develop and maintain a  
4    computerized adult and juvenile sentencing information system  
5    consisting of offender, offense, history, and sentence information  
6    entered from the judgment and sentence forms for all adult felons.

7        (2) As part of its duties in maintaining the sentencing information  
8    system, the caseload forecast council shall:

9        (a) On an annual basis, publish a statistical summary of adult  
10    felony sentencing and juvenile dispositions;

11        (b) Publish and maintain an adult felony sentencing manual; and

12        (c) Publish and maintain a juvenile sentencing manual.

13        (3) The sentencing manuals are intended only as a guide to assist  
14    practitioners in determining appropriate sentencing ranges. The  
15    manuals are not a substitute for the actual statutes, which list the  
16    sentencing ranges, or for any other information contained within this  
17    chapter. The caseload forecast council is not liable for errors or  
18    omissions in the manual, for sentences that may be inappropriately  
19    calculated as a result of a practitioner's or court's reliance on the  
20    manual, or for any other written or verbal information provided by the  
21    caseload forecast council or its staff related to adult or juvenile  
22    sentencing.

23        (4) In publishing materials required by this section, the caseload  
24    forecast council shall make the materials available on its web site.  
25    The caseload forecast council may charge a reasonable cost for  
26    producing and distributing hard copies of any materials.

27        NEW SECTION.    **Sec. 29.**    A new section is added to chapter 43.88C  
28    RCW to read as follows:

29        The caseload forecast council shall appoint a research staff of  
30    sufficient size and with sufficient resources to accomplish its duties.  
31    The caseload forecast council may request from the administrative  
32    office of the courts and the department of social and health services  
33    such data, information, and data processing assistance as it may need  
34    to accomplish its duties, and such services shall be provided without  
35    cost to the caseload forecast council.

1       **Sec. 30.** RCW 13.50.010 and 2010 c 150 s 3 are each amended to read  
2 as follows:

3       (1) For purposes of this chapter:

4       (a) "Juvenile justice or care agency" means any of the following:  
5 Police, diversion units, court, prosecuting attorney, defense attorney,  
6 detention center, attorney general, the legislative children's  
7 oversight committee, the office of the family and children's ombudsman,  
8 the department of social and health services and its contracting  
9 agencies, schools; persons or public or private agencies having  
10 children committed to their custody; and any placement oversight  
11 committee created under RCW 72.05.415;

12       (b) "Official juvenile court file" means the legal file of the  
13 juvenile court containing the petition or information, motions,  
14 memorandums, briefs, findings of the court, and court orders;

15       (c) "Records" means the official juvenile court file, the social  
16 file, and records of any other juvenile justice or care agency in the  
17 case;

18       (d) "Social file" means the juvenile court file containing the  
19 records and reports of the probation counselor.

20       (2) Each petition or information filed with the court may include  
21 only one juvenile and each petition or information shall be filed under  
22 a separate docket number. The social file shall be filed separately  
23 from the official juvenile court file.

24       (3) It is the duty of any juvenile justice or care agency to  
25 maintain accurate records. To this end:

26       (a) The agency may never knowingly record inaccurate information.  
27 Any information in records maintained by the department of social and  
28 health services relating to a petition filed pursuant to chapter 13.34  
29 RCW that is found by the court to be false or inaccurate shall be  
30 corrected or expunged from such records by the agency;

31       (b) An agency shall take reasonable steps to assure the security of  
32 its records and prevent tampering with them; and

33       (c) An agency shall make reasonable efforts to insure the  
34 completeness of its records, including action taken by other agencies  
35 with respect to matters in its files.

36       (4) Each juvenile justice or care agency shall implement procedures  
37 consistent with the provisions of this chapter to facilitate inquiries  
38 concerning records.

1 (5) Any person who has reasonable cause to believe information  
2 concerning that person is included in the records of a juvenile justice  
3 or care agency and who has been denied access to those records by the  
4 agency may make a motion to the court for an order authorizing that  
5 person to inspect the juvenile justice or care agency record concerning  
6 that person. The court shall grant the motion to examine records  
7 unless it finds that in the interests of justice or in the best  
8 interests of the juvenile the records or parts of them should remain  
9 confidential.

10 (6) A juvenile, or his or her parents, or any person who has  
11 reasonable cause to believe information concerning that person is  
12 included in the records of a juvenile justice or care agency may make  
13 a motion to the court challenging the accuracy of any information  
14 concerning the moving party in the record or challenging the continued  
15 possession of the record by the agency. If the court grants the  
16 motion, it shall order the record or information to be corrected or  
17 destroyed.

18 (7) The person making a motion under subsection (5) or (6) of this  
19 section shall give reasonable notice of the motion to all parties to  
20 the original action and to any agency whose records will be affected by  
21 the motion.

22 (8) The court may permit inspection of records by, or release of  
23 information to, any clinic, hospital, or agency which has the subject  
24 person under care or treatment. The court may also permit inspection  
25 by or release to individuals or agencies, including juvenile justice  
26 advisory committees of county law and justice councils, engaged in  
27 legitimate research for educational, scientific, or public purposes.  
28 The court shall release to the (~~sentencing guidelines commission~~)  
29 caseload forecast council records needed for its research and data-  
30 gathering functions (~~under RCW 9.94A.850 and other statutes~~). Access  
31 to records or information for research purposes shall be permitted only  
32 if the anonymity of all persons mentioned in the records or information  
33 will be preserved. Each person granted permission to inspect juvenile  
34 justice or care agency records for research purposes shall present a  
35 notarized statement to the court stating that the names of juveniles  
36 and parents will remain confidential.

37 (9) Juvenile detention facilities shall release records to the  
38 (~~sentencing guidelines commission under RCW 9.94A.850~~) caseload

1 forecast council upon request. The commission shall not disclose the  
2 names of any juveniles or parents mentioned in the records without the  
3 named individual's written permission.

4 (10) Requirements in this chapter relating to the court's authority  
5 to compel disclosure shall not apply to the legislative children's  
6 oversight committee or the office of the family and children's  
7 ombudsman.

8 (11) For the purpose of research only, the administrative office of  
9 the courts shall maintain an electronic research copy of all records in  
10 the judicial information system related to juveniles. Access to the  
11 research copy is restricted to the Washington state center for court  
12 research. The Washington state center for court research shall  
13 maintain the confidentiality of all confidential records and shall  
14 preserve the anonymity of all persons identified in the research copy.  
15 The research copy may not be subject to any records retention schedule  
16 and must include records destroyed or removed from the judicial  
17 information system pursuant to RCW 13.50.050 (17) and (18) and  
18 13.50.100(3).

19 (12) The court shall release to the Washington state office of  
20 public defense records needed to implement the agency's oversight,  
21 technical assistance, and other functions as required by RCW 2.70.020.  
22 Access to the records used as a basis for oversight, technical  
23 assistance, or other agency functions is restricted to the Washington  
24 state office of public defense. The Washington state office of public  
25 defense shall maintain the confidentiality of all confidential  
26 information included in the records.

27 **Sec. 31.** RCW 9.94A.74501 and 2001 c 35 s 3 are each amended to  
28 read as follows:

29 (1) The ~~((sentencing — guidelines — commission))~~ department of  
30 corrections shall serve as the state council for interstate adult  
31 offender supervision as required under article IV of RCW 9.94A.745, the  
32 interstate compact for adult offender supervision. ~~((To assist the~~  
33 ~~commission in performing its functions as the state council, the~~  
34 ~~department of corrections shall provide staffing and support~~  
35 ~~services.))~~ The ~~((commission))~~ department of corrections may form a  
36 subcommittee, including members representing the legislative, judicial,  
37 and executive branches of state government, and victims' groups ~~((, and~~

1 ~~the secretary of corrections,~~) to perform the functions of the state  
2 council. Any such subcommittee shall include representation of both  
3 houses and at least two of the four largest political caucuses in the  
4 legislature.

5 (2) The (~~commission,~~) department or a subcommittee if formed for  
6 that purpose, shall:

7 (a) Review department operations and procedures under RCW  
8 9.94A.745, and recommend policies to the compact administrator,  
9 including policies to be pursued in the administrator's capacity as the  
10 state's representative on the interstate commission created under  
11 article III of RCW 9.94A.745; and

12 (b) Report annually to the legislature on interstate supervision  
13 operations and procedures under RCW 9.94A.745, including  
14 recommendations for policy changes(~~;~~~~and~~

15 ~~(c) Not later than December 1, 2004, report to the legislature on~~  
16 ~~the effectiveness of its functioning as the state council under article~~  
17 ~~IV of RCW 9.94A.745, and recommend any legislation it deems~~  
18 ~~appropriate)).~~

19 (3) The (~~commission, or a subcommittee if formed for that~~  
20 ~~purpose,~~) secretary shall appoint (~~one of its members, or~~) an  
21 employee of the department (~~designated by the secretary~~), or a  
22 subcommittee if formed for that purpose shall appoint one of its  
23 members, to represent the state at meetings of the interstate  
24 commission created under article III of RCW 9.94A.745 when the compact  
25 administrator cannot attend.

26 **Sec. 32.** RCW 10.98.140 and 1987 c 462 s 4 are each amended to read  
27 as follows:

28 (1) The section, the department, and the office of financial  
29 management shall be the primary sources of information for criminal  
30 justice forecasting. The information maintained by these agencies  
31 shall be complete, accurate, and sufficiently timely to support state  
32 criminal justice forecasting.

33 (2) The (~~office of financial management shall be the official~~  
34 ~~state agency for the sentenced felon jail forecast. This forecast~~  
35 ~~shall provide at least a six year projection and shall be published by~~  
36 ~~December 1 of every even numbered year beginning with 1986. The office~~

1 of financial management shall seek advice regarding the assumptions in  
2 the forecast from criminal justice agencies and associations.

3 ~~(3) - The sentencing guidelines commission~~) caseload forecast  
4 council shall keep records on all sentencing above or below the  
5 standard range defined by chapter 9.94A RCW. As a minimum, the records  
6 shall include the name of the offender, the crimes for which the  
7 offender was sentenced, the name and county of the sentencing judge,  
8 and the deviation from the standard range. Such records shall be made  
9 available to public officials upon request.

10 **Sec. 33.** RCW 10.98.160 and 2005 c 282 s 25 are each amended to  
11 read as follows:

12 In the development and modification of the procedures, definitions,  
13 and reporting capabilities of the section, the department, the office  
14 of financial management, and the responsible agencies and persons shall  
15 consider the needs of other criminal justice agencies such as the  
16 administrative office of the courts, local law enforcement agencies,  
17 local jails, ~~((the sentencing guidelines commission,))~~ the  
18 indeterminate sentence review board, the clemency board, prosecuting  
19 attorneys, and affected state agencies such as the office of financial  
20 management and legislative committees dealing with criminal justice  
21 issues. The Washington integrated justice information board shall  
22 review and provide recommendations to state justice agencies and the  
23 courts for development and modification of the statewide justice  
24 information network.

25 **Sec. 34.** RCW 70.96A.350 and 2009 c 479 s 50 and 2009 c 445 s 1 are  
26 each reenacted and amended to read as follows:

27 (1) The criminal justice treatment account is created in the state  
28 treasury. Moneys in the account may be expended solely for: (a)  
29 Substance abuse treatment and treatment support services for offenders  
30 with an addiction or a substance abuse problem that, if not treated,  
31 would result in addiction, against whom charges are filed by a  
32 prosecuting attorney in Washington state; (b) the provision of drug and  
33 alcohol treatment services and treatment support services for  
34 nonviolent offenders within a drug court program; (c) the  
35 administrative and overhead costs associated with the operation of a  
36 drug court; and (d) during the 2007-2009 biennium, operation of the

1 integrated crisis response and intensive case management pilots  
2 contracted with the department of social and health services division  
3 of alcohol and substance abuse. Moneys in the account may be spent  
4 only after appropriation.

5 (2) For purposes of this section:

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

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

15 (3) Revenues to the criminal justice treatment account consist of:

16 (a) Funds transferred to the account pursuant to this section; and (b)  
17 any other revenues appropriated to or deposited in the account.

18 (4)(a) For the fiscal biennium beginning July 1, 2003, the state  
19 treasurer shall transfer eight million nine hundred fifty thousand  
20 dollars from the general fund into the criminal justice treatment  
21 account, divided into eight equal quarterly payments. For the fiscal  
22 year beginning July 1, 2005, and each subsequent fiscal year, the state  
23 treasurer shall transfer eight million two hundred fifty thousand  
24 dollars from the general fund to the criminal justice treatment  
25 account, divided into four equal quarterly payments. For the fiscal  
26 year beginning July 1, 2006, and each subsequent fiscal year, the  
27 amount transferred shall be increased on an annual basis by the  
28 implicit price deflator as published by the federal bureau of labor  
29 statistics.

30 (b) In each odd-numbered year, the legislature shall appropriate  
31 the amount transferred to the criminal justice treatment account in (a)  
32 of this subsection to the division of alcohol and substance abuse for  
33 the purposes of subsection (5) of this section.

34 (5) Moneys appropriated to the division of alcohol and substance  
35 abuse from the criminal justice treatment account shall be distributed  
36 as specified in this subsection. The department shall serve as the  
37 fiscal agent for purposes of distribution. Until July 1, 2004, the  
38 department may not use moneys appropriated from the criminal justice

1 treatment account for administrative expenses and shall distribute all  
2 amounts appropriated under subsection (4)(b) of this section in  
3 accordance with this subsection. Beginning in July 1, 2004, the  
4 department may retain up to three percent of the amount appropriated  
5 under subsection (4)(b) of this section for its administrative costs.

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

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

34 (6) The county alcohol and drug coordinator, county prosecutor,  
35 county sheriff, county superior court, a substance abuse treatment  
36 provider appointed by the county legislative authority, a member of the  
37 criminal defense bar appointed by the county legislative authority,  
38 and, in counties with a drug court, a representative of the drug court

1 shall jointly submit a plan, approved by the county legislative  
2 authority or authorities, to the panel established in subsection (5)(b)  
3 of this section, for disposition of all the funds provided from the  
4 criminal justice treatment account within that county. The funds shall  
5 be used solely to provide approved alcohol and substance abuse  
6 treatment pursuant to RCW 70.96A.090, treatment support services, and  
7 for the administrative and overhead costs associated with the operation  
8 of a drug court.

9 (a) No more than ten percent of the total moneys received under  
10 subsections (4) and (5) of this section by a county or group of  
11 counties participating in a regional agreement shall be spent on the  
12 administrative and overhead costs associated with the operation of a  
13 drug court.

14 (b) No more than ten percent of the total moneys received under  
15 subsections (4) and (5) of this section by a county or group of  
16 counties participating in a regional agreement shall be spent for  
17 treatment support services.

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

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

24 (9) Counties must meet the criteria established in RCW  
25 2.28.170(3)(b).

26 (10) The authority under this section to use funds from the  
27 criminal justice treatment account for the administrative and overhead  
28 costs associated with the operation of a drug court expires June 30,  
29 2013.

30 **Sec. 35.** RCW 72.66.016 and 1983 c 255 s 8 are each amended to read  
31 as follows:

32 (1) A furlough shall not be granted to a resident if the furlough  
33 would commence prior to the time the resident has served the minimum  
34 amounts of time provided under this section:

35 (a) If his or her minimum term of imprisonment is longer than  
36 twelve months, he or she shall have served at least six months of the  
37 term;

1 (b) If his or her minimum term of imprisonment is less than twelve  
2 months, he or she shall have served at least ninety days and shall have  
3 no longer than six months left to serve on his or her minimum term;

4 (c) If he or she is serving a mandatory minimum term of  
5 confinement, he or she shall have served all but the last six months of  
6 such term.

7 (2) A person convicted and sentenced for a violent offense as  
8 defined in RCW 9.94A.030 is not eligible for furlough until the person  
9 has served at least one-half of the minimum term (~~(as established by~~  
10 ~~the board of prison terms and paroles or the sentencing guidelines~~  
11 ~~commission)~~)).

12 **Sec. 36.** RCW 9.94A.860 and 2001 2nd sp.s. c 12 s 311 are each  
13 amended to read as follows:

14 (1) The sentencing guidelines commission is hereby created, located  
15 within the office of financial management. Except as provided in RCW  
16 9.94A.875, the commission shall serve to advise the governor and the  
17 legislature as necessary on issues relating to adult and juvenile  
18 sentencing. The commission may meet, as necessary, to accomplish these  
19 purposes within funds appropriated.

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

25 ((+2)) (3) The voting membership consists of the following:

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

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

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

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

35 (e) Two prosecuting attorneys;

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

37 (g) Four persons who are superior court judges;

1 (h) One person who is the chief law enforcement officer of a county  
2 or city;

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

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

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

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

10 In making the appointments, the governor shall endeavor to assure  
11 that the commission membership includes adequate representation and  
12 expertise relating to both the adult criminal justice system and the  
13 juvenile justice system. In making the appointments, the governor  
14 shall seek the recommendations of Washington prosecutors in respect to  
15 the prosecuting attorney members, of the Washington state bar  
16 association in respect to the defense attorney members, of the  
17 association of superior court judges in respect to the members who are  
18 judges, of the Washington association of sheriffs and police chiefs in  
19 respect to the member who is a law enforcement officer, of the  
20 Washington state association of counties in respect to the member who  
21 is a county official, of the association of Washington cities in  
22 respect to the member who is a city official, of the office of crime  
23 victims advocacy and other organizations of crime victims in respect to  
24 the member who is a victim of crime or a crime victims' advocate, and  
25 of the Washington association of juvenile court administrators in  
26 respect to the member who is an administrator of juvenile court  
27 services.

28 ~~((3))~~ (4)(a) All voting members of the commission, except ex  
29 officio voting members, shall serve terms of three years and until  
30 their successors are appointed and confirmed.

31 (b) The governor shall stagger the terms of the members appointed  
32 under subsection ~~((2))~~ (3)(j), (k), and (l) of this section by  
33 appointing one of them for a term of one year, one for a term of two  
34 years, and one for a term of three years.

35 ~~((4))~~ (5) The speaker of the house of representatives and the  
36 president of the senate may each appoint two nonvoting members to the  
37 commission, one from each of the two largest caucuses in each house.

1 The members so appointed shall serve two-year terms, or until they  
2 cease to be members of the house from which they were appointed,  
3 whichever occurs first.

4 ~~((+5))~~ (6) The members of the commission ~~((shall))~~ may be  
5 reimbursed for travel expenses as provided in RCW 43.03.050 and  
6 43.03.060. Legislative members ~~((shall))~~ may be reimbursed by their  
7 respective houses as provided under RCW 44.04.120. Except for the  
8 reimbursement of travel expenses, members shall not be compensated ~~((in~~  
9 ~~accordance with RCW 43.03.250))~~.

10 **Sec. 37.** RCW 9.94A.8673 and 2008 c 249 s 3 are each amended to  
11 read as follows:

12 (1) Within funds appropriated for this purpose, the sentencing  
13 guidelines commission shall establish and maintain a sex offender  
14 policy board.

15 (2)(a) The board shall serve to advise the governor and the  
16 legislature as necessary on issues relating to sex offender management.

17 (b) At such times as the governor or a legislative committee of  
18 jurisdiction may request, the sex offender policy board may be convened  
19 to:

20 (i) Undertake projects to assist policymakers in making informed  
21 judgments about issues relating to sex offender policy; and

22 (ii) Conduct case reviews of sex offense incidents to understand  
23 performance of Washington's sex offender prevention and response  
24 systems.

25 (3) The sex offender policy board shall consist of thirteen voting  
26 members. Unless the member is specifically named in this section, the  
27 following organizations shall designate a person to sit on the board.  
28 The voting membership shall consist of the following:

29 (a) A representative of the Washington association of sheriffs and  
30 police chiefs;

31 (b) A representative of the Washington association of prosecuting  
32 attorneys;

33 (c) A representative of the Washington association of criminal  
34 defense lawyers;

35 (d) The chair of the indeterminate sentence review board or his or  
36 her designee;

- 1 (e) A representative of the Washington association for the  
2 treatment of sex abusers;
- 3 (f) The secretary of the department of corrections or his or her  
4 designee;
- 5 (g) A representative of the Washington state superior court judge's  
6 association;
- 7 (h) The assistant secretary of the juvenile rehabilitation  
8 administration or his or her designee;
- 9 (i) The office of crime victims advocacy in the department of  
10 ~~((community, trade, and economic development))~~ commerce;
- 11 (j) A representative of the Washington state association of  
12 counties;
- 13 (k) A representative of the association of Washington cities;
- 14 (l) A representative of the Washington association of sexual  
15 assault programs; and
- 16 (m) The director of the special commitment center or his or her  
17 designee.
- 18 ~~((2) The person so named in subsection (1) of this section has the  
19 authority to make decisions on behalf of the organization he or she  
20 represents.~~
- 21 ~~(3) The nonvoting membership shall consist of the following:~~
- 22 ~~(a) Two members of the sentencing guidelines commission chosen by  
23 the chair of the commission; and~~
- 24 ~~(b) A representative of the criminal justice division in the  
25 attorney general's office.)~~
- 26 (4) The board shall choose its chair by majority vote from among  
27 its voting membership. The chair's term shall be two years.
- 28 (5) ~~((The chair of the sentencing guidelines commission shall  
29 convene the first meeting.~~
- 30 ~~(6))~~ As appropriate, the board shall consult with the criminal  
31 justice division in the attorney general's office and the Washington  
32 institute for public policy ~~((shall act as an advisor to the board))~~.
- 33 (6) Members of the board shall receive no compensation but may be  
34 reimbursed for travel expenses as provided in RCW 43.03.050 and  
35 43.03.060.

36 **Sec. 38.** RCW 9A.52.025 and 1989 2nd ex.s. c 1 s 1 are each amended  
37 to read as follows:

1 (1) A person is guilty of residential burglary if, with intent to  
2 commit a crime against a person or property therein, the person enters  
3 or remains unlawfully in a dwelling other than a vehicle.

4 (2) Residential burglary is a class B felony. In establishing  
5 sentencing guidelines and disposition standards, (~~the sentencing~~  
6 ~~guidelines commission and the juvenile disposition standards commission~~  
7 ~~shall consider~~) residential burglary (~~as~~) is to be considered a more  
8 serious offense than second degree burglary.

9 NEW SECTION. **Sec. 39.** The following acts or parts of acts are  
10 each repealed:

11 (1) RCW 13.40.005 (Juvenile disposition standards commission--  
12 Abolished--References to commission--Transfer of powers, duties, and  
13 functions) and 1995 c 269 s 301;

14 (2) RCW 9.94A.850 (Sentencing guidelines commission--Established--  
15 Powers and duties) and 2009 c 375 s 8, 2009 c 28 s 17, & 2005 c 282 s  
16 19;

17 (3) RCW 9.94A.855 (Sentencing guidelines commission--Research  
18 staff--Data, information, assistance--Bylaws--Salary of executive  
19 officer) and 2005 c 282 s 20, 1999 c 143 s 10, 1982 c 192 s 3, & 1981  
20 c 137 s 5;

21 (4) RCW 9.94A.863 (Monetary threshold amounts of property crimes--  
22 Review--Report) and 2009 c 431 s 2;

23 (5) RCW 9.94A.8671 (Sex offender policy board--Findings--Intent)  
24 and 2008 c 249 s 1;

25 (6) RCW 9.94A.8672 (Sex offender policy board--Establishment) and  
26 2008 c 249 s 2;

27 (7) RCW 9.94A.8674 (Sex offender policy board--Terms--Vacancies)  
28 and 2008 c 249 s 4;

29 (8) RCW 9.94A.8675 (Sex offender policy board--Authority) and 2008  
30 c 249 s 5;

31 (9) RCW 9.94A.8676 (Sex offender policy board--Duties) and 2008 c  
32 249 s 6;

33 (10) RCW 9.94A.8677 (Sex offender policy board--Travel expenses)  
34 and 2008 c 249 s 7;

35 (11) RCW 9.94A.8678 (Sex offender policy board--Meeting  
36 attendance--Member replacement) and 2008 c 249 s 8;

1 (12) RCW 43.131.411 (Sex offender policy board--Termination) and  
2 2008 c 249 s 9; and  
3 (13) RCW 43.131.412 (Sex offender policy board--Repeal) and 2008 c  
4 249 s 10.

5 **Sec. 40.** RCW 9.95.011 and 2009 c 28 s 21 are each amended to read  
6 as follows:

7 (1) When the court commits a convicted person to the department of  
8 corrections on or after July 1, 1986, for an offense committed before  
9 July 1, 1984, the court shall, at the time of sentencing or revocation  
10 of probation, fix the minimum term. The term so fixed shall not exceed  
11 the maximum sentence provided by law for the offense of which the  
12 person is convicted.

13 The court shall attempt to set the minimum term reasonably  
14 consistent with the purposes, standards, and sentencing ranges  
15 (~~adopted under RCW 9.94A.850~~) under chapter 9.94A RCW of the  
16 sentencing reform act, but the court is subject to the same limitations  
17 as those placed on the board under RCW 9.92.090, 9.95.040 (1) through  
18 (4), 9.95.115, 9A.32.040, 9A.44.045, and chapter 69.50 RCW. The  
19 court's minimum term decision is subject to review to the same extent  
20 as a minimum term decision by the parole board before July 1, 1986.

21 Thereafter, the expiration of the minimum term set by the court  
22 minus any time credits earned under RCW 9.95.070 and 9.95.110  
23 constitutes the parole eligibility review date, at which time the board  
24 may consider the convicted person for parole under RCW 9.95.100 and  
25 9.95.110 and chapter 72.04A RCW. Nothing in this section affects the  
26 board's authority to reduce or increase the minimum term, once set by  
27 the court, under RCW 9.95.040, 9.95.052, 9.95.055, 9.95.070, 9.95.080,  
28 9.95.100, 9.95.115, 9.95.125, or 9.95.047.

29 (2)(a) Except as provided in (b) of this subsection, not less than  
30 ninety days prior to the expiration of the minimum term of a person  
31 sentenced under RCW 9.94A.507, for a sex offense committed on or after  
32 September 1, 2001, less any time credits permitted by statute, the  
33 board shall review the person for conditional release to community  
34 custody as provided in RCW 9.95.420. If the board does not release the  
35 person, it shall set a new minimum term not to exceed an additional  
36 five years. The board shall review the person again not less than  
37 ninety days prior to the expiration of the new minimum term.

1 (b) If at the time a person sentenced under RCW 9.94A.507 for a sex  
2 offense committed on or after September 1, 2001, arrives at a  
3 department of corrections facility, the offender's minimum term has  
4 expired or will expire within one hundred twenty days of the offender's  
5 arrival, then no later than one hundred twenty days after the  
6 offender's arrival at a department of corrections facility, but after  
7 the board receives the results from the end of sentence review process  
8 and the recommendations for additional or modified conditions of  
9 community custody from the department, the board shall review the  
10 person for conditional release to community custody as provided in RCW  
11 9.95.420. If the board does not release the person, it shall set a new  
12 minimum term not to exceed an additional five years. The board shall  
13 review the person again not less than ninety days prior to the  
14 expiration of the new minimum term.

15 (c) In setting a new minimum term, the board may consider the  
16 length of time necessary for the offender to complete treatment and  
17 programming as well as other factors that relate to the offender's  
18 release under RCW 9.95.420. The board's rules shall permit an offender  
19 to petition for an earlier review if circumstances change or the board  
20 receives new information that would warrant an earlier review.

21 **Sec. 41.** RCW 9.95.009 and 1990 c 3 s 707 are each amended to read  
22 as follows:

23 (1) On July 1, 1986, the board of prison terms and paroles shall be  
24 redesignated as the indeterminate sentence review board. The board's  
25 membership shall be reduced as follows: On July 1, 1986, and on July  
26 1st of each year until 1998, the number of board members shall be  
27 reduced in a manner commensurate with the board's remaining workload as  
28 determined by the office of financial management based upon its  
29 population forecast for the indeterminate sentencing system and in  
30 conjunction with the budget process. To meet the statutory obligations  
31 of the indeterminate sentence review board, the number of board members  
32 shall not be reduced to fewer than three members, although the office  
33 of financial management may designate some or all members as part-time  
34 members and specify the extent to which they shall be less than full-  
35 time members. Any reduction shall take place by the expiration, on  
36 that date, of the term or terms having the least time left to serve.

1 (2) After July 1, 1984, the board shall continue its functions with  
2 respect to persons convicted of crimes committed prior to July 1, 1984,  
3 and committed to the department of corrections. When making decisions  
4 on duration of confinement, including those relating to persons  
5 committed under a mandatory life sentence, and parole release under RCW  
6 9.95.100 and 9.95.110, the board shall consider the purposes,  
7 standards, and sentencing ranges (~~(adopted pursuant to RCW 9.94A.850)~~)  
8 under chapter 9.94A RCW of the sentencing reform act and the minimum  
9 term recommendations of the sentencing judge and prosecuting attorney,  
10 and shall attempt to make decisions reasonably consistent with those  
11 ranges, standards, purposes, and recommendations: PROVIDED, That the  
12 board and its successors shall give adequate written reasons whenever  
13 a minimum term or parole release decision is made which is outside the  
14 sentencing ranges (~~(adopted pursuant to RCW 9.94A.850)~~) under chapter  
15 9.94A RCW of the sentencing reform act. In making such decisions, the  
16 board and its successors shall consider the different charging and  
17 disposition practices under the indeterminate sentencing system.

18 (3) Notwithstanding the provisions of subsection (2) of this  
19 section, the indeterminate sentence review board shall give public  
20 safety considerations the highest priority when making all  
21 discretionary decisions on the remaining indeterminate population  
22 regarding the ability for parole, parole release, and conditions of  
23 parole.

24 **PART V**  
25 **Miscellaneous**

26 NEW SECTION. **Sec. 42.** (1) Except as otherwise provided in this  
27 section, the provisions of this act apply to persons convicted before,  
28 on, or after the effective date of this section.

29 (2) By January 1, 2012, consistent with RCW 9.94A.171, 9.94A.501,  
30 and section 3 of this act, the department of corrections shall  
31 recalculate the term of community custody for offenders currently in  
32 confinement or serving a term of community custody. The department of  
33 corrections shall reset the date that community custody will end for  
34 those offenders. The recalculation shall not extend a term of  
35 community custody beyond that to which an offender is currently  
36 subject.

1           (3) By January 1, 2012, consistent with the provisions of RCW  
2 9.94A.650, the department of corrections shall recalculate the term of  
3 community custody for each offender sentenced to a first-time offender  
4 waiver under RCW 9.94A.650 and currently in confinement or serving a  
5 term of community custody. The department of corrections shall reset  
6 the date that community custody will end for those offenders. The  
7 recalculation shall not extend a term of community custody beyond that  
8 to which an offender is currently subject.

9           NEW SECTION.   **Sec. 43.** 2011 c 96 s 11 is repealed.

10          NEW SECTION.   **Sec. 44.** Sections 1 through 9 and 42 of this act are  
11 necessary for the immediate preservation of the public peace, health,  
12 or safety, or support of the state government and its existing public  
13 institutions, and take effect immediately.

14          NEW SECTION.   **Sec. 45.** Section 43 of this act is necessary for the  
15 immediate preservation of the public peace, health, or safety, or  
16 support of the state government and its existing public institutions,  
17 and takes effect July 1, 2011.

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