

2 SSB 5006 - S AMD - 566  
3 By Senator Stevens

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

7 "NEW SECTION. **Sec. 1.** Since passage of the sentencing reform act  
8 of 1981, the legislature has recognized that certain offenders should  
9 be subject to supervision after release from prison. Also, the  
10 determinate sentencing system has been criticized for releasing  
11 offenders at the end of their sentence even if they continue to pose a  
12 substantial threat to public safety. In regard to sex offenders, more  
13 information may be known about the offender at the time of release from  
14 prison than was known by the judge at the time of sentencing. The  
15 legislature finds that in order to further enhance public safety and  
16 reduce recidivism by sex offenders, the sentencing reform act should be  
17 revised to require consideration of the future dangerousness of sex  
18 offenders before their release from prison. Also, the authority to  
19 impose, monitor, and enforce conditions on the release of a sex  
20 offender should be enhanced.

21 **Sec. 2.** RCW 9.94A.120 and 1997 c 340 s 2, 1997 c 338 s 4, 1997 c  
22 144 s 2, 1997 c 121 s 2, and 1997 c 69 s 1 are each reenacted and  
23 amended to read as follows:

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

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

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

33 (3) Whenever a sentence outside the standard range is imposed, the  
34 court shall set forth the reasons for its decision in written findings

1 of fact and conclusions of law. A sentence outside the standard range  
2 shall be a determinate sentence.

3 (4) A persistent offender shall be sentenced to a term of total  
4 confinement for life without the possibility of parole or, when  
5 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
6 first degree, sentenced to death, notwithstanding the maximum sentence  
7 under any other law. An offender convicted of the crime of murder in  
8 the first degree shall be sentenced to a term of total confinement not  
9 less than twenty years. An offender convicted of the crime of assault  
10 in the first degree or assault of a child in the first degree where the  
11 offender used force or means likely to result in death or intended to  
12 kill the victim shall be sentenced to a term of total confinement not  
13 less than five years. An offender convicted of the crime of rape in  
14 the first degree shall be sentenced to a term of total confinement not  
15 less than five years. The foregoing minimum terms of total confinement  
16 are mandatory and shall not be varied or modified as provided in  
17 subsection (2) of this section. In addition, all offenders subject to  
18 the provisions of this subsection shall not be eligible for community  
19 custody, earned early release time, furlough, home detention, partial  
20 confinement, work crew, work release, or any other form of early  
21 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),  
22 or any other form of authorized leave of absence from the correctional  
23 facility while not in the direct custody of a corrections officer or  
24 officers during such minimum terms of total confinement except in the  
25 case of an offender in need of emergency medical treatment or for the  
26 purpose of commitment to an inpatient treatment facility in the case of  
27 an offender convicted of the crime of rape in the first degree.

28 (5) In sentencing a first-time offender the court may waive the  
29 imposition of a sentence within the sentence range and impose a  
30 sentence which may include up to ninety days of confinement in a  
31 facility operated or utilized under contract by the county and a  
32 requirement that the offender refrain from committing new offenses.  
33 The sentence may also include up to two years of community supervision,  
34 which, in addition to crime-related prohibitions, may include  
35 requirements that the offender perform any one or more of the  
36 following:

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

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

4 (c) Pursue a prescribed, secular course of study or vocational  
5 training;

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

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

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

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

15 (i) The offender is convicted of the manufacture, delivery, or  
16 possession with intent to manufacture or deliver a controlled substance  
17 classified in Schedule I or II that is a narcotic drug or a felony that  
18 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,  
19 criminal solicitation, or criminal conspiracy to commit such crimes,  
20 and the violation does not involve a sentence enhancement under RCW  
21 9.94A.310 (3) or (4);

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

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

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

1 services, in cooperation with the department of corrections. If the  
2 midpoint of the standard range is twenty-four months or less, no more  
3 than three months of the sentence may be served in a work release  
4 status. The court shall also impose one year of concurrent community  
5 custody and community supervision that must include appropriate  
6 outpatient substance abuse treatment, crime-related prohibitions  
7 including a condition not to use illegal controlled substances, and a  
8 requirement to submit to urinalysis or other testing to monitor that  
9 status. The court may require that the monitoring for controlled  
10 substances be conducted by the department or by a treatment  
11 alternatives to street crime program or a comparable court or agency-  
12 referred program. The offender may be required to pay thirty dollars  
13 per month while on community custody to offset the cost of monitoring.  
14 In addition, the court shall impose three or more of the following  
15 conditions:

- 16 (i) Devote time to a specific employment or training;
  - 17 (ii) Remain within prescribed geographical boundaries and notify  
18 the court or the community corrections officer before any change in the  
19 offender's address or employment;
  - 20 (iii) Report as directed to a community corrections officer;
  - 21 (iv) Pay all court-ordered legal financial obligations;
  - 22 (v) Perform community service work;
  - 23 (vi) Stay out of areas designated by the sentencing judge.
- 24 (c) If the offender violates any of the sentence conditions in (b)  
25 of this subsection, the department shall impose sanctions  
26 administratively, with notice to the prosecuting attorney and the  
27 sentencing court. Upon motion of the court or the prosecuting  
28 attorney, a violation hearing shall be held by the court. If the court  
29 finds that conditions have been willfully violated, the court may  
30 impose confinement consisting of up to the remaining one-half of the  
31 midpoint of the standard range. All total confinement served during  
32 the period of community custody shall be credited to the offender,  
33 regardless of whether the total confinement is served as a result of  
34 the original sentence, as a result of a sanction imposed by the  
35 department, or as a result of a violation found by the court. The term  
36 of community supervision shall be tolled by any period of time served  
37 in total confinement as a result of a violation found by the court.
- 38 (d) The department shall determine the rules for calculating the  
39 value of a day fine based on the offender's income and reasonable

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

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

13 (8)(a)(i) When an offender is convicted of any sex offense, the  
14 court shall impose a sentence that consists of a maximum term which  
15 shall be the maximum sentence provided by RCW 9A.20.021 for the  
16 offense, and a minimum term of confinement which shall be within the  
17 standard range for the offense, except that the minimum term may be  
18 outside the standard sentence range if the court finds justification to  
19 impose an exceptional sentence as provided in subsection (2) of this  
20 section. The court shall also order the offender to be on community  
21 supervision or community placement for the length of the maximum  
22 sentence.

23 (ii) Except for offenders sentenced under the special sex offender  
24 sentencing alternative, offenders sentenced to twelve or more months  
25 shall not be released from custody until the board has determined that  
26 the offender may be released. At least sixty days before the  
27 expiration of the offender's minimum term of confinement, minus any  
28 earned early release credits, the board shall review each offender's  
29 case and make a determination of whether the offender will be released  
30 or retained in confinement.

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

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

1       (B) The court may sentence the offender to total confinement for  
2 the maximum sentence allowed by statute for the offense. The court  
3 shall also establish a minimum term of confinement for the offender.  
4 The offender shall have credit for confinement time previously served  
5 for the offense or for violations of community supervision established  
6 for that offense. This sentence shall be served in total confinement  
7 in a facility or institution operated, or used under contract, by the  
8 state. After serving the minimum term imposed by the court, the  
9 offender shall be subject to the jurisdiction of the board which shall  
10 determine whether the offender should be released.

11       (b)(i) When an offender is convicted of a sex offense other than a  
12 violation of RCW 9A.44.050 or a sex offense that is also a serious  
13 violent offense and has no prior convictions for a sex offense or any  
14 other felony sex offenses in this or any other state, the sentencing  
15 court, on its own motion or the motion of the state or the defendant,  
16 may order an examination to determine whether the defendant is amenable  
17 to treatment.

18       The report of the examination shall include at a minimum the  
19 following: The defendant's version of the facts and the official  
20 version of the facts, the defendant's offense history, an assessment of  
21 problems in addition to alleged deviant behaviors, the offender's  
22 social and employment situation, and other evaluation measures used.  
23 The report shall set forth the sources of the evaluator's information.

24       The examiner shall assess and report regarding the defendant's  
25 amenability to treatment and relative risk to the community. A  
26 proposed treatment plan shall be provided and shall include, at a  
27 minimum:

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

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

31       (C) Monitoring plans, including any requirements regarding living  
32 conditions, lifestyle requirements, and monitoring by family members  
33 and others;

34       (D) Anticipated length of treatment; and

35       (E) Recommended crime-related prohibitions.

36       The court on its own motion may order, or on a motion by the state  
37 shall order, a second examination regarding the offender's amenability  
38 to treatment. The evaluator shall be selected by the party making the  
39 motion. The defendant shall pay the cost of any second examination

1 ordered unless the court finds the defendant to be indigent in which  
2 case the state shall pay the cost.

3 (ii) After receipt of the reports, the court shall consider whether  
4 the offender and the community will benefit from use of this special  
5 sex offender sentencing alternative and consider the victim's opinion  
6 whether the offender should receive a treatment disposition under this  
7 subsection. If the court determines that this special sex offender  
8 sentencing alternative is appropriate, the court shall then impose a  
9 sentence (~~(within the sentence range)~~) that consists of a maximum term  
10 and a minimum term as provided in (a)(i) of this subsection. If (~~this~~  
11 ~~sentence~~) the minimum term is less than eleven years of confinement,  
12 the court may suspend the execution of the (~~sentence~~) minimum term  
13 and impose the following conditions of suspension:

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

19 (B) The court shall order treatment for any period up to three  
20 years in duration. The court in its discretion shall order outpatient  
21 sex offender treatment or inpatient sex offender treatment, if  
22 available. A community mental health center may not be used for such  
23 treatment unless it has an appropriate program designed for sex  
24 offender treatment. The offender shall not change sex offender  
25 treatment providers or treatment conditions without first notifying the  
26 prosecutor, the community corrections officer, and the court, and shall  
27 not change providers without court approval after a hearing if the  
28 prosecutor or community corrections officer object to the change. In  
29 addition, as conditions of the suspended sentence, the court may impose  
30 other sentence conditions including up to six months of confinement,  
31 not to exceed the sentence range of confinement for that offense,  
32 crime-related prohibitions, and requirements that the offender perform  
33 any one or more of the following:

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

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

38 (III) Report as directed to the court and a community corrections  
39 officer;

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

4 (V) Make recoupment to the victim for the cost of any counseling  
5 required as a result of the offender's crime; and

6 (C) Sex offenders sentenced under this special sex offender  
7 sentencing alternative are not eligible to accrue any earned early  
8 release time while serving a suspended sentence.

9 (iii) The sex offender therapist shall submit quarterly reports on  
10 the defendant's progress in treatment to the court and the parties.  
11 The report shall reference the treatment plan and include at a minimum  
12 the following: Dates of attendance, defendant's compliance with  
13 requirements, treatment activities, the defendant's relative progress  
14 in treatment, and any other material as specified by the court at  
15 sentencing.

16 (iv) At the time of sentencing, the court shall set a treatment  
17 termination hearing for three months prior to the anticipated date for  
18 completion of treatment. Prior to the treatment termination hearing,  
19 the treatment professional and community corrections officer shall  
20 submit written reports to the court and parties regarding the  
21 defendant's compliance with treatment and monitoring requirements, and  
22 recommendations regarding termination from treatment, including  
23 proposed community supervision conditions. Either party may request  
24 and the court may order another evaluation regarding the advisability  
25 of termination from treatment. The defendant shall pay the cost of any  
26 additional evaluation ordered unless the court finds the defendant to  
27 be indigent in which case the state shall pay the cost. At the  
28 treatment termination hearing the court may: (A) Modify conditions of  
29 community custody, and either (B) terminate treatment, or (C) extend  
30 treatment for up to the ~~((remaining period of community custody))~~  
31 maximum sentence.

32 (v) If a violation of conditions occurs during community custody,  
33 the department shall either impose sanctions as provided for in RCW  
34 9.94A.205(2)(a) or refer the violation to the court and recommend  
35 revocation of the suspended sentence as provided for in ~~((+a))~~ (b)(vi)  
36 of this subsection.

37 (vi) The court may revoke the suspended ~~((sentence))~~ minimum term  
38 at any time ~~((during the period of community custody))~~ before the  
39 expiration of the maximum sentence and order execution of the sentence

1 if: (A) The defendant violates the conditions of the suspended  
2 sentence, or (B) the court finds that the defendant is failing to make  
3 satisfactory progress in treatment. All confinement time served during  
4 the period of community custody shall be credited to the offender if  
5 the suspended sentence is revoked.

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

11 (viii) Except as provided in (~~(a)(viii)~~) (b)(ix) of this  
12 subsection, after July 1, 1991, examinations and treatment ordered  
13 pursuant to this subsection shall only be conducted by sex offender  
14 treatment providers certified by the department of health pursuant to  
15 chapter 18.155 RCW.

16 (~~(viii)~~) (ix) A sex offender therapist who examines or treats a  
17 sex offender pursuant to this subsection (8) does not have to be  
18 certified by the department of health pursuant to chapter 18.155 RCW if  
19 the court finds that: (A) The offender has already moved to another  
20 state or plans to move to another state for reasons other than  
21 circumventing the certification requirements; (B) no certified  
22 providers are available for treatment within a reasonable geographical  
23 distance of the offender's home; and (C) the evaluation and treatment  
24 plan comply with this subsection (8) and the rules adopted by the  
25 department of health.

26 (~~(ix)~~) (x) For purposes of this subsection (8), "victim" means  
27 any person who has sustained emotional, psychological, physical, or  
28 financial injury to person or property as a result of the crime  
29 charged. "Victim" also means a parent or guardian of a victim who is  
30 a minor child unless the parent or guardian is the perpetrator of the  
31 offense.

32 (~~(x)~~) (xi) If the defendant was less than eighteen years of age  
33 when the charge was filed, the state shall pay for the cost of initial  
34 evaluation and treatment.

35 (~~(b)~~) (c) When an offender commits any felony sex offense on or  
36 after July 1, 1987, and is sentenced to a term of confinement of more  
37 than one year but less than six years, the sentencing court may, on its  
38 own motion or on the motion of the offender or the state, request the  
39 department of corrections to evaluate whether the offender is amenable

1 to treatment and the department may place the offender in a treatment  
2 program within a correctional facility operated by the department.

3 Except for an offender who has been convicted of a violation of RCW  
4 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
5 before the expiration of his or her term of confinement, the department  
6 of corrections may request the court to convert the balance of  
7 confinement to community supervision and to place conditions on the  
8 offender including crime-related prohibitions and requirements that the  
9 offender perform any one or more of the following:

- 10 (i) Devote time to a specific employment or occupation;  
11 (ii) Remain within prescribed geographical boundaries and notify  
12 the court or the community corrections officer prior to any change in  
13 the offender's address or employment;  
14 (iii) Report as directed to the court and a community corrections  
15 officer;  
16 (iv) Undergo available outpatient treatment.

17 If the offender violates any of the terms of his or her community  
18 supervision, the court may order the offender to serve out the balance  
19 of his or her community supervision term in confinement in the custody  
20 of the department of corrections.

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

25 ((~~e~~)) (d) Offenders convicted and sentenced for a sex offense  
26 committed prior to July 1, 1987, may, subject to available funds,  
27 request an evaluation by the department of corrections to determine  
28 whether they are amenable to treatment. If the offender is determined  
29 to be amenable to treatment, the offender may request placement in a  
30 treatment program within a correctional facility operated by the  
31 department. Placement in such treatment program is subject to  
32 available funds.

33 (9)(a) When a court sentences a person to a term of total  
34 confinement to the custody of the department of corrections for an  
35 offense categorized as a sex offense or a serious violent offense  
36 committed after July 1, 1988, but before July 1, 1990, assault in the  
37 second degree, assault of a child in the second degree, any crime  
38 against a person where it is determined in accordance with RCW  
39 9.94A.125 that the defendant or an accomplice was armed with a deadly

1 weapon at the time of commission, or any felony offense under chapter  
2 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,  
3 committed on or after July 1, 1988, the court shall in addition to the  
4 other terms of the sentence, sentence the offender to a one-year term  
5 of community placement beginning either upon completion of the term of  
6 confinement or at such time as the offender is transferred to community  
7 custody in lieu of earned early release in accordance with RCW  
8 9.94A.150 (1) and (2). When the court sentences an offender under this  
9 subsection to the statutory maximum period of confinement then the  
10 community placement portion of the sentence shall consist entirely of  
11 such community custody to which the offender may become eligible, in  
12 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
13 custody actually served shall be credited against the community  
14 placement portion of the sentence.

15 (b) When a court sentences a person to a term of total confinement  
16 to the custody of the department of corrections for an offense  
17 categorized as a sex offense committed on or after July 1, 1990, but  
18 before June 6, 1996, a serious violent offense, vehicular homicide, or  
19 vehicular assault, committed on or after July 1, 1990, the court shall  
20 in addition to other terms of the sentence, sentence the offender to  
21 community placement for two years or up to the period of earned early  
22 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is  
23 longer. The community placement shall begin either upon completion of  
24 the term of confinement or at such time as the offender is transferred  
25 to community custody in lieu of earned early release in accordance with  
26 RCW 9.94A.150 (1) and (2). When the court sentences an offender under  
27 this subsection to the statutory maximum period of confinement then the  
28 community placement portion of the sentence shall consist entirely of  
29 the community custody to which the offender may become eligible, in  
30 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
31 custody actually served shall be credited against the community  
32 placement portion of the sentence. Unless a condition is waived by the  
33 court, the terms of community placement for offenders sentenced  
34 pursuant to this section shall include the following conditions:

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

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

1 (iii) The offender shall not possess or consume controlled  
2 substances except pursuant to lawfully issued prescriptions;

3 (iv) The offender shall pay supervision fees as determined by the  
4 department of corrections;

5 (v) The residence location and living arrangements are subject to  
6 the prior approval of the department of corrections during the period  
7 of community placement; and

8 (vi) The offender shall submit to affirmative acts necessary to  
9 monitor compliance with the orders of the court as required by the  
10 department.

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

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

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

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

20 (iv) The offender shall not consume alcohol;

21 (v) The offender shall comply with any crime-related prohibitions;

22 or

23 (vi) For an offender convicted of a felony sex offense against a  
24 minor victim after June 6, 1996, the offender shall comply with any  
25 terms and conditions of community placement imposed by the department  
26 of corrections relating to contact between the sex offender and a minor  
27 victim or a child of similar age or circumstance as a previous victim.

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

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

1 custody in lieu of earned early release in accordance with RCW  
2 9.94A.150 (1) and (2).

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

10 (c) At any time prior to the completion of a sex offender's term of  
11 community custody, if the court finds that public safety would be  
12 enhanced, the court may impose and enforce an order extending any or  
13 all of the conditions imposed pursuant to this section for a period up  
14 to the maximum allowable sentence for the crime as it is classified in  
15 chapter 9A.20 RCW, regardless of the expiration of the offender's term  
16 of community custody. If a violation of a condition extended under  
17 this subsection occurs after the expiration of the offender's term of  
18 community custody, it shall be deemed a violation of the sentence for  
19 the purposes of RCW 9.94A.195 and may be punishable as contempt of  
20 court as provided for in RCW 7.21.040.

21 (11) If the court imposes a sentence requiring confinement of  
22 thirty days or less, the court may, in its discretion, specify that the  
23 sentence be served on consecutive or intermittent days. A sentence  
24 requiring more than thirty days of confinement shall be served on  
25 consecutive days. Local jail administrators may schedule court-ordered  
26 intermittent sentences as space permits.

27 (12) If a sentence imposed includes payment of a legal financial  
28 obligation, the sentence shall specify the total amount of the legal  
29 financial obligation owed, and shall require the offender to pay a  
30 specified monthly sum toward that legal financial obligation.  
31 Restitution to victims shall be paid prior to any other payments of  
32 monetary obligations. Any legal financial obligation that is imposed  
33 by the court may be collected by the department, which shall deliver  
34 the amount paid to the county clerk for credit. The offender's  
35 compliance with payment of legal financial obligations shall be  
36 supervised by the department for ten years following the entry of the  
37 judgment and sentence or ten years following the offender's release  
38 from total confinement. All monetary payments ordered shall be paid no  
39 later than ten years after the last date of release from confinement

1 pursuant to a felony conviction or the date the sentence was entered  
2 unless the superior court extends the criminal judgment an additional  
3 ten years. If the legal financial obligations including crime victims'  
4 assessments are not paid during the initial ten-year period, the  
5 superior court may extend jurisdiction under the criminal judgment an  
6 additional ten years as provided in RCW 9.94A.140, 9.94A.142, and  
7 9.94A.145. If jurisdiction under the criminal judgment is extended,  
8 the department is not responsible for supervision of the offender  
9 during the subsequent period. Independent of the department, the party  
10 or entity to whom the legal financial obligation is owed shall have the  
11 authority to utilize any other remedies available to the party or  
12 entity to collect the legal financial obligation. Nothing in this  
13 section makes the department, the state, or any of its employees,  
14 agents, or other persons acting on their behalf liable under any  
15 circumstances for the payment of these legal financial obligations. If  
16 an order includes restitution as one of the monetary assessments, the  
17 county clerk shall make disbursements to victims named in the order.

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

22 (14) All offenders sentenced to terms involving community  
23 supervision, community service, community placement, or legal financial  
24 obligation shall be under the supervision of the department of  
25 corrections and shall follow explicitly the instructions and conditions  
26 of the department of corrections. The department may require an  
27 offender to perform affirmative acts it deems appropriate to monitor  
28 compliance with the conditions of the sentence imposed.

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

34 (b) For offenders sentenced to terms involving community custody  
35 for crimes committed on or after June 6, 1996, the department may  
36 include, in addition to the instructions in (a) of this subsection, any  
37 appropriate conditions of supervision, including but not limited to,  
38 prohibiting the offender from having contact with any other specified  
39 individuals or specific class of individuals. The conditions

1 authorized under this subsection (14)(b) may be imposed by the  
2 department prior to or during an offender's community custody term. If  
3 a violation of conditions imposed by the court or the department  
4 pursuant to subsection (10) of this section occurs during community  
5 custody, it shall be deemed a violation of community placement for the  
6 purposes of RCW 9.94A.207 and shall authorize the department to  
7 transfer an offender to a more restrictive confinement status as  
8 provided in RCW 9.94A.205. At any time prior to the completion of a  
9 sex offender's term of community custody, the department may recommend  
10 to the court that any or all of the conditions imposed by the court or  
11 the department pursuant to subsection (10) of this section be continued  
12 beyond the expiration of the offender's term of community custody as  
13 authorized in subsection (10)(c) of this section.

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

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

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

33 (17) A departure from the standards in RCW 9.94A.400 (1) and (2)  
34 governing whether sentences are to be served consecutively or  
35 concurrently is an exceptional sentence subject to the limitations in  
36 subsections (2) and (3) of this section, and may be appealed by the  
37 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

38 (18) The court shall order restitution whenever the offender is  
39 convicted of a felony that results in injury to any person or damage to

1 or loss of property, whether the offender is sentenced to confinement  
2 or placed under community supervision, unless extraordinary  
3 circumstances exist that make restitution inappropriate in the court's  
4 judgment. The court shall set forth the extraordinary circumstances in  
5 the record if it does not order restitution.

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

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

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

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

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

28 (2) Establish conditions of release for any offenders who are  
29 released;

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

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

34 NEW SECTION. **Sec. 4.** The board shall meet at department of  
35 corrections' institutions at such times as may be necessary for a full  
36 and complete study of the cases of all sex offenders whose durations of  
37 confinement are to be determined by it or whose applications for

1 release come before it. Other times and places of meetings may also be  
2 fixed by the board.

3 The superintendents of the different correctional institutions  
4 shall provide suitable quarters for the board while in the discharge of  
5 its duties.

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

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

15 (b) Whether the offender has a history of substance abuse, the  
16 extent of any such abuse, and the offender's performance in any  
17 substance abuse treatment;

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

20 (d) The offender's performance in any sex offender treatment,  
21 refusal to participate in treatment, or lack of amenability to  
22 treatment;

23 (e) The offender's future dangerousness;

24 (f) Infractions committed by the offender while in the custody of  
25 the department; and

26 (g) Any other relevant information.

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

30 NEW SECTION. **Sec. 6.** (1) At the time the sex offender is  
31 transported to the custody of the department of corrections, the  
32 prosecuting attorney shall provide the board a statement of all the  
33 facts concerning the offender's crime and any other information the  
34 prosecuting attorney has about the offender.

35 (2) The statement shall be signed by the prosecuting attorney and  
36 approved by the sentencing judge and shall be delivered to the sheriff,  
37 traveling guard, department of corrections personnel, or other officer

1 executing the sentence, and a copy of the statement shall be furnished  
2 to the defendant or his or her attorney. The officer shall deliver the  
3 statement, at the time of the offender's commitment, to the  
4 superintendent of the institution to which the offender has been  
5 sentenced. The superintendent shall make the statement available for  
6 use by the board.

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

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

- 25 (1) No law violations;
- 26 (2) No illegal drug use;
- 27 (3) Report as required to the department; and
- 28 (4) No contact with any victims or witnesses except as specifically  
29 allowed by the board.

30 NEW SECTION. **Sec. 9.** (1) Whenever the board or a community  
31 corrections officer of this state has reason to believe a sex offender  
32 has violated a condition of his or her release, the law of any state,  
33 or the rules and regulations of the board, any community corrections  
34 officer may arrest or cause the arrest and detention and suspension of  
35 release of the offender pending a determination by the board whether  
36 the release shall be revoked. All facts and circumstances surrounding

1 the violation by the offender shall be reported to the board by the  
2 community corrections officer, with recommendations. The board, after  
3 consultation with the secretary of corrections, shall make rules  
4 concerning procedural matters, including the time when community  
5 corrections officers shall file with the board reports required by this  
6 section.

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

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

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

31 (5) In the event that the board revokes a release by reason of an  
32 alleged violation or pending the disposition of a new criminal charge,  
33 the board may nullify the order of revocation and release the offender  
34 under previous conditions or any new conditions that the board may  
35 determine advisable. Before the board may nullify an order of  
36 revocation and release an offender, the board must determine that the  
37 interests of society and the individual are best served by such release  
38 rather than a return to total confinement.

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

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

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

35        NEW SECTION.    **Sec. 12.**    (1) In conducting on-site release  
36 revocation hearings, the board may administer oaths and affirmations,  
37 examine witnesses, receive evidence, and issue subpoenas for the

1 compulsory attendance of witnesses and the production of evidence for  
2 presentation at such hearings. Subpoenas issued by the board shall be  
3 effective throughout the state. Witnesses in attendance at any on-site  
4 hearing shall be paid the same fees as provided for witnesses in  
5 chapter 2.40 RCW.

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

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

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

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

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

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

28 NEW SECTION. **Sec. 16.** After the revocation of the release of any  
29 sex offender and until his or her return to custody, the offender shall  
30 be deemed an escapee and a fugitive from justice. The board may deny  
31 credit against the maximum sentence for any time during which the  
32 offender is an escapee and a fugitive from justice.

33 NEW SECTION. **Sec. 17.** The board shall keep a complete record of  
34 every sex offender under the jurisdiction of the board. The records  
35 shall be organized so that there will always be complete information

1 about each offender immediately available. The board may make rules as  
2 to the privacy of the records and their use by others than the board  
3 and its staff. The board shall be immune from liability for the  
4 release of information concerning sex offenders as provided in RCW  
5 4.24.550.

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

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

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

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

27 Any deputization shall be in writing and the person deputized shall  
28 carry formal evidence of his or her deputization and shall produce the  
29 same upon demand.

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

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

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

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

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

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

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

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

36       (b) For a class B+ felony, by confinement in a state correctional  
37 institution for a term of twenty years, or by a fine in an amount fixed

1 by the court of thirty thousand dollars, or by both such confinement  
2 and fine;

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

7 ((e)) (d) For a class C felony, by confinement in a state  
8 correctional institution for five years, or by a fine in an amount  
9 fixed by the court of ten thousand dollars, or by both such confinement  
10 and fine.

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

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

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

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

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

29 (a) Where the victim did not consent, as defined in RCW  
30 ((9A.44.010(6))) 9A.44.010, to sexual intercourse with the perpetrator  
31 and such lack of consent was clearly expressed by the victim's words or  
32 conduct, or

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

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

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

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

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

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

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

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

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

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

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

26 **Sec. 28.** RCW 9A.44.100 and 1997 c 392 s 515 are each amended to  
27 read as follows:

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

31 (a) By forcible compulsion;

32 (b) When the other person is incapable of consent by reason of  
33 being mentally defective, mentally incapacitated, or physically  
34 helpless;

1 (c) When the victim is developmentally disabled and the perpetrator  
2 is a person who is not married to the victim and who has supervisory  
3 authority over the victim;

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

11 (e) When the victim is a resident of a facility for mentally  
12 disordered or chemically dependent persons and the perpetrator is a  
13 person who is not married to the victim and has supervisory authority  
14 over the victim; or

15 (f) When the victim is a frail elder or vulnerable adult and the  
16 perpetrator is a person who is not married to the victim and who has a  
17 significant relationship with the victim.

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

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

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

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

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

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

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

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

38 (7) Incest in the second degree is a class ((E)) B felony.

1       **Sec. 30.** RCW 9.41.010 and 1997 c 338 s 46 are each amended to read  
2 as follows:

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

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

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

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

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

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

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

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

36       (8) "Antique firearm" means a firearm or replica of a firearm not  
37 designed or redesigned for using rim fire or conventional center fire  
38 ignition with fixed ammunition and manufactured in or before 1898,  
39 including any matchlock, flintlock, percussion cap, or similar type of

1 ignition system and also any firearm using fixed ammunition  
2 manufactured in or before 1898, for which ammunition is no longer  
3 manufactured in the United States and is not readily available in the  
4 ordinary channels of commercial trade.

5 (9) "Loaded" means:

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

7 (b) Cartridges are in a clip that is locked in place in the  
8 firearm;

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

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

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

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

23 (11) "Crime of violence" means:

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

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

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

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

4 (a) Any crime of violence;

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

8 (c) Child molestation in the second degree;

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

10 (e) Indecent liberties;

11 (f) Leading organized crime;

12 (g) Promoting prostitution in the first degree;

13 (h) Rape in the third degree;

14 (i) Drive-by shooting;

15 (j) Sexual exploitation;

16 (k) Vehicular assault;

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

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

23 (n) Any other felony with a deadly weapon verdict under RCW  
24 9.94A.125; or

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

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

35 (14) "Felony" means any felony offense under the laws of this state  
36 or any federal or out-of-state offense comparable to a felony offense  
37 under the laws of this state.

1 (15) "Sell" refers to the actual approval of the delivery of a  
2 firearm in consideration of payment or promise of payment of a certain  
3 price in money.

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

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

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

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

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

21 (3) "State correctional institution" has the same meaning as in RCW  
22 9.94.049.

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

27 **Sec. 32.** RCW 9.94A.030 and 1997 c 365 s 1, 1997 c 340 s 4, 1997 c  
28 339 s 1, 1997 c 338 s 2, 1997 c 144 s 1, and 1997 c 70 s 1 are each  
29 reenacted and amended to read as follows:

30 Unless the context clearly requires otherwise, the definitions in  
31 this section apply throughout this chapter.

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

34 (2) "Collect," or any derivative thereof, "collect and remit," or  
35 "collect and deliver," when used with reference to the department of  
36 corrections, means that the department is responsible for monitoring  
37 and enforcing the offender's sentence with regard to the legal

1 financial obligation, receiving payment thereof from the offender, and,  
2 consistent with current law, delivering daily the entire payment to the  
3 superior court clerk without depositing it in a departmental account.

4 ~~((+2))~~ (3) "Commission" means the sentencing guidelines  
5 commission.

6 ~~((+3))~~ (4) "Community corrections officer" means an employee of  
7 the department who is responsible for carrying out specific duties in  
8 supervision of sentenced offenders and monitoring of sentence  
9 conditions.

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

15 ~~((+5))~~ (6) "Community placement" means that period during which  
16 the offender is subject to the conditions of community custody and/or  
17 postrelease supervision, which begins either upon completion of the  
18 term of confinement (postrelease supervision) or at such time as the  
19 offender is transferred to community custody in lieu of earned early  
20 release. Community placement may consist of entirely community  
21 custody, entirely postrelease supervision, or a combination of the two.

22 ~~((+6))~~ (7) "Community service" means compulsory service, without  
23 compensation, performed for the benefit of the community by the  
24 offender.

25 ~~((+7))~~ (8) "Community supervision" means a period of time during  
26 which a convicted offender is subject to crime-related prohibitions and  
27 other sentence conditions imposed by a court pursuant to this chapter  
28 or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the  
29 supervision may include crime-related prohibitions and other conditions  
30 imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate  
31 compact for out-of-state supervision of parolees and probationers, RCW  
32 9.95.270, community supervision is the functional equivalent of  
33 probation and should be considered the same as probation by other  
34 states.

35 ~~((+8))~~ (9) "Confinement" means total or partial confinement as  
36 defined in this section.

37 ~~((+9))~~ (10) "Conviction" means an adjudication of guilt pursuant  
38 to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of  
39 guilty, and acceptance of a plea of guilty.

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

16       (~~(11)~~) (12) "Crime-related prohibition" means an order of a court  
17 prohibiting conduct that directly relates to the circumstances of the  
18 crime for which the offender has been convicted, and shall not be  
19 construed to mean orders directing an offender affirmatively to  
20 participate in rehabilitative programs or to otherwise perform  
21 affirmative conduct. However, affirmative acts necessary to monitor  
22 compliance with the order of a court may be required by the department.

23       (~~(12)~~) (13) "Criminal history" means the list of a defendant's  
24 prior convictions and juvenile adjudications, whether in this state, in  
25 federal court, or elsewhere. The history shall include, where known,  
26 for each conviction (a) whether the defendant has been placed on  
27 probation and the length and terms thereof; and (b) whether the  
28 defendant has been incarcerated and the length of incarceration.

29       (~~(13)~~) (14) "Day fine" means a fine imposed by the sentencing  
30 judge that equals the difference between the offender's net daily  
31 income and the reasonable obligations that the offender has for the  
32 support of the offender and any dependents.

33       (~~(14)~~) (15) "Day reporting" means a program of enhanced  
34 supervision designed to monitor the defendant's daily activities and  
35 compliance with sentence conditions, and in which the defendant is  
36 required to report daily to a specific location designated by the  
37 department or the sentencing judge.

38       (~~(15)~~) (16) "Department" means the department of corrections.

1       (~~(16)~~) (17) "Determinate sentence" means a sentence that states  
2 with exactitude the number of actual years, months, or days of total  
3 confinement, of partial confinement, of community supervision, the  
4 number of actual hours or days of community service work, or dollars or  
5 terms of a legal financial obligation. The fact that an offender  
6 through "earned early release" can reduce the actual period of  
7 confinement shall not affect the classification of the sentence as a  
8 determinate sentence.

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

21       (~~(18)~~) (19) "Drug offense" means:

22       (a) Any felony violation of chapter 69.50 RCW except possession of  
23 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
24 controlled substance (RCW 69.50.403);

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

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

31       (~~(19)~~) (20) "Escape" means:

32       (a) Escape in the first degree (RCW 9A.76.110), escape in the  
33 second degree (RCW 9A.76.120), willful failure to return from furlough  
34 (RCW 72.66.060), willful failure to return from work release (RCW  
35 72.65.070), or willful failure to be available for supervision by the  
36 department while in community custody (RCW 72.09.310); or

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

1       (~~(20)~~) (21) "Felony traffic offense" means:

2       (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
3 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
4 and-run injury-accident (RCW 46.52.020(4)); or

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

8       (~~(21)~~) (22) "Fines" means the requirement that the offender pay  
9 a specific sum of money over a specific period of time to the court.

10       (~~(22)~~) (23) "First-time offender" means any person who is  
11 convicted of a felony (a) not classified as a violent offense or a sex  
12 offense under this chapter, or (b) that is not the manufacture,  
13 delivery, or possession with intent to manufacture or deliver a  
14 controlled substance classified in schedule I or II that is a narcotic  
15 drug, nor the manufacture, delivery, or possession with intent to  
16 deliver methamphetamine, its salts, isomers, and salts of its isomers  
17 as defined in RCW 69.50.206(d)(2), nor the selling for profit of any  
18 controlled substance or counterfeit substance classified in schedule I,  
19 RCW 69.50.204, except leaves and flowering tops of marihuana, who  
20 previously has never been convicted of a felony in this state, federal  
21 court, or another state, and who has never participated in a program of  
22 deferred prosecution for a felony offense.

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

26       (a) Any felony defined under any law as a class A felony or  
27 criminal solicitation of or criminal conspiracy to commit a class A  
28 felony;

29       (b) Assault in the second degree;

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

31       (d) Child molestation in the second degree;

32       (e) Controlled substance homicide;

33       (f) Extortion in the first degree;

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

35       (h) Indecent liberties;

36       (i) Kidnapping in the second degree;

37       (j) Leading organized crime;

38       (k) Manslaughter in the first degree;

39       (l) Manslaughter in the second degree;

1 (m) Promoting prostitution in the first degree;  
2 (n) Rape in the third degree;  
3 (o) Robbery in the second degree;  
4 (p) Sexual exploitation;  
5 (q) Vehicular assault;  
6 (r) Vehicular homicide, when proximately caused by the driving of  
7 any vehicle by any person while under the influence of intoxicating  
8 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
9 any vehicle in a reckless manner;  
10 (s) Any other class B or B+ felony offense with a finding of sexual  
11 motivation, as "sexual motivation" is defined under this section;  
12 (t) Any other felony with a deadly weapon verdict under RCW  
13 9.94A.125;  
14 (u) Any felony offense in effect at any time prior to December 2,  
15 1993, that is comparable to a most serious offense under this  
16 subsection, or any federal or out-of-state conviction for an offense  
17 that under the laws of this state would be a felony classified as a  
18 most serious offense under this subsection;  
19 (v)(i) A prior conviction for indecent liberties under RCW  
20 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
21 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
22 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
23 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;  
24 (ii) A prior conviction for indecent liberties under RCW  
25 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
26 if: (A) The crime was committed against a child under the age of  
27 fourteen; or (B) the relationship between the victim and perpetrator is  
28 included in the definition of indecent liberties under RCW  
29 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
30 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
31 through July 27, 1997.  
32 (~~(+24+)~~) (25) "Nonviolent offense" means an offense which is not a  
33 violent offense.  
34 (~~(+25+)~~) (26) "Offender" means a person who has committed a felony  
35 established by state law and is eighteen years of age or older or is  
36 less than eighteen years of age but whose case is under superior court  
37 jurisdiction under RCW 13.04.030 or has been transferred by the  
38 appropriate juvenile court to a criminal court pursuant to RCW

1 13.40.110. Throughout this chapter, the terms "offender" and  
2 "defendant" are used interchangeably.

3 ~~((26))~~ (27) "Partial confinement" means confinement for no more  
4 than one year in a facility or institution operated or utilized under  
5 contract by the state or any other unit of government, or, if home  
6 detention or work crew has been ordered by the court, in an approved  
7 residence, for a substantial portion of each day with the balance of  
8 the day spent in the community. Partial confinement includes work  
9 release, home detention, work crew, and a combination of work crew and  
10 home detention as defined in this section.

11 ~~((27))~~ (28) "Persistent offender" is an offender who:

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

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

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

32 (ii) Has, before the commission of the offense under (b)(i) of this  
33 subsection, been convicted as an offender on at least one occasion,  
34 whether in this state or elsewhere, of an offense listed in (b)(i) of  
35 this subsection. A conviction for rape of a child in the first degree  
36 constitutes a conviction under ~~((subsection—(27))~~ of this  
37 subsection only when the offender was sixteen years of age or older  
38 when the offender committed the offense. A conviction for rape of a  
39 child in the second degree constitutes a conviction under ~~((subsection~~

1 ~~(27))~~ (b)(i) of this subsection only when the offender was eighteen  
2 years of age or older when the offender committed the offense.

3 ~~((28))~~ (29) "Postrelease supervision" is that portion of an  
4 offender's community placement that is not community custody.

5 ~~((29))~~ (30) "Restitution" means the requirement that the offender  
6 pay a specific sum of money over a specific period of time to the court  
7 as payment of damages. The sum may include both public and private  
8 costs. The imposition of a restitution order does not preclude civil  
9 redress.

10 ~~((30))~~ (31) "Serious traffic offense" means:

11 (a) Driving while under the influence of intoxicating liquor or any  
12 drug (RCW 46.61.502), actual physical control while under the influence  
13 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
14 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
15 or

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

19 ~~((31))~~ (32) "Serious violent offense" is a subcategory of violent  
20 offense and means:

21 (a) Murder in the first degree, homicide by abuse, murder in the  
22 second degree, manslaughter in the first degree, assault in the first  
23 degree, kidnapping in the first degree, or rape in the first degree,  
24 assault of a child in the first degree, or an attempt, criminal  
25 solicitation, or criminal conspiracy to commit one of these felonies;  
26 or

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

30 ~~((32))~~ (33) "Sentence range" means the sentencing court's  
31 discretionary range in imposing a nonappealable sentence.

32 ~~((33))~~ (34) "Sex offense" means:

33 (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
34 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a  
35 criminal attempt, criminal solicitation, or criminal conspiracy to  
36 commit such crimes;

37 (b) A felony with a finding of sexual motivation under RCW  
38 9.94A.127 or 13.40.135; or

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

4 (~~(34)~~) (35) "Sexual motivation" means that one of the purposes  
5 for which the defendant committed the crime was for the purpose of his  
6 or her sexual gratification.

7 (~~(35)~~) (36) "Total confinement" means confinement inside the  
8 physical boundaries of a facility or institution operated or utilized  
9 under contract by the state or any other unit of government for twenty-  
10 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

11 (~~(36)~~) (37) "Transition training" means written and verbal  
12 instructions and assistance provided by the department to the offender  
13 during the two weeks prior to the offender's successful completion of  
14 the work ethic camp program. The transition training shall include  
15 instructions in the offender's requirements and obligations during the  
16 offender's period of community custody.

17 (~~(37)~~) (38) "Victim" means any person who has sustained  
18 emotional, psychological, physical, or financial injury to person or  
19 property as a direct result of the crime charged.

20 (~~(38)~~) (39) "Violent offense" means:

21 (a) Any of the following felonies, as now existing or hereafter  
22 amended: Any felony defined under any law as a class A felony or an  
23 attempt to commit a class A felony, criminal solicitation of or  
24 criminal conspiracy to commit a class A felony, manslaughter in the  
25 first degree, manslaughter in the second degree, indecent liberties if  
26 committed by forcible compulsion, kidnapping in the second degree,  
27 arson in the second degree, assault in the second degree, assault of a  
28 child in the second degree, extortion in the first degree, robbery in  
29 the second degree, drive-by shooting, vehicular assault, and vehicular  
30 homicide, when proximately caused by the driving of any vehicle by any  
31 person while under the influence of intoxicating liquor or any drug as  
32 defined by RCW 46.61.502, or by the operation of any vehicle in a  
33 reckless manner;

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

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

1       (~~(39)~~) (40) "Work crew" means a program of partial confinement  
2 consisting of civic improvement tasks for the benefit of the community  
3 of not less than thirty-five hours per week that complies with RCW  
4 9.94A.135. The civic improvement tasks shall have minimal negative  
5 impact on existing private industries or the labor force in the county  
6 where the service or labor is performed. The civic improvement tasks  
7 shall not affect employment opportunities for people with developmental  
8 disabilities contracted through sheltered workshops as defined in RCW  
9 82.04.385. Only those offenders sentenced to a facility operated or  
10 utilized under contract by a county or the state are eligible to  
11 participate on a work crew. Offenders sentenced for a sex offense as  
12 defined in subsection (~~(33)~~) (34) of this section are not eligible  
13 for the work crew program.

14       (~~(40)~~) (41) "Work ethic camp" means an alternative incarceration  
15 program designed to reduce recidivism and lower the cost of corrections  
16 by requiring offenders to complete a comprehensive array of real-world  
17 job and vocational experiences, character-building work ethics  
18 training, life management skills development, substance abuse  
19 rehabilitation, counseling, literacy training, and basic adult  
20 education.

21       (~~(41)~~) (42) "Work release" means a program of partial confinement  
22 available to offenders who are employed or engaged as a student in a  
23 regular course of study at school. Participation in work release shall  
24 be conditioned upon the offender attending work or school at regularly  
25 defined hours and abiding by the rules of the work release facility.

26       (~~(42)~~) (43) "Home detention" means a program of partial  
27 confinement available to offenders wherein the offender is confined in  
28 a private residence subject to electronic surveillance.

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

31       (1) Every offender who has been discharged under RCW 9.94A.220 may  
32 apply to the sentencing court for a vacation of the offender's record  
33 of conviction. If the court finds the offender meets the tests  
34 prescribed in subsection (2) of this section, the court may clear the  
35 record of conviction by: (a) Permitting the offender to withdraw the  
36 offender's plea of guilty and to enter a plea of not guilty; or (b) if  
37 the offender has been convicted after a plea of not guilty, by the

1 court setting aside the verdict of guilty; and (c) by the court  
2 dismissing the information or indictment against the offender.

3 (2) An offender may not have the record of conviction cleared if:

4 (a) There are any criminal charges against the offender pending in any  
5 court of this state or another state, or in any federal court; (b) the  
6 offense was a violent offense as defined in RCW 9.94A.030; (c) the  
7 offense was a crime against persons as defined in RCW 43.43.830; (d)  
8 the offender has been convicted of a new crime in this state, another  
9 state, or federal court since the date of the offender's discharge  
10 under RCW 9.94A.220; (e) the offense is a class B+ felony and less than  
11 twenty years have passed since the date the applicant was discharged  
12 under RCW 9.94A.220; (f) the offense is a class B felony and less than  
13 ten years have passed since the date the applicant was discharged under  
14 RCW 9.94A.220; and ((+f)) (g) the offense was a class C felony and  
15 less than five years have passed since the date the applicant was  
16 discharged under RCW 9.94A.220.

17 (3) Once the court vacates a record of conviction under subsection  
18 (1) of this section, the fact that the offender has been convicted of  
19 the offense shall not be included in the offender's criminal history  
20 for purposes of determining a sentence in any subsequent conviction,  
21 and the offender shall be released from all penalties and disabilities  
22 resulting from the offense. For all purposes, including responding to  
23 questions on employment applications, an offender whose conviction has  
24 been vacated may state that the offender has never been convicted of  
25 that crime. Nothing in this section affects or prevents the use of an  
26 offender's prior conviction in a later criminal prosecution.

27 **Sec. 34.** RCW 9.94A.310 and 1997 c 365 s 3 and 1997 c 338 s 50 are  
28 each reenacted and amended to read as follows:

29 (1) TABLE 1

30 Sentencing Grid

31 SERIOUSNESS

32 SCORE OFFENDER SCORE

33 9 or  
34 0 1 2 3 4 5 6 7 8 more

35  
36 XV Life Sentence without Parole/Death Penalty  
37

1	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
2		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
3		320	333	347	361	374	388	416	450	493	548
4											
5	XIII	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
6		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
7		220	234	244	254	265	275	295	316	357	397
8											
9	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
10		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
11		123	136	147	160	171	184	216	236	277	318
12											
13	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
14		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
15		102	114	125	136	147	158	194	211	245	280
16											
17	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
18		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
19		68	75	82	89	96	102	130	144	171	198
20											
21	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
22		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
23		41	48	54	61	68	75	102	116	144	171
24											
25	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
26		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
27		27	34	41	48	54	61	89	102	116	144
28											
29	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
30		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
31		20	27	34	41	48	54	75	89	102	116
32											
33	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
34		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
35		14	20	27	34	41	48	61	75	89	102
36											
37	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
38		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
39		12	14	17	20	29	43	54	68	82	96

1	<hr/>											
2	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m	
3		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-	
4		9	12	14	17	20	29	43	57	70	84	
5	<hr/>											
6	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y	
7		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-	
8		3	8	12	12	16	22	29	43	57	68	
9	<hr/>											
10	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m	
11		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-	
12		Days	6	9	12	14	18	22	29	43	57	
13	<hr/>											
14	I			3m	4m	5m	8m	13m	16m	20m	2y2m	
15		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-	
16		Days	Days	5	6	8	12	14	18	22	29	
17	<hr/>											

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

22 (2) For persons convicted of the anticipatory offenses of criminal  
23 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
24 presumptive sentence is determined by locating the sentencing grid  
25 sentence range defined by the appropriate offender score and the  
26 seriousness level of the completed crime, and multiplying the range by  
27 75 percent.

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

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

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

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

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

12 (d) If the offender is being sentenced for any firearm  
13 enhancements under (a), (b), and/or (c) of this subsection and the  
14 offender has previously been sentenced for any deadly weapon  
15 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
16 subsection or subsection (4)(a), (b), and/or (c) of this section, or  
17 both, any and all firearm enhancements under this subsection shall be  
18 twice the amount of the enhancement listed.

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

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

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

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

1 defined in RCW 9.41.010 and the offender is being sentenced for an  
2 anticipatory offense under chapter 9A.28 RCW to commit one of the  
3 crimes listed in this subsection as eligible for any deadly weapon  
4 enhancements, the following additional times shall be added to the  
5 presumptive sentence determined under subsection (2) of this section  
6 based on the felony crime of conviction as classified under RCW  
7 9A.28.020:

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

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

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

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

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

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

33 (g) If the presumptive sentence under this section exceeds the  
34 statutory maximum for the offense, the statutory maximum sentence shall  
35 be the presumptive sentence unless the offender is a persistent  
36 offender as defined in RCW 9.94A.030.

37 (5) The following additional times shall be added to the  
38 presumptive sentence if the offender or an accomplice committed the  
39 offense while in a county jail or state correctional facility as that

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

10 (a) Eighteen months for offenses committed under RCW  
11 69.50.401(a)(1) (i) or (ii) or 69.50.410;

12 (b) Fifteen months for offenses committed under RCW  
13 69.50.401(a)(1) (iii), (iv), and (v);

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

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

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

21 **Sec. 35.** RCW 9.94A.320 and 1997 c 365 s 4, 1997 c 346 s 3, 1997  
22 c 340 s 1, 1997 c 338 s 51, 1997 c 266 s 15, and 1997 c 120 s 5 are  
23 each reenacted and amended to read as follows:

24 TABLE 2

25 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

26 XV Aggravated Murder 1 (RCW 10.95.020)

27 XIV Murder 1 (RCW 9A.32.030)

28 Homicide by abuse (RCW 9A.32.055)

29 Malicious explosion 1 (RCW 70.74.280(1))

30 XIII Murder 2 (RCW 9A.32.050)

31 Malicious explosion 2 (RCW 70.74.280(2))

32 Malicious placement of an explosive 1 (RCW  
33 70.74.270(1))

34 XII Assault 1 (RCW 9A.36.011)

35 Assault of a Child 1 (RCW 9A.36.120)

1 Rape 1 (RCW 9A.44.040)  
 2 Rape of a Child 1 (RCW 9A.44.073)  
 3 Malicious placement of an imitation device 1  
 4 (RCW 70.74.272(1)(a))  
 5 XI Rape 2 (RCW 9A.44.050)  
 6 Rape of a Child 2 (RCW 9A.44.076)  
 7 Manslaughter 1 (RCW 9A.32.060)  
 8 X Kidnapping 1 (RCW 9A.40.020)  
 9 Child Molestation 1 (RCW 9A.44.083)  
 10 Malicious explosion 3 (RCW 70.74.280(3))  
 11 Over 18 and deliver heroin or narcotic from  
 12 Schedule I or II to someone under 18  
 13 (RCW 69.50.406)  
 14 Leading Organized Crime (RCW 9A.82.060(1)(a))  
 15 Indecent Liberties (with forcible compulsion)  
 16 (RCW 9A.44.100(1)(a))  
 17 IX Assault of a Child 2 (RCW 9A.36.130)  
 18 Robbery 1 (RCW 9A.56.200)  
 19 Explosive devices prohibited (RCW 70.74.180)  
 20 Malicious placement of an explosive 2 (RCW  
 21 70.74.270(2))  
 22 Over 18 and deliver narcotic from Schedule  
 23 III, IV, or V or a nonnarcotic from  
 24 Schedule I-V to someone under 18 and 3  
 25 years junior (RCW 69.50.406)  
 26 Controlled Substance Homicide (RCW 69.50.415)  
 27 Sexual Exploitation (RCW 9.68A.040)  
 28 Inciting Criminal Profiteering (RCW  
 29 9A.82.060(1)(b))  
 30 Vehicular Homicide, by being under the  
 31 influence of intoxicating liquor or any  
 32 drug (RCW 46.61.520)  
 33 VIII Arson 1 (RCW 9A.48.020)  
 34 Promoting Prostitution 1 (RCW 9A.88.070)  
 35 Selling for profit (controlled or  
 36 counterfeit) any controlled substance  
 37 (RCW 69.50.410)

1 Manufacture, deliver, or possess with intent  
2 to deliver heroin or cocaine (RCW  
3 69.50.401(a)(1)(i))  
4 Manufacture, deliver, or possess with intent  
5 to deliver methamphetamine (RCW  
6 69.50.401(a)(1)(ii))  
7 Possession of ephedrine or pseudoephedrine  
8 with intent to manufacture  
9 methamphetamine (RCW 69.50.440)  
10 Vehicular Homicide, by the operation of any  
11 vehicle in a reckless manner (RCW  
12 46.61.520)  
13 Manslaughter 2 (RCW 9A.32.070)  
14 VII Burglary 1 (RCW 9A.52.020)  
15 Vehicular Homicide, by disregard for the  
16 safety of others (RCW 46.61.520)  
17 Introducing Contraband 1 (RCW 9A.76.140)  
18 Indecent Liberties (without forcible  
19 compulsion) (RCW 9A.44.100(1) (b) and  
20 (c))  
21 Child Molestation 2 (RCW 9A.44.086)  
22 Dealing in depictions of minor engaged in  
23 sexually explicit conduct (RCW  
24 9.68A.050)  
25 Sending, bringing into state depictions of  
26 minor engaged in sexually explicit  
27 conduct (RCW 9.68A.060)  
28 Involving a minor in drug dealing (RCW  
29 69.50.401(f))  
30 Drive-by Shooting (RCW 9A.36.045)  
31 Unlawful Possession of a Firearm in the first  
32 degree (RCW 9.41.040(1)(a))  
33 Malicious placement of an explosive 3 (RCW  
34 70.74.270(3))  
35 VI Bribery (RCW 9A.68.010)  
36 Rape of a Child 3 (RCW 9A.44.079)  
37 Intimidating a Juror/Witness (RCW 9A.72.110,  
38 9A.72.130)

1 Malicious placement of an imitation device 2  
2 (RCW 70.74.272(1)(b))  
3 Incest 1 (RCW 9A.64.020(1))  
4 Manufacture, deliver, or possess with intent  
5 to deliver narcotics from Schedule I or  
6 II (except heroin or cocaine) (RCW  
7 69.50.401(a)(1)(i))  
8 Intimidating a Judge (RCW 9A.72.160)  
9 Bail Jumping with Murder 1 (RCW  
10 9A.76.170(2)(a))  
11 Theft of a Firearm (RCW 9A.56.300)  
12 V Persistent prison misbehavior (RCW 9.94.070)  
13 Criminal Mistreatment 1 (RCW 9A.42.020)  
14 Abandonment of dependent person 1 (RCW  
15 9A.42.060)  
16 Rape 3 (RCW 9A.44.060)  
17 Sexual Misconduct with a Minor 1 (RCW  
18 9A.44.093)  
19 Child Molestation 3 (RCW 9A.44.089)  
20 Kidnapping 2 (RCW 9A.40.030)  
21 Extortion 1 (RCW 9A.56.120)  
22 Incest 2 (RCW 9A.64.020(2))  
23 Perjury 1 (RCW 9A.72.020)  
24 Extortionate Extension of Credit (RCW  
25 9A.82.020)  
26 Advancing money or property for extortionate  
27 extension of credit (RCW 9A.82.030)  
28 Extortionate Means to Collect Extensions of  
29 Credit (RCW 9A.82.040)  
30 Rendering Criminal Assistance 1 (RCW  
31 9A.76.070)  
32 Bail Jumping with class A Felony (RCW  
33 9A.76.170(2)(b))  
34 Sexually Violating Human Remains (RCW  
35 9A.44.105)  
36 Delivery of imitation controlled substance by  
37 person eighteen or over to person under  
38 eighteen (RCW 69.52.030(2))

1 Possession of a Stolen Firearm (RCW  
2 9A.56.310)

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

33 III Criminal Gang Intimidation (RCW 9A.46.120)  
34 Criminal Mistreatment 2 (RCW 9A.42.030)  
35 Abandonment of dependent person 2 (RCW  
36 9A.42.070)  
37 Extortion 2 (RCW 9A.56.130)  
38 Unlawful Imprisonment (RCW 9A.40.040)

1 Assault 3 (RCW 9A.36.031)  
2 Assault of a Child 3 (RCW 9A.36.140)  
3 Custodial Assault (RCW 9A.36.100)  
4 Unlawful possession of firearm in the second  
5 degree (RCW 9.41.040(1)(b))  
6 Harassment (RCW 9A.46.020)  
7 Promoting Prostitution 2 (RCW 9A.88.080)  
8 Willful Failure to Return from Work Release  
9 (RCW 72.65.070)  
10 Burglary 2 (RCW 9A.52.030)  
11 Introducing Contraband 2 (RCW 9A.76.150)  
12 Communication with a Minor for Immoral  
13 Purposes (RCW 9.68A.090)  
14 Patronizing a Juvenile Prostitute (RCW  
15 9.68A.100)  
16 Escape 2 (RCW 9A.76.120)  
17 Perjury 2 (RCW 9A.72.030)  
18 Bail Jumping with class B+, B, or C Felony  
19 (RCW 9A.76.170(2)(c))  
20 Intimidating a Public Servant (RCW 9A.76.180)  
21 Tampering with a Witness (RCW 9A.72.120)  
22 Manufacture, deliver, or possess with intent  
23 to deliver marijuana (RCW  
24 69.50.401(a)(1)(iii))  
25 Delivery of a material in lieu of a  
26 controlled substance (RCW 69.50.401(c))  
27 Manufacture, distribute, or possess with  
28 intent to distribute an imitation  
29 controlled substance (RCW 69.52.030(1))  
30 Recklessly Trafficking in Stolen Property  
31 (RCW 9A.82.050(1))  
32 Theft of livestock 2 (RCW 9A.56.080)  
33 Securities Act violation (RCW 21.20.400)  
34 II Unlawful Practice of Law (RCW 2.48.180)  
35 Malicious Mischief 1 (RCW 9A.48.070)  
36 Possession of Stolen Property 1 (RCW  
37 9A.56.150)  
38 Theft 1 (RCW 9A.56.030)

1 Class B Felony Theft of Rental, Leased, or  
2 Lease-purchased Property (RCW  
3 9A.56.096(4))  
4 Trafficking in Insurance Claims (RCW  
5 48.30A.015)  
6 Unlicensed Practice of a Profession or  
7 Business (RCW 18.130.190(7))  
8 Health Care False Claims (RCW 48.80.030)  
9 Possession of controlled substance that is  
10 either heroin or narcotics from Schedule  
11 I or II (RCW 69.50.401(d))  
12 Possession of phencyclidine (PCP) (RCW  
13 69.50.401(d))  
14 Create, deliver, or possess a counterfeit  
15 controlled substance (RCW 69.50.401(b))  
16 Computer Trespass 1 (RCW 9A.52.110)  
17 Escape from Community Custody (RCW 72.09.310)  
18 I Theft 2 (RCW 9A.56.040)  
19 Class C Felony Theft of Rental, Leased, or  
20 Lease-purchased Property (RCW  
21 9A.56.096(4))  
22 Possession of Stolen Property 2 (RCW  
23 9A.56.160)  
24 Forgery (RCW 9A.60.020)  
25 Taking Motor Vehicle Without Permission (RCW  
26 9A.56.070)  
27 Vehicle Prowl 1 (RCW 9A.52.095)  
28 Attempting to Elude a Pursuing Police Vehicle  
29 (RCW 46.61.024)  
30 Malicious Mischief 2 (RCW 9A.48.080)  
31 Reckless Burning 1 (RCW 9A.48.040)  
32 Unlawful Issuance of Checks or Drafts (RCW  
33 9A.56.060)  
34 Unlawful Use of Food Stamps (RCW 9.91.140 (2)  
35 and (3))  
36 False Verification for Welfare (RCW  
37 74.08.055)  
38 Forged Prescription (RCW 69.41.020)

1 Forged Prescription for a Controlled  
2 Substance (RCW 69.50.403)  
3 Possess Controlled Substance that is a  
4 Narcotic from Schedule III, IV, or V or  
5 Non-narcotic from Schedule I-V (except  
6 phencyclidine) (RCW 69.50.401(d))

7 **Sec. 36.** RCW 9.94A.360 and 1997 c 338 s 5 are each amended to  
8 read as follows:

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

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

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

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

1 (3) Out-of-state convictions for offenses shall be classified  
2 according to the comparable offense definitions and sentences provided  
3 by Washington law. Federal convictions for offenses shall be  
4 classified according to the comparable offense definitions and  
5 sentences provided by Washington law. If there is no clearly  
6 comparable offense under Washington law or the offense is one that is  
7 usually considered subject to exclusive federal jurisdiction, the  
8 offense shall be scored as a class C felony equivalent if it was a  
9 felony under the relevant federal statute.

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

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

16 (i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to  
17 encompass the same criminal conduct, shall be counted as one offense,  
18 the offense that yields the highest offender score. The current  
19 sentencing court shall determine with respect to other prior adult  
20 offenses for which sentences were served concurrently or prior juvenile  
21 offenses for which sentences were served consecutively, whether those  
22 offenses shall be counted as one offense or as separate offenses using  
23 the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and  
24 if the court finds that they shall be counted as one offense, then the  
25 offense that yields the highest offender score shall be used. The  
26 current sentencing court may presume that such other prior offenses  
27 were not the same criminal conduct from sentences imposed on separate  
28 dates, or in separate counties or jurisdictions, or in separate  
29 complaints, indictments, or informations;

30 (ii) In the case of multiple prior convictions for offenses  
31 committed before July 1, 1986, for the purpose of computing the  
32 offender score, count all adult convictions served concurrently as one  
33 offense, and count all juvenile convictions entered on the same date as  
34 one offense. Use the conviction for the offense that yields the  
35 highest offender score.

36 (b) As used in this subsection (5), "served concurrently" means  
37 that: (i) The latter sentence was imposed with specific reference to  
38 the former; (ii) the concurrent relationship of the sentences was  
39 judicially imposed; and (iii) the concurrent timing of the sentences

1 was not the result of a probation or parole revocation on the former  
2 offense.

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

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

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

16 (9) If the present conviction is for Murder 1 or 2, Assault 1,  
17 Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1, count  
18 three points for prior adult and juvenile convictions for crimes in  
19 these categories, two points for each prior adult and juvenile violent  
20 conviction (not already counted), one point for each prior adult  
21 nonviolent felony conviction, and 1/2 point for each prior juvenile  
22 nonviolent felony conviction.

23 (10) If the present conviction is for Burglary 1, count prior  
24 convictions as in subsection (8) of this section; however count two  
25 points for each prior adult Burglary 2 or residential burglary  
26 conviction, and one point for each prior juvenile Burglary 2 or  
27 residential burglary conviction.

28 (11) If the present conviction is for a felony traffic offense  
29 count two points for each adult or juvenile prior conviction for  
30 Vehicular Homicide or Vehicular Assault; for each felony offense or  
31 serious traffic offense, count one point for each adult and 1/2 point  
32 for each juvenile prior conviction.

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

1 (13) If the present conviction is for Willful Failure to Return  
2 from Furlough, RCW 72.66.060, Willful Failure to Return from Work  
3 Release, RCW 72.65.070, or Escape from Community Custody, RCW  
4 72.09.310, count only prior escape convictions in the offender score.  
5 Count adult prior escape convictions as one point and juvenile prior  
6 escape convictions as 1/2 point.

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

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

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

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

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

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

25	Class A felonies	\$0 - 50,000
26	<u>Class B+ felonies</u>	<u>\$0 - 30,000</u>
27	Class B felonies	\$0 - 20,000
28	Class C felonies	\$0 - 10,000

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

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

35 (a) The defendant is likely to flee or to pose a danger to the  
36 safety of any other person or the community if the judgment is stayed;  
37 or

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

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

5 (d) The defendant has not undertaken to the extent of the  
6 defendant's financial ability to pay the financial obligations under  
7 the judgment or has not posted an adequate performance bond to assure  
8 payment.

9 (2) An appeal by a defendant convicted of one of the following  
10 offenses shall not stay execution of the judgment of conviction: Rape  
11 in the first or second degree (RCW 9A.44.040 and 9A.44.050); rape of a  
12 child in the first, second, or third degree (RCW 9A.44.073, 9A.44.076,  
13 and 9A.44.079); child molestation in the first, second, or third degree  
14 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a  
15 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);  
16 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW  
17 9A.40.090); any class A, B+, or B felony that is a sexually motivated  
18 offense as defined in RCW 9.94A.030; a felony violation of RCW  
19 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal  
20 attempt, solicitation, or conspiracy to commit one of those offenses.

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

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

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

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

34 (i) Class A felony; or

35 (ii) Class B+ felony; or

36 (~~iii~~) Class B felony; or

37 (~~iii~~) (iv) Class C felony.

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

7 (b) All crimes other than felonies and misdemeanors are gross  
8 misdemeanors.

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

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

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

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

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

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

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

25 (d) Gross misdemeanor when the crime attempted is a class C  
26 felony;

27 (e) Misdemeanor when the crime attempted is a gross misdemeanor or  
28 misdemeanor.

29 **Sec. 41.** RCW 9A.28.040 and 1997 c 17 s 1 are each amended to read  
30 as follows:

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

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

- 1 (a) Has not been prosecuted or convicted; or
- 2 (b) Has been convicted of a different offense; or
- 3 (c) Is not amenable to justice; or
- 4 (d) Has been acquitted; or
- 5 (e) Lacked the capacity to commit an offense; or
- 6 (f) Is a law enforcement officer or other government agent who did
- 7 not intend that a crime be committed.

8 (3) Criminal conspiracy is a:

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

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

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

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

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

20 **Sec. 42.** RCW 9A.44.140 and 1997 c 113 s 4 are each amended to  
21 read as follows:

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

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

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

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

1           (~~(e)~~) (d) For a person convicted of a class C felony, a  
2 violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation,  
3 or conspiracy to commit a class C felony: Ten years after the last  
4 date of release from confinement, if any, (including full-time  
5 residential treatment) pursuant to the conviction, or entry of the  
6 judgment and sentence, if the person has spent ten consecutive years in  
7 the community without being convicted of any new offenses.

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

11           (3) Any person having a duty to register under RCW 9A.44.130 may  
12 petition the superior court to be relieved of that duty. The petition  
13 shall be made to the court in which the petitioner was convicted of the  
14 offense that subjects him or her to the duty to register, or, in the  
15 case of convictions in other states, a foreign country, or a federal or  
16 military court, to the court in Thurston county. The prosecuting  
17 attorney of the county shall be named and served as the respondent in  
18 any such petition. The court shall consider the nature of the  
19 registrable offense committed, and the criminal and relevant  
20 noncriminal behavior of the petitioner both before and after  
21 conviction, and may consider other factors. Except as provided in  
22 subsection (4) of this section, the court may relieve the petitioner of  
23 the duty to register only if the petitioner shows, with clear and  
24 convincing evidence, that future registration of the petitioner will  
25 not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540,  
26 46.20.187, 70.48.470, and 72.09.330.

27           (4) An offender having a duty to register under RCW 9A.44.130 for  
28 a sex offense or kidnapping offense committed when the offender was a  
29 juvenile may petition the superior court to be relieved of that duty.  
30 The court shall consider the nature of the registrable offense  
31 committed, and the criminal and relevant noncriminal behavior of the  
32 petitioner both before and after adjudication, and may consider other  
33 factors. The court may relieve the petitioner of the duty to register  
34 for a sex offense or kidnapping offense that was committed while the  
35 petitioner was fifteen years of age or older only if the petitioner  
36 shows, with clear and convincing evidence, that future registration of  
37 the petitioner will not serve the purposes of RCW 9A.44.130, 10.01.200,  
38 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The court may relieve  
39 the petitioner of the duty to register for a sex offense or kidnapping

1 offense that was committed while the petitioner was under the age of  
2 fifteen if the petitioner (a) has not been adjudicated of any  
3 additional sex offenses or kidnapping offenses during the twenty-four  
4 months following the adjudication for the offense giving rise to the  
5 duty to register, and (b) the petitioner proves by a preponderance of  
6 the evidence that future registration of the petitioner will not serve  
7 the purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187,  
8 70.48.470, and 72.09.330.

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

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

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

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

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

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

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

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

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

32 (2) Bail jumping is:

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

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

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

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

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

7 The definitions set forth in this section apply throughout this  
8 chapter.

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

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

13 (3) "Financial transaction" means a purchase, sale, loan, pledge,  
14 gift, transfer, transmission, delivery, trade, deposit, withdrawal,  
15 payment, transfer between accounts, exchange of currency, extension of  
16 credit, or any other acquisition or disposition of property, by  
17 whatever means effected.

18 (4) "Knows the property is proceeds of specified unlawful  
19 activity" means believing based upon the representation of a law  
20 enforcement officer or his or her agent, or knowing that the property  
21 is proceeds from some form, though not necessarily which form, of  
22 specified unlawful activity.

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

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

28 (7) "Specified unlawful activity" means an offense committed in  
29 this state that is a class A, B+, or B felony under Washington law or  
30 that is listed in RCW 9A.82.010(14), or an offense committed in any  
31 other state that is punishable under the laws of that state by more  
32 than one year in prison, or an offense that is punishable under federal  
33 law by more than one year in prison.

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

36 (1) A defendant who has been found guilty of a felony and is  
37 awaiting sentencing shall be detained unless the court finds by clear

1 and convincing evidence that the defendant is not likely to flee or to  
2 pose a danger to the safety of any other person or the community if  
3 released. Any bail bond that was posted on behalf of a defendant  
4 shall, upon the defendant's conviction, be exonerated.

5 (2) A defendant who has been found guilty of one of the following  
6 offenses shall be detained pending sentencing: Rape in the first or  
7 second degree (RCW 9A.44.040 and 9A.44.050); rape of a child in the  
8 first, second, or third degree (RCW 9A.44.073, 9A.44.076, and  
9 9A.44.079); child molestation in the first, second, or third degree  
10 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a  
11 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);  
12 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW  
13 9A.40.090); any class A, B+, or B felony that is a sexually motivated  
14 offense as defined in RCW 9.94A.030; a felony violation of RCW  
15 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal  
16 attempt, solicitation, or conspiracy to commit one of those offenses.

17 **Sec. 47.** RCW 13.04.030 and 1997 c 386 s 17, 1997 c 341 s 3, and  
18 1997 c 338 s 7 are each reenacted and amended to read as follows:

19 (1) Except as provided in this section, the juvenile courts in  
20 this state shall have exclusive original jurisdiction over all  
21 proceedings:

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

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

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

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

30 (e) Relating to juveniles alleged or found to have committed  
31 offenses, traffic or civil infractions, or violations as provided in  
32 RCW 13.40.020 through 13.40.230, unless:

33 (i) The juvenile court transfers jurisdiction of a particular  
34 juvenile to adult criminal court pursuant to RCW 13.40.110;

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

37 (iii) The alleged offense or infraction is a traffic, fish,  
38 boating, or game offense, or traffic or civil infraction committed by

1 a juvenile sixteen years of age or older and would, if committed by an  
2 adult, be tried or heard in a court of limited jurisdiction, in which  
3 instance the appropriate court of limited jurisdiction shall have  
4 jurisdiction over the alleged offense or infraction, and no guardian ad  
5 litem is required in any such proceeding due to the juvenile's age:  
6 PROVIDED, That if such an alleged offense or infraction and an alleged  
7 offense or infraction subject to juvenile court jurisdiction arise out  
8 of the same event or incident, the juvenile court may have jurisdiction  
9 of both matters: PROVIDED FURTHER, That the jurisdiction under this  
10 subsection does not constitute "transfer" or a "decline" for purposes  
11 of RCW 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER,  
12 That courts of limited jurisdiction which confine juveniles for an  
13 alleged offense or infraction may place juveniles in juvenile detention  
14 facilities under an agreement with the officials responsible for the  
15 administration of the juvenile detention facility in RCW 13.04.035 and  
16 13.20.060;

17 (iv) The alleged offense is a traffic or civil infraction, a  
18 violation of compulsory school attendance provisions under chapter  
19 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has  
20 assumed concurrent jurisdiction over those offenses as provided in RCW  
21 13.04.0301; or

22 (v) The juvenile is sixteen or seventeen years old and the alleged  
23 offense is:

24 (A) A serious violent offense as defined in RCW 9.94A.030;

25 (B) A violent offense as defined in RCW 9.94A.030 and the juvenile  
26 has a criminal history consisting of: (I) One or more prior serious  
27 violent offenses; (II) two or more prior violent offenses; or (III)  
28 three or more of any combination of the following offenses: Any class  
29 A felony, any class B+ felony, any class B felony, vehicular assault,  
30 or manslaughter in the second degree, all of which must have been  
31 committed after the juvenile's thirteenth birthday and prosecuted  
32 separately;

33 (C) Robbery in the first degree, rape of a child in the first  
34 degree, or drive-by shooting, committed on or after July 1, 1997;

35 (D) Burglary in the first degree committed on or after July 1,  
36 1997, and the juvenile has a criminal history consisting of one or more  
37 prior felony or misdemeanor offenses; or

1 (E) Any violent offense as defined in RCW 9.94A.030 committed on  
2 or after July 1, 1997, and the juvenile is alleged to have been armed  
3 with a firearm.

4 In such a case the adult criminal court shall have exclusive  
5 original jurisdiction.

6 If the juvenile challenges the state's determination of the  
7 juvenile's criminal history under (e)(v) of this subsection, the state  
8 may establish the offender's criminal history by a preponderance of the  
9 evidence. If the criminal history consists of adjudications entered  
10 upon a plea of guilty, the state shall not bear a burden of  
11 establishing the knowing and voluntariness of the plea;

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

14 (g) Relating to termination of a diversion agreement under RCW  
15 13.40.080, including a proceeding in which the divertee has attained  
16 eighteen years of age;

17 (h) Relating to court validation of a voluntary consent to an out-  
18 of-home placement under chapter 13.34 RCW, by the parent or Indian  
19 custodian of an Indian child, except if the parent or Indian custodian  
20 and child are residents of or domiciled within the boundaries of a  
21 federally recognized Indian reservation over which the tribe exercises  
22 exclusive jurisdiction;

23 (i) Relating to petitions to compel disclosure of information  
24 filed by the department of social and health services pursuant to RCW  
25 74.13.042; and

26 (j) Relating to judicial determinations and permanency planning  
27 hearings involving developmentally disabled children who have been  
28 placed in out-of-home care pursuant to a voluntary placement agreement  
29 between the child's parent, guardian, or legal custodian and the  
30 department of social and health services.

31 (2) The family court shall have concurrent original jurisdiction  
32 with the juvenile court over all proceedings under this section if the  
33 superior court judges of a county authorize concurrent jurisdiction as  
34 provided in RCW 26.12.010.

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



1	B	Residential Burglary	
2		(9A.52.025)	C
3	B	Burglary 2 (9A.52.030)	C
4	D	Burglary Tools (Possession of)	
5		(9A.52.060)	E
6	D	Criminal Trespass 1 (9A.52.070)	E
7	E	Criminal Trespass 2 (9A.52.080)	E
8	C	Vehicle Prowling 1 (9A.52.095)	D
9	D	Vehicle Prowling 2 (9A.52.100)	E
10		<b>Drugs</b>	
11	E	Possession/Consumption of Alcohol	
12		(66.44.270)	E
13	C	Illegally Obtaining Legend Drug	
14		(69.41.020)	D
15	C+	Sale, Delivery, Possession of Legend	
16		Drug with Intent to Sell	
17		(69.41.030)	D+
18	E	Possession of Legend Drug	
19		(69.41.030)	E
20	B+	Violation of Uniform Controlled	
21		Substances Act - Narcotic or	
22		Methamphetamine Sale	
23		(69.50.401(a)(1)(i) or (ii))	B+
24	C	Violation of Uniform Controlled	
25		Substances Act - Nonnarcotic Sale	
26		(69.50.401(a)(1)(iii))	C
27	E	Possession of Marihuana <40 grams	
28		(69.50.401(e))	E
29	C	Fraudulently Obtaining Controlled	
30		Substance (69.50.403)	C
31	C+	Sale of Controlled Substance	
32		for Profit (69.50.410)	C+
33	E	Unlawful Inhalation (9.47A.020)	E
34	B	Violation of Uniform Controlled	
35		Substances Act - Narcotic or	
36		Methamphetamine	
37		Counterfeit Substances	
38		(69.50.401(b)(1)(i) or (ii))	B

1	C	Violation of Uniform Controlled	
2		Substances Act - Nonnarcotic	
3		Counterfeit Substances	
4		(69.50.401(b)(1) (iii), (iv), (v))	C
5	C	Violation of Uniform Controlled	
6		Substances Act - Possession of a	
7		Controlled Substance	
8		(69.50.401(d))	C
9	C	Violation of Uniform Controlled	
10		Substances Act - Possession of a	
11		Controlled Substance	
12		(69.50.401(c))	C
13		<b>Firearms and Weapons</b>	
14	B	Theft of Firearm (9A.56.300)	C
15	B	Possession of Stolen Firearm	
16		(9A.56.310)	C
17	E	Carrying Loaded Pistol Without	
18		Permit (9.41.050)	E
19	C	Possession of Firearms by Minor (<18)	
20		(9.41.040(1) (b) (iii))	C
21	D+	Possession of Dangerous Weapon	
22		(9.41.250)	E
23	D	Intimidating Another Person by use	
24		of Weapon (9.41.270)	E
25		<b>Homicide</b>	
26	A+	Murder 1 (9A.32.030)	A
27	A+	Murder 2 (9A.32.050)	B+
28	B+	Manslaughter 1 (9A.32.060)	C+
29	C+	Manslaughter 2 (9A.32.070)	D+
30	B+	Vehicular Homicide (46.61.520)	C+
31		<b>Kidnapping</b>	
32	A	Kidnap 1 (9A.40.020)	B+
33	B+	Kidnap 2 (9A.40.030)	C+
34	C+	Unlawful Imprisonment	
35		(9A.40.040)	D+

1		<b>Obstructing Governmental Operation</b>	
2	D	Obstructing a Law Enforcement	
3		Officer (9A.76.020)	E
4	E	Resisting Arrest (9A.76.040)	E
5	B	Introducing Contraband 1	
6		(9A.76.140)	C
7	C	Introducing Contraband 2	
8		(9A.76.150)	D
9	E	Introducing Contraband 3	
10		(9A.76.160)	E
11	B+	Intimidating a Public Servant	
12		(9A.76.180)	C+
13	B+	Intimidating a Witness	
14		(9A.72.110)	C+
15		<b>Public Disturbance</b>	
16	C+	Riot with Weapon (9A.84.010)	D+
17	D+	Riot Without Weapon	
18		(9A.84.010)	E
19	E	Failure to Disperse (9A.84.020)	E
20	E	Disorderly Conduct (9A.84.030)	E
21		<b>Sex Crimes</b>	
22	A	Rape 1 (9A.44.040)	B+
23	A-	Rape 2 (9A.44.050)	B+
24	C+	Rape 3 (9A.44.060)	D+
25	A-	Rape of a Child 1 (9A.44.073)	B+
26	B+	Rape of a Child 2 (9A.44.076)	C+
27	B	Incest 1 (9A.64.020(1))	C
28	C	Incest 2 (9A.64.020(2))	D
29	D+	Indecent Exposure	
30		(Victim <14) (9A.88.010)	E
31	E	Indecent Exposure	
32		(Victim 14 or over) (9A.88.010)	E
33	B+	Promoting Prostitution 1	
34		(9A.88.070)	C+
35	C+	Promoting Prostitution 2	
36		(9A.88.080)	D+
37	E	O & A (Prostitution) (9A.88.030)	E
38	B+	Indecent Liberties (9A.44.100)	C+

1	A-	Child Molestation 1 (9A.44.083)	B+
2	B	Child Molestation 2 (9A.44.086)	C+
3		<b>Theft, Robbery, Extortion, and Forgery</b>	
4	B	Theft 1 (9A.56.030)	C
5	C	Theft 2 (9A.56.040)	D
6	D	Theft 3 (9A.56.050)	E
7	B	Theft of Livestock (9A.56.080)	C
8	C	Forgery (9A.60.020)	D
9	A	Robbery 1 (9A.56.200)	B+
10	B+	Robbery 2 (9A.56.210)	C+
11	B+	Extortion 1 (9A.56.120)	C+
12	C+	Extortion 2 (9A.56.130)	D+
13	B	Possession of Stolen Property 1	
14		(9A.56.150)	C
15	C	Possession of Stolen Property 2	
16		(9A.56.160)	D
17	D	Possession of Stolen Property 3	
18		(9A.56.170)	E
19	C	Taking Motor Vehicle Without	
20		Owner's Permission (9A.56.070)	D
21		<b>Motor Vehicle Related Crimes</b>	
22	E	Driving Without a License	
23		(46.20.005)	E
24	C	Hit and Run - Injury	
25		(46.52.020(4))	D
26	D	Hit and Run-Attended	
27		(46.52.020(5))	E
28	E	Hit and Run-Unattended	
29		(46.52.010)	E
30	C	Vehicular Assault (46.61.522)	D
31	C	Attempting to Elude Pursuing	
32		Police Vehicle (46.61.024)	D
33	E	Reckless Driving (46.61.500)	E
34	D	Driving While Under the Influence	
35		(46.61.502 and 46.61.504)	E
36		<b>Other</b>	
37	B	Bomb Threat (9.61.160)	C
38	C	Escape 1 (9A.76.110)	C

1	C	Escape 2 (9A.76.120)	C
2	D	Escape 3 (9A.76.130)	E
3	E	Obscene, Harassing, Etc.,	
4		Phone Calls (9.61.230)	E
5	A	Other Offense Equivalent to an	
6		Adult Class A Felony	B+
7	<u>B+</u>	<u>Other Offense Equivalent to an</u>	
8		<u>Adult Class B+ Felony</u>	<u>B</u>
9	B	Other Offense Equivalent to an	
10		Adult Class B Felony	C
11	C	Other Offense Equivalent to an	
12		Adult Class C Felony	D
13	D	Other Offense Equivalent to an	
14		Adult Gross Misdemeanor	E
15	E	Other Offense Equivalent to an	
16		Adult Misdemeanor	E
17	V	Violation of Order of Restitution,	
18		Community Supervision, or	
19		Confinement (13.40.200)	V

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

- 22 1st escape or attempted escape during 12-month period - 4 weeks
- 23 confinement
- 24 2nd escape or attempted escape during 12-month period - 8 weeks
- 25 confinement
- 26 3rd and subsequent escape or attempted escape during 12-month
- 27 period - 12 weeks confinement

28 If the court finds that a respondent has violated terms of an order,  
29 it may impose a penalty of up to 30 days of confinement.

30 **JUVENILE SENTENCING STANDARDS**

31 This schedule must be used for juvenile offenders. The court may  
32 select sentencing option A, B, or C.

**OPTION A**  
**JUVENILE OFFENDER SENTENCING GRID**  
**STANDARD RANGE**

4	<hr/>					
5	A+	180 WEEKS TO AGE 21 YEARS				
6	<hr/>					
7	A	103 WEEKS TO 129 WEEKS				
8	<hr/>					
9	A-	15-36	52-65	80-100	103-129	
10		WEEKS	WEEKS	WEEKS	WEEKS	
11		EXCEPT				
12		30-40				
13		WEEKS FOR				
14		15-17				
15		YEAR OLDS				
16	<hr/>					
17	Current	B+	15-36	52-65	80-100	103-129
18	Offense		WEEKS	WEEKS	WEEKS	WEEKS
19	Category	<hr/>				
20		B	LOCAL		52-65	
21			SANCTIONS (LS)	15-36 WEEKS		WEEKS
22	<hr/>					
23		C+	LS			
24				15-36 WEEKS		
25	<hr/>					
26		C	LS		15-36 WEEKS	
27			Local Sanctions:			
28			0 to 30 Days			
29		D+	LS	0 to 12 Months Community Supervision		
30				0 to 150 Hours Community Service		
31		D	LS	\$0 to \$500 Fine		
32		E	LS			
33	<hr/>					
34			0	1	2	3
35						4 or more
			PRIOR ADJUDICATIONS			

36 NOTE: References in the grid to days or weeks mean periods of  
37 confinement.

38 (1) The vertical axis of the grid is the current offense category.  
39 The current offense category is determined by the offense of  
40 adjudication.

41 (2) The horizontal axis of the grid is the number of prior  
42 adjudications included in the juvenile's criminal history. Each prior  
43 felony adjudication shall count as one point. Each prior violation,

1 misdemeanor, and gross misdemeanor adjudication shall count as 1/4  
2 point. Fractional points shall be rounded down.

3 (3) The standard range disposition for each offense is determined  
4 by the intersection of the column defined by the prior adjudications  
5 and the row defined by the current offense category.

6 (4) RCW 13.40.180 applies if the offender is being sentenced for  
7 more than one offense.

8 (5) A current offense that is a violation is equivalent to an  
9 offense category of E. However, a disposition for a violation shall  
10 not include confinement.

11 OR

12 **OPTION B**

13 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

14 If the juvenile offender is subject to a standard range  
15 disposition of local sanctions or 15 to 36 weeks of confinement and has  
16 not committed an A- or B+ offense, the court may impose a disposition  
17 under RCW 13.40.160(5) and 13.40.165.

18 OR

19 **OPTION C**

20 **MANIFEST INJUSTICE**

21 If the court determines that a disposition under option A or B would  
22 effectuate a manifest injustice, the court shall impose a disposition  
23 outside the standard range under RCW 13.40.160(2).

24 **Sec. 49.** RCW 13.40.070 and 1997 c 338 s 17 are each amended to  
25 read as follows:

26 (1) Complaints referred to the juvenile court alleging the  
27 commission of an offense shall be referred directly to the prosecutor.  
28 The prosecutor, upon receipt of a complaint, shall screen the complaint  
29 to determine whether:

30 (a) The alleged facts bring the case within the jurisdiction of  
31 the court; and

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

34 (2) If the identical alleged acts constitute an offense under both  
35 the law of this state and an ordinance of any city or county of this

1 state, state law shall govern the prosecutor's screening and charging  
2 decision for both filed and diverted cases.

3 (3) If the requirements of subsections (1)(a) and (b) of this  
4 section are met, the prosecutor shall either file an information in  
5 juvenile court or divert the case, as set forth in subsections (5),  
6 (6), and (7) of this section. If the prosecutor finds that the  
7 requirements of subsection (1)(a) and (b) of this section are not met,  
8 the prosecutor shall maintain a record, for one year, of such decision  
9 and the reasons therefor. In lieu of filing an information or  
10 diverting an offense a prosecutor may file a motion to modify community  
11 supervision where such offense constitutes a violation of community  
12 supervision.

13 (4) An information shall be a plain, concise, and definite written  
14 statement of the essential facts constituting the offense charged. It  
15 shall be signed by the prosecuting attorney and conform to chapter  
16 10.37 RCW.

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

19 (a) An alleged offender is accused of a class A felony, a class B+  
20 felony, a class B felony, an attempt to commit a class B or B+ felony,  
21 a class C felony listed in RCW 9.94A.440(2) as a crime against persons  
22 or listed in RCW 9A.46.060 as a crime of harassment, or a class C  
23 felony that is a violation of RCW 9.41.080 or 9.41.040(1)(b)(iii); or

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

27 (c) An alleged offender has previously been committed to the  
28 department; or

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

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

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

35 (6) Where a case is legally sufficient the prosecutor shall divert  
36 the case if the alleged offense is a misdemeanor or gross misdemeanor  
37 or violation and the alleged offense is the offender's first offense or  
38 violation. If the alleged offender is charged with a related offense

1 that must or may be filed under subsections (5) and (7) of this  
2 section, a case under this subsection may also be filed.

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

9 (8) Whenever a juvenile is placed in custody or, where not placed  
10 in custody, referred to a diversion interview, the parent or legal  
11 guardian of the juvenile shall be notified as soon as possible  
12 concerning the allegation made against the juvenile and the current  
13 status of the juvenile. Where a case involves victims of crimes  
14 against persons or victims whose property has not been recovered at the  
15 time a juvenile is referred to a diversion unit, the victim shall be  
16 notified of the referral and informed how to contact the unit.

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

23 (10) The prosecutor, juvenile court probation counselor, or  
24 diversion unit may, in exercising their authority under this section or  
25 RCW 13.40.080, refer juveniles to mediation or victim offender  
26 reconciliation programs. Such mediation or victim offender  
27 reconciliation programs shall be voluntary for victims.

28 **Sec. 50.** RCW 13.40.193 and 1997 c 338 s 30 are each amended to  
29 read as follows:

30 (1) If a respondent is found to have been in possession of a  
31 firearm in violation of RCW 9.41.040(1)(b)(iii), the court shall impose  
32 a minimum disposition of ten days of confinement. If the offender's  
33 standard range of disposition for the offense as indicated in RCW  
34 13.40.0357 is more than thirty days of confinement, the court shall  
35 commit the offender to the department for the standard range  
36 disposition. The offender shall not be released until the offender has  
37 served a minimum of ten days in confinement.

1 (2) If the court finds that the respondent or an accomplice was  
2 armed with a firearm, the court shall determine the standard range  
3 disposition for the offense pursuant to RCW 13.40.160. If the offender  
4 or an accomplice was armed with a firearm when the offender committed  
5 any felony other than possession of a machine gun, possession of a  
6 stolen firearm, drive-by shooting, theft of a firearm, unlawful  
7 possession of a firearm in the first and second degree, or use of a  
8 machine gun in a felony, the following periods of total confinement  
9 must be added to the sentence: For a class A felony, six months; for  
10 a class B+ felony, five months; for a class B felony, four months; and  
11 for a class C felony, two months. The additional time shall be imposed  
12 regardless of the offense's juvenile disposition offense category as  
13 designated in RCW 13.40.0357.

14 (3) When a disposition under this section would effectuate a  
15 manifest injustice, the court may impose another disposition. When a  
16 judge finds a manifest injustice and imposes a disposition of  
17 confinement exceeding thirty days, the court shall commit the juvenile  
18 to a maximum term, and the provisions of RCW 13.40.030(2) shall be used  
19 to determine the range. When a judge finds a manifest injustice and  
20 imposes a disposition of confinement less than thirty days, the  
21 disposition shall be comprised of confinement or community supervision  
22 or both.

23 (4) Any term of confinement ordered pursuant to this section shall  
24 run consecutively to any term of confinement imposed in the same  
25 disposition for other offenses.

26 **Sec. 51.** RCW 9.95.009 and 1990 c 3 s 707 are each amended to read  
27 as follows:

28 (1) On July 1, 1986, the board of prison terms and paroles shall  
29 be redesignated as the indeterminate sentence review board. The  
30 board's membership shall be reduced as follows: On July 1, 1986, and  
31 on July 1st of each year until 1998, the number of board members shall  
32 be reduced in a manner commensurate with the board's remaining workload  
33 as determined by the office of financial management based upon its  
34 population forecast for the indeterminate sentencing system and in  
35 conjunction with the budget process. To meet the statutory obligations  
36 of the indeterminate sentence review board, the number of board members  
37 shall not be reduced to fewer than three members, although the office  
38 of financial management may designate some or all members as part-time

1 members and specify the extent to which they shall be less than full-  
2 time members. Any reduction shall take place by the expiration, on  
3 that date, of the term or terms having the least time left to serve.

4 (2) After July 1, 1984, the board shall continue its functions  
5 with respect to persons convicted of crimes committed prior to July 1,  
6 1984, and committed to the department of corrections. When making  
7 decisions on duration of confinement, including those relating to  
8 persons committed under a mandatory life sentence, and parole release  
9 under RCW 9.95.100 and 9.95.110, the board shall consider the purposes,  
10 standards, and sentencing ranges adopted pursuant to RCW 9.94A.040 and  
11 the minimum term recommendations of the sentencing judge and  
12 prosecuting attorney, and shall attempt to make decisions reasonably  
13 consistent with those ranges, standards, purposes, and recommendations:  
14 PROVIDED, That the board and its successors shall give adequate written  
15 reasons whenever a minimum term or parole release decision is made  
16 which is outside the sentencing ranges adopted pursuant to RCW  
17 9.94A.040. In making such decisions, the board and its successors  
18 shall consider the different charging and disposition practices under  
19 the indeterminate sentencing system.

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

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

29 NEW SECTION. Sec. 52. Sections 3 through 20 of this act are each  
30 added to chapter 9.94A RCW.

31 NEW SECTION. Sec. 53. RCW 9.95.0011 and 1997 c 350 s 1, 1989 c  
32 259 s 4, & 1986 c 224 s 12 are each repealed.

33 NEW SECTION. Sec. 54. This act applies to offenses committed on  
34 or after July 1, 1998.

35 NEW SECTION. Sec. 55. This act takes effect July 1, 1998."

1 **SSB 5006** - S AMD - 566  
2 By Senator Stevens

3

4 On page 1, line 2 of the title, after "offenders;" strike the  
5 remainder of the title and insert "amending RCW 72.04A.070, 72.04A.080,  
6 9A.20.021, 9A.44.060, 9A.44.079, 9A.44.086, 9A.44.089, 9A.44.100,  
7 9A.64.020, 9.41.010, 9.94.070, 9.94A.230, 9.94A.360, 9.94A.386,  
8 9.95.062, 9A.20.010, 9A.28.020, 9A.28.040, 9A.44.140, 9A.76.080,  
9 9A.76.170, 9A.83.010, 10.64.025, 13.40.070, 13.40.193, and 9.95.009;  
10 reenacting and amending RCW 9.94A.120, 9.94A.030, 9.94A.310, 9.94A.320,  
11 13.04.030, and 13.40.0357; adding new sections to chapter 9.94A RCW;  
12 creating new sections; repealing RCW 9.95.0011; prescribing penalties;  
13 and providing an effective date."

--- END ---