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**SUBSTITUTE SENATE BILL 5376**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senators Costa, McCaslin and Heavey)

Read first time 03/03/1999.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (1)

TABLE 1

2 Sentencing Grid

3 SERIOUSNESS

4 ((SCORE))

5 LEVEL

OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9 or more
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9 ((XV))

10 XVI Life Sentence without Parole/Death Penalty

12 ((XIV))

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

17 ((XIII))

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (4) The following additional times shall be added to the  
21 presumptive sentence for felony crimes committed after July 23, 1995,  
22 if the offender or an accomplice was armed with a deadly weapon as  
23 defined in this chapter other than a firearm as defined in RCW 9.41.010  
24 and the offender is being sentenced for one of the crimes listed in  
25 this subsection as eligible for any deadly weapon enhancements based on  
26 the classification of the completed felony crime. If the offender is  
27 being sentenced for more than one offense, the deadly weapon  
28 enhancement or enhancements must be added to the total period of  
29 confinement for all offenses, regardless of which underlying offense is  
30 subject to a deadly weapon enhancement. If the offender or an  
31 accomplice was armed with a deadly weapon other than a firearm as  
32 defined in RCW 9.41.010 and the offender is being sentenced for an  
33 anticipatory offense under chapter 9A.28 RCW to commit one of the  
34 crimes listed in this subsection as eligible for any deadly weapon  
35 enhancements, the following additional times shall be added to the  
36 presumptive sentence determined under subsection (2) of this section  
37 based on the felony crime of conviction as classified under RCW  
38 9A.28.020:

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

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

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

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

17 (e) Notwithstanding any other provision of law, any and all deadly  
18 weapon enhancements under this section are mandatory, shall be served  
19 in total confinement, and shall run consecutively to all other  
20 sentencing provisions, including other firearm or deadly weapon  
21 enhancements, for all offenses sentenced under this chapter.

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

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

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

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

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

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

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

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

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

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

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

25 TABLE 2

26 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

27 ((XV))

28 XVI Aggravated Murder 1 (RCW 10.95.020)

29 ((XIV))

30 XV Murder 1 (RCW 9A.32.030)

31 Homicide by abuse (RCW 9A.32.055)

32 Malicious explosion 1 (RCW 70.74.280(1))

33 ((XIII))

34 XIV Murder 2 (RCW 9A.32.050)

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

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

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

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

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

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

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

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

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

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

1 V Persistent prison misbehavior (RCW 9.94.070)  
2 Criminal Mistreatment 1 (RCW 9A.42.020)  
3 Abandonment of dependent person 1 (RCW  
4 9A.42.060)  
5 Rape 3 (RCW 9A.44.060)  
6 Sexual Misconduct with a Minor 1 (RCW  
7 9A.44.093)  
8 Child Molestation 3 (RCW 9A.44.089)  
9 Kidnapping 2 (RCW 9A.40.030)  
10 Extortion 1 (RCW 9A.56.120)  
11 Incest 2 (RCW 9A.64.020(2))  
12 Perjury 1 (RCW 9A.72.020)  
13 Extortionate Extension of Credit (RCW  
14 9A.82.020)  
15 Advancing money or property for extortionate  
16 extension of credit (RCW 9A.82.030)  
17 Extortionate Means to Collect Extensions of  
18 Credit (RCW 9A.82.040)  
19 Rendering Criminal Assistance 1 (RCW  
20 9A.76.070)  
21 Bail Jumping with class A Felony (RCW  
22 9A.76.170(2)(b))  
23 Sexually Violating Human Remains (RCW  
24 9A.44.105)  
25 Delivery of imitation controlled substance by  
26 person eighteen or over to person under  
27 eighteen (RCW 69.52.030(2))  
28 Possession of a Stolen Firearm (RCW  
29 9A.56.310)

30 IV Residential Burglary (RCW 9A.52.025)  
31 Theft of Livestock 1 (RCW 9A.56.080)  
32 Robbery 2 (RCW 9A.56.210)  
33 Assault 2 (RCW 9A.36.021)  
34 Escape 1 (RCW 9A.76.110)  
35 Arson 2 (RCW 9A.48.030)  
36 Commercial Bribery (RCW 9A.68.060)  
37 Bribing a Witness/Bribe Received by Witness  
38 (RCW 9A.72.090, 9A.72.100)  
39 Malicious Harassment (RCW 9A.36.080)

1 Threats to Bomb (RCW 9.61.160)  
2 Willful Failure to Return from Furlough (RCW  
3 72.66.060)  
4 Hit and Run--Injury Accident (RCW  
5 46.52.020(4))  
6 Hit and Run with Vessel--Injury Accident (RCW  
7 88.12.155(3))  
8 Vehicular Assault (RCW 46.61.522)  
9 Assault by Watercraft (RCW 88.12.032)  
10 Manufacture, deliver, or possess with intent  
11 to deliver narcotics from Schedule III,  
12 IV, or V or nonnarcotics from Schedule  
13 I-V (except marijuana, amphetamine,  
14 methamphetamines, or flunitrazepam) (RCW  
15 69.50.401(a)(1) (iii) through (v))  
16 Influencing Outcome of Sporting Event (RCW  
17 9A.82.070)  
18 Use of Proceeds of Criminal Profiteering (RCW  
19 9A.82.080 (1) and (2))  
20 Knowingly Trafficking in Stolen Property (RCW  
21 9A.82.050(2))  
22 III Criminal Gang Intimidation (RCW 9A.46.120)  
23 Criminal Mistreatment 2 (RCW 9A.42.030)  
24 Abandonment of dependent person 2 (RCW  
25 9A.42.070)  
26 Extortion 2 (RCW 9A.56.130)  
27 Unlawful Imprisonment (RCW 9A.40.040)  
28 Assault 3 (RCW 9A.36.031)  
29 Assault of a Child 3 (RCW 9A.36.140)  
30 Custodial Assault (RCW 9A.36.100)  
31 Unlawful possession of firearm in the second  
32 degree (RCW 9.41.040(1)(b))  
33 Harassment (RCW 9A.46.020)  
34 Promoting Prostitution 2 (RCW 9A.88.080)  
35 Willful Failure to Return from Work Release  
36 (RCW 72.65.070)  
37 Burglary 2 (RCW 9A.52.030)  
38 Introducing Contraband 2 (RCW 9A.76.150)

1 Communication with a Minor for Immoral  
2 Purposes (RCW 9.68A.090)  
3 Patronizing a Juvenile Prostitute (RCW  
4 9.68A.100)  
5 Escape 2 (RCW 9A.76.120)  
6 Perjury 2 (RCW 9A.72.030)  
7 Bail Jumping with class B or C Felony (RCW  
8 9A.76.170(2)(c))  
9 Intimidating a Public Servant (RCW 9A.76.180)  
10 Tampering with a Witness (RCW 9A.72.120)  
11 Manufacture, deliver, or possess with intent  
12 to deliver marijuana (RCW  
13 69.50.401(a)(1)(iii))  
14 Delivery of a material in lieu of a  
15 controlled substance (RCW 69.50.401(c))  
16 Manufacture, distribute, or possess with  
17 intent to distribute an imitation  
18 controlled substance (RCW 69.52.030(1))  
19 Recklessly Trafficking in Stolen Property  
20 (RCW 9A.82.050(1))  
21 Theft of livestock 2 (RCW 9A.56.080)  
22 Securities Act violation (RCW 21.20.400)

23 II Unlawful Practice of Law (RCW 2.48.180)  
24 Malicious Mischief 1 (RCW 9A.48.070)  
25 Possession of Stolen Property 1 (RCW  
26 9A.56.150)  
27 Theft 1 (RCW 9A.56.030)  
28 Class B Felony Theft of Rental, Leased, or  
29 Lease-purchased Property (RCW  
30 9A.56.096(4))  
31 Trafficking in Insurance Claims (RCW  
32 48.30A.015)  
33 Unlicensed Practice of a Profession or  
34 Business (RCW 18.130.190(7))  
35 Health Care False Claims (RCW 48.80.030)  
36 Possession of controlled substance that is  
37 either heroin or narcotics from Schedule  
38 I or II or flunitrazepam from Schedule  
39 IV (RCW 69.50.401(d))

1 Possession of phencyclidine (PCP) (RCW  
2 69.50.401(d))  
3 Create, deliver, or possess a counterfeit  
4 controlled substance (RCW 69.50.401(b))  
5 Computer Trespass 1 (RCW 9A.52.110)  
6 Escape from Community Custody (RCW 72.09.310)  
7 I Theft 2 (RCW 9A.56.040)  
8 Class C Felony Theft of Rental, Leased, or  
9 Lease-purchased Property (RCW  
10 9A.56.096(4))  
11 Possession of Stolen Property 2 (RCW  
12 9A.56.160)  
13 Forgery (RCW 9A.60.020)  
14 Taking Motor Vehicle Without Permission (RCW  
15 9A.56.070)  
16 Vehicle Prowl 1 (RCW 9A.52.095)  
17 Attempting to Elude a Pursuing Police Vehicle  
18 (RCW 46.61.024)  
19 Malicious Mischief 2 (RCW 9A.48.080)  
20 Reckless Burning 1 (RCW 9A.48.040)  
21 Unlawful Issuance of Checks or Drafts (RCW  
22 9A.56.060)  
23 Unlawful Use of Food Stamps (RCW 9.91.140 (2)  
24 and (3))  
25 False Verification for Welfare (RCW  
26 74.08.055)  
27 Forged Prescription (RCW 69.41.020)  
28 Forged Prescription for a Controlled  
29 Substance (RCW 69.50.403)  
30 Possess Controlled Substance that is a  
31 Narcotic from Schedule III, IV, or V or  
32 Non-narcotic from Schedule I-V (except  
33 phencyclidine or flunitrazepam) (RCW  
34 69.50.401(d))

35 **Sec. 4.** RCW 9.94A.030 and 1998 c 290 s 3 are each amended to read  
36 as follows:

37 Unless the context clearly requires otherwise, the definitions in  
38 this section apply throughout this chapter.

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

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

9 (3) "Community corrections officer" means an employee of the  
10 department who is responsible for carrying out specific duties in  
11 supervision of sentenced offenders and monitoring of sentence  
12 conditions.

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

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

25 (6) "Community service" means compulsory service, without  
26 compensation, performed for the benefit of the community by the  
27 offender.

28 (7) "Community supervision" means a period of time during which a  
29 convicted offender is subject to crime-related prohibitions and other  
30 sentence conditions imposed by a court pursuant to this chapter or RCW  
31 16.52.200(6) or 46.61.524. For first-time offenders, the supervision  
32 may include crime-related prohibitions and other conditions imposed  
33 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact  
34 for out-of-state supervision of parolees and probationers, RCW  
35 9.95.270, community supervision is the functional equivalent of  
36 probation and should be considered the same as probation by other  
37 states.

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

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

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

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

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

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

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

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

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

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

22 (18) "Drug offense" means:

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

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

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

32 (19) "Escape" means:

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

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

4 (20) "Felony traffic offense" means:

5 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
6 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
7 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

29 (a) Any felony defined under any law as a class A felony or  
30 criminal solicitation of or criminal conspiracy to commit a class A  
31 felony;

32 (b) Assault in the second degree;

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

34 (d) Child molestation in the second degree;

35 (e) Controlled substance homicide;

36 (f) Extortion in the first degree;

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

38 (h) Indecent liberties;

39 (i) Kidnapping in the second degree;

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

1 jurisdiction under RCW 13.04.030 or has been transferred by the  
2 appropriate juvenile court to a criminal court pursuant to RCW  
3 13.40.110. Throughout this chapter, the terms "offender" and  
4 "defendant" are used interchangeably.

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

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

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

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

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

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

1 committed the offense. A conviction for rape of a child in the second  
2 degree constitutes a conviction under subsection (27)(b)(i) only when  
3 the offender was eighteen years of age or older when the offender  
4 committed the offense.

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

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

11 (30) "Serious traffic offense" means:

12 (a) Driving while under the influence of intoxicating liquor or  
13 any drug (RCW 46.61.502), actual physical control while under the  
14 influence of intoxicating liquor or any drug (RCW 46.61.504), reckless  
15 driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW  
16 46.52.020(5)); or

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

20 (31) "Serious violent offense" is a subcategory of violent offense  
21 and means:

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

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

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

33 (33) "Sex offense" means:

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

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

4           (c) A felony with a finding of sexual motivation under RCW  
5 9.94A.127 or 13.40.135; or

6           (~~(e)~~) (d) Any federal or out-of-state conviction for an offense  
7 that under the laws of this state would be a felony classified as a sex  
8 offense under (a) of this subsection.

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

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

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

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

25           (38) "Violent offense" means:

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

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

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

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

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

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

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

33 **Sec. 5.** RCW 9A.44.130 and 1998 c 220 s 1 and 1998 c 139 s 1 are  
34 each reenacted and amended to read as follows:

35 (1) Any adult or juvenile residing, or who is a student, is  
36 employed, or carries on a vocation in this state who has been found to  
37 have committed or has been convicted of any sex offense or kidnapping  
38 offense, or who has been found not guilty by reason of insanity under

1 chapter 10.77 RCW of committing any sex offense or kidnapping offense,  
2 shall register with the county sheriff for the county of the person's  
3 residence, or if the person is not a resident of Washington, the county  
4 of the person's school, or place of employment or vocation. Where a  
5 person required to register under this section is in custody of the  
6 state department of corrections, the state department of social and  
7 health services, a local division of youth services, or a local jail or  
8 juvenile detention facility as a result of a sex offense or kidnapping  
9 offense, the person shall also register at the time of release from  
10 custody with an official designated by the agency that has jurisdiction  
11 over the person. In addition, any such adult or juvenile who is  
12 admitted to a public or private institution of higher education shall,  
13 within ten days of enrolling or by the first business day after  
14 arriving at the institution, whichever is earlier, notify the sheriff  
15 for the county of the person's residence of the person's intent to  
16 attend the institution. Persons required to register under this  
17 section who are enrolled in a public or private institution of higher  
18 education on June 11, 1998, must notify the county sheriff immediately.  
19 The sheriff shall notify the institution's department of public safety  
20 and shall provide that department with the same information provided to  
21 a county sheriff under subsection (3) of this section.

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

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

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

34 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
35 offense on, before, or after February 28, 1990, and who, on or after  
36 July 28, 1991, are in custody, as a result of that offense, of the  
37 state department of corrections, the state department of social and  
38 health services, a local division of youth services, or a local jail or  
39 juvenile detention facility, and (B) kidnapping offenders who on or

1 after July 27, 1997, are in custody of the state department of  
2 corrections, the state department of social and health services, a  
3 local division of youth services, or a local jail or juvenile detention  
4 facility, must register at the time of release from custody with an  
5 official designated by the agency that has jurisdiction over the  
6 offender. The agency shall within three days forward the registration  
7 information to the county sheriff for the county of the offender's  
8 anticipated residence. The offender must also register within twenty-  
9 four hours from the time of release with the county sheriff for the  
10 county of the person's residence, or if the person is not a resident of  
11 Washington, the county of the person's school, or place of employment  
12 or vocation. The agency that has jurisdiction over the offender shall  
13 provide notice to the offender of the duty to register. Failure to  
14 register at the time of release and within twenty-four hours of release  
15 constitutes a violation of this section and is punishable as provided  
16 in subsection (9) of this section.

17 When the agency with jurisdiction intends to release an offender  
18 with a duty to register under this section, and the agency has  
19 knowledge that the offender is eligible for developmental disability  
20 services from the department of social and health services, the agency  
21 shall notify the division of developmental disabilities of the release.  
22 Notice shall occur not more than thirty days before the offender is to  
23 be released. The agency and the division shall assist the offender in  
24 meeting the initial registration requirement under this section.  
25 Failure to provide such assistance shall not constitute a defense for  
26 any violation of this section.

27 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
28 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody  
29 but are under the jurisdiction of the indeterminate sentence review  
30 board or under the department of correction's active supervision, as  
31 defined by the department of corrections, the state department of  
32 social and health services, or a local division of youth services, for  
33 sex offenses committed before, on, or after February 28, 1990, must  
34 register within ten days of July 28, 1991. Kidnapping offenders who,  
35 on July 27, 1997, are not in custody but are under the jurisdiction of  
36 the indeterminate sentence review board or under the department of  
37 correction's active supervision, as defined by the department of  
38 corrections, the state department of social and health services, or a  
39 local division of youth services, for kidnapping offenses committed

1 before, on, or after July 27, 1997, must register within ten days of  
2 July 27, 1997. A change in supervision status of a sex offender who  
3 was required to register under this subsection (4)(a)(ii) as of July  
4 28, 1991, or a kidnapping offender required to register as of July 27,  
5 1997, shall not relieve the offender of the duty to register or to  
6 reregister following a change in residence. The obligation to register  
7 shall only cease pursuant to RCW 9A.44.140.

8 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on  
9 or after July 23, 1995, and kidnapping offenders who, on or after July  
10 27, 1997, as a result of that offense are in the custody of the United  
11 States bureau of prisons or other federal or military correctional  
12 agency for sex offenses committed before, on, or after February 28,  
13 1990, or kidnapping offenses committed on, before, or after July 27,  
14 1997, must register within twenty-four hours from the time of release  
15 with the county sheriff for the county of the person's residence, or if  
16 the person is not a resident of Washington, the county of the person's  
17 school, or place of employment or vocation. Sex offenders who, on July  
18 23, 1995, are not in custody but are under the jurisdiction of the  
19 United States bureau of prisons, United States courts, United States  
20 parole commission, or military parole board for sex offenses committed  
21 before, on, or after February 28, 1990, must register within ten days  
22 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not  
23 in custody but are under the jurisdiction of the United States bureau  
24 of prisons, United States courts, United States parole commission, or  
25 military parole board for kidnapping offenses committed before, on, or  
26 after July 27, 1997, must register within ten days of July 27, 1997.  
27 A change in supervision status of a sex offender who was required to  
28 register under this subsection (4)(a)(iii) as of July 23, 1995, or a  
29 kidnapping offender required to register as of July 27, 1997 shall not  
30 relieve the offender of the duty to register or to reregister following  
31 a change in residence, or if the person is not a resident of  
32 Washington, the county of the person's school, or place of employment  
33 or vocation. The obligation to register shall only cease pursuant to  
34 RCW 9A.44.140.

35 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
36 who are convicted of a sex offense on or after July 28, 1991, for a sex  
37 offense that was committed on or after February 28, 1990, and  
38 kidnapping offenders who are convicted on or after July 27, 1997, for  
39 a kidnapping offense that was committed on or after July 27, 1997, but

1 who are not sentenced to serve a term of confinement immediately upon  
2 sentencing, shall report to the county sheriff to register immediately  
3 upon completion of being sentenced.

4 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON  
5 RESIDENTS. Sex offenders and kidnapping offenders who move to  
6 Washington state from another state or a foreign country that are not  
7 under the jurisdiction of the state department of corrections, the  
8 indeterminate sentence review board, or the state department of social  
9 and health services at the time of moving to Washington, must register  
10 within thirty days of establishing residence or reestablishing  
11 residence if the person is a former Washington resident. The duty to  
12 register under this subsection applies to sex offenders convicted under  
13 the laws of another state or a foreign country, federal or military  
14 statutes, or Washington state for offenses committed on or after  
15 February 28, 1990, and to kidnapping offenders convicted under the laws  
16 of another state or a foreign country, federal or military statutes, or  
17 Washington state for offenses committed on or after July 27, 1997. Sex  
18 offenders and kidnapping offenders from other states or a foreign  
19 country who, when they move to Washington, are under the jurisdiction  
20 of the department of corrections, the indeterminate sentence review  
21 board, or the department of social and health services must register  
22 within twenty-four hours of moving to Washington. The agency that has  
23 jurisdiction over the offender shall notify the offender of the  
24 registration requirements before the offender moves to Washington.

25 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
26 or juvenile who has been found not guilty by reason of insanity under  
27 chapter 10.77 RCW of (A) committing a sex offense on, before, or after  
28 February 28, 1990, and who, on or after July 23, 1995, is in custody,  
29 as a result of that finding, of the state department of social and  
30 health services, or (B) committing a kidnapping offense on, before, or  
31 after July 27, 1997, and who on or after July 27, 1997, is in custody,  
32 as a result of that finding, of the state department of social and  
33 health services, must register within twenty-four hours from the time  
34 of release with the county sheriff for the county of the person's  
35 residence. The state department of social and health services shall  
36 provide notice to the adult or juvenile in its custody of the duty to  
37 register. Any adult or juvenile who has been found not guilty by  
38 reason of insanity of committing a sex offense on, before, or after  
39 February 28, 1990, but who was released before July 23, 1995, or any

1 adult or juvenile who has been found not guilty by reason of insanity  
2 of committing a kidnapping offense but who was released before July 27,  
3 1997, shall be required to register within twenty-four hours of  
4 receiving notice of this registration requirement. The state  
5 department of social and health services shall make reasonable attempts  
6 within available resources to notify sex offenders who were released  
7 before July 23, 1995, and kidnapping offenders who were released before  
8 July 27, 1997. Failure to register within twenty-four hours of  
9 release, or of receiving notice, constitutes a violation of this  
10 section and is punishable as provided in subsection (9) of this  
11 section.

12 (b) Failure to register within the time required under this  
13 section constitutes a per se violation of this section and is  
14 punishable as provided in subsection (9) of this section. The county  
15 sheriff shall not be required to determine whether the person is living  
16 within the county.

17 (c) An arrest on charges of failure to register, service of an  
18 information, or a complaint for a violation of this section, or  
19 arraignment on charges for a violation of this section, constitutes  
20 actual notice of the duty to register. Any person charged with the  
21 crime of failure to register under this section who asserts as a  
22 defense the lack of notice of the duty to register shall register  
23 immediately following actual notice of the duty through arrest,  
24 service, or arraignment. Failure to register as required under this  
25 subsection (4)(c) constitutes grounds for filing another charge of  
26 failing to register. Registering following arrest, service, or  
27 arraignment on charges shall not relieve the offender from criminal  
28 liability for failure to register prior to the filing of the original  
29 charge.

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

33 (5)(a) If any person required to register pursuant to this section  
34 changes his or her residence address within the same county, the person  
35 must send written notice of the change of address to the county sheriff  
36 within seventy-two hours of moving. If any person required to register  
37 pursuant to this section moves to a new county, the person must send  
38 written notice of the change of address at least fourteen days before  
39 moving to the county sheriff in the new county of residence and must

1 register with that county sheriff within twenty-four hours of moving.  
2 The person must also send written notice within ten days of the change  
3 of address in the new county to the county sheriff with whom the person  
4 last registered. The county sheriff with whom the person last  
5 registered shall promptly forward the information concerning the change  
6 of address to the county sheriff for the county of the person's new  
7 residence. If any person required to register pursuant to this section  
8 moves out of Washington state, the person must also send written notice  
9 within ten days of moving to the new state or a foreign country to the  
10 county sheriff with whom the person last registered in Washington  
11 state. Upon receipt of notice of change of address to a new state, the  
12 county sheriff shall promptly forward the information regarding the  
13 change of address to the agency designated by the new state as the  
14 state's offender registration agency.

15 (b) It is an affirmative defense to a charge that the person  
16 failed to send a notice at least fourteen days in advance of moving as  
17 required under (a) of this subsection that the person did not know the  
18 location of his or her new residence at least fourteen days before  
19 moving. The defendant must establish the defense by a preponderance of  
20 the evidence and, to prevail on the defense, must also prove by a  
21 preponderance that the defendant sent the required notice within  
22 twenty-four hours of determining the new address.

23 (6) A sex offender subject to registration requirements under this  
24 section who applies to change his or her name under RCW 4.24.130 or any  
25 other law shall submit a copy of the application to the county sheriff  
26 of the county of the person's residence and to the state patrol not  
27 fewer than five days before the entry of an order granting the name  
28 change. No sex offender under the requirement to register under this  
29 section at the time of application shall be granted an order changing  
30 his or her name if the court finds that doing so will interfere with  
31 legitimate law enforcement interests, except that no order shall be  
32 denied when the name change is requested for religious or legitimate  
33 cultural reasons or in recognition of marriage or dissolution of  
34 marriage. A sex offender under the requirement to register under this  
35 section who receives an order changing his or her name shall submit a  
36 copy of the order to the county sheriff of the county of the person's  
37 residence and to the state patrol within five days of the entry of the  
38 order.

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

3 (8) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,  
4 70.48.470, and 72.09.330:

5 (a) "Sex offense" means any offense defined as a sex offense by  
6 RCW 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation  
7 of a minor), 9.68A.050 (dealing in depictions of minor engaged in  
8 sexually explicit conduct), 9.68A.060 (sending, bringing into state  
9 depictions of minor engaged in sexually explicit conduct), 9.68A.090  
10 (communication with minor for immoral purposes), 9.68A.100 (patronizing  
11 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in  
12 the second degree), as well as any gross misdemeanor that is, under  
13 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or  
14 criminal conspiracy to commit an offense that is classified as a sex  
15 offense under RCW 9.94A.030.

16 (b) "Kidnapping offense" means the crimes of kidnapping in the  
17 first degree, kidnapping in the second degree, and unlawful  
18 imprisonment as defined in chapter 9A.40 RCW, where the victim is a  
19 minor and the offender is not the minor's parent.

20 (c) "Employed" or "carries on a vocation" means employment that is  
21 full-time or part-time for a period of time exceeding fourteen days, or  
22 for an aggregate period of time exceeding thirty days during any  
23 calendar year. A person is employed or carries on a vocation whether  
24 the person's employment is financially compensated, volunteered, or for  
25 the purpose of government or educational benefit.

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

30 (9) A person who knowingly fails to register with the county  
31 sheriff or notify the county sheriff, or who changes his or her name  
32 without notifying the county sheriff and the state patrol, as required  
33 by this section is guilty of a class C felony if the crime for which  
34 the individual was convicted was a felony sex offense as defined in  
35 subsection (8)(a) of this section or a federal or out-of-state  
36 conviction for an offense that under the laws of this state would be a  
37 felony sex offense as defined in subsection (8)(a) of this section. If  
38 the crime was other than a felony or a federal or out-of-state

1 conviction for an offense that under the laws of this state would be  
2 other than a felony, violation of this section is a gross misdemeanor.

3 (10) A person who knowingly fails to register or who moves without  
4 notifying the county sheriff as required by this section is guilty of  
5 a class C felony if the crime for which the individual was convicted  
6 was a felony kidnapping offense as defined in subsection (8)(b) of this  
7 section or a federal or out-of-state conviction for an offense that  
8 under the laws of this state would be a felony kidnapping offense as  
9 defined in subsection (8)(b) of this section. If the crime was other  
10 than a felony or a federal or out-of-state conviction for an offense  
11 that under the laws of this state would be other than a felony,  
12 violation of this section is a gross misdemeanor.

13 **Sec. 6.** RCW 9.94A.360 and 1998 c 211 s 4 are each amended to read  
14 as follows:

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

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

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

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

1 (including full-time residential treatment) pursuant to a felony  
2 conviction, if any, or entry of judgment and sentence, the offender  
3 spent five years in the community without committing any crime that  
4 subsequently results in a conviction. This subsection applies to both  
5 adult and juvenile prior convictions.

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

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

18 (5)(a) In the case of multiple prior convictions, for the purpose  
19 of computing the offender score, count all convictions separately,  
20 except:

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

35 (ii) In the case of multiple prior convictions for offenses  
36 committed before July 1, 1986, for the purpose of computing the  
37 offender score, count all adult convictions served concurrently as one  
38 offense, and count all juvenile convictions entered on the same date as

1 one offense. Use the conviction for the offense that yields the  
2 highest offender score.

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

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

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

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

22 (9) If the present conviction is for (~~Murder 1 or 2, Assault 1,~~  
23 ~~Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1~~) a  
24 serious violent offense, count three points for prior adult and  
25 juvenile convictions for crimes in (~~these categories~~) this category,  
26 two points for each prior adult and juvenile violent conviction (not  
27 already counted), one point for each prior adult nonviolent felony  
28 conviction, and 1/2 point for each prior juvenile nonviolent felony  
29 conviction.

30 (10) If the present conviction is for Burglary 1, count prior  
31 convictions as in subsection (8) of this section; however count two  
32 points for each prior adult Burglary 2 or residential burglary  
33 conviction, and one point for each prior juvenile Burglary 2 or  
34 residential burglary conviction.

35 (11) If the present conviction is for a felony traffic offense  
36 count two points for each adult or juvenile prior conviction for  
37 Vehicular Homicide or Vehicular Assault; for each felony offense (~~or~~  
38 ~~serious traffic offense,~~) count one point for each adult and 1/2 point  
39 for each juvenile prior conviction(~~. This subsection shall not apply~~

1 ~~when additional time is added to a sentence pursuant to RCW~~  
2 ~~46.61.520(2))~~; for each serious traffic offense, other than those used  
3 for an enhancement pursuant to RCW 46.61.520(2), count one point for  
4 each adult and 1/2 point for each juvenile prior conviction.

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

11 (13) If the present conviction is for Willful Failure to Return  
12 from Furlough, RCW 72.66.060, Willful Failure to Return from Work  
13 Release, RCW 72.65.070, or Escape from Community Custody, RCW  
14 72.09.310, count only prior escape convictions in the offender score.  
15 Count adult prior escape convictions as one point and juvenile prior  
16 escape convictions as 1/2 point.

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

20 (15) If the present conviction is for Burglary 2 or residential  
21 burglary, count priors as in subsection (7) of this section; however,  
22 count two points for each adult and juvenile prior Burglary 1  
23 conviction, two points for each adult prior Burglary 2 or residential  
24 burglary conviction, and one point for each juvenile prior Burglary 2  
25 or residential burglary conviction.

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

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

31 **Sec. 7.** RCW 9.94A.400 and 1998 c 235 s 2 are each amended to read  
32 as follows:

33 (1)(a) Except as provided in (b) or (c) of this subsection,  
34 whenever a person is to be sentenced for two or more current offenses,  
35 the sentence range for each current offense shall be determined by  
36 using all other current and prior convictions as if they were prior  
37 convictions for the purpose of the offender score: PROVIDED, That if  
38 the court enters a finding that some or all of the current offenses

1 encompass the same criminal conduct then those current offenses shall  
2 be counted as one crime. Sentences imposed under this subsection shall  
3 be served concurrently. Consecutive sentences may only be imposed  
4 under the exceptional sentence provisions of RCW 9.94A.120 and  
5 9.94A.390(2)(g) or any other provision of RCW 9.94A.390. "Same  
6 criminal conduct," as used in this subsection, means two or more crimes  
7 that require the same criminal intent, are committed at the same time  
8 and place, and involve the same victim. This definition applies in  
9 cases involving vehicular assault or vehicular homicide even if the  
10 victims occupied the same vehicle.

11 (b) Whenever a person is convicted of two or more serious violent  
12 offenses, as defined in RCW 9.94A.030, arising from separate and  
13 distinct criminal conduct, the sentence range for the offense with the  
14 highest seriousness level under RCW 9.94A.320 shall be determined using  
15 the offender's prior convictions and other current convictions that are  
16 not serious violent offenses in the offender score and the sentence  
17 range for other serious violent offenses shall be determined by using  
18 an offender score of zero. The sentence range for any offenses that  
19 are not serious violent offenses shall be determined according to (a)  
20 of this subsection. All sentences imposed under (b) of this subsection  
21 shall be served consecutively to each other and concurrently with  
22 sentences imposed under (a) of this subsection.

23 (c) If an offender is convicted under RCW 9.41.040 for unlawful  
24 possession of a firearm in the first or second degree and for the  
25 felony crimes of theft of a firearm or possession of a stolen firearm,  
26 or both, ~~((then))~~ the sentence range for each of these current offenses  
27 shall be determined by using all other current and prior convictions,  
28 except other current convictions for the felony crimes listed in this  
29 subsection (1)(c), as if they were prior convictions. The offender  
30 shall serve consecutive sentences for each conviction of the felony  
31 crimes listed in this subsection (1)(c), and for each firearm  
32 unlawfully possessed.

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

37 (b) Whenever a second or later felony conviction results in  
38 community supervision with conditions not currently in effect, under  
39 the prior sentence or sentences of community supervision the court may

1 require that the conditions of community supervision contained in the  
2 second or later sentence begin during the immediate term of community  
3 supervision and continue throughout the duration of the consecutive  
4 term of community supervision.

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

12 (4) Whenever any person granted probation under RCW 9.95.210 or  
13 9.92.060, or both, has the probationary sentence revoked and a prison  
14 sentence imposed, that sentence shall run consecutively to any sentence  
15 imposed pursuant to this chapter, unless the court pronouncing the  
16 subsequent sentence expressly orders that they be served concurrently.

17 (5) However, in the case of consecutive sentences, all periods of  
18 total confinement shall be served before any partial confinement,  
19 community service, community supervision, or any other requirement or  
20 conditions of any of the sentences. Except for exceptional sentences  
21 as authorized under RCW 9.94A.120(2), if two or more sentences that run  
22 consecutively include periods of community supervision, the aggregate  
23 of the community supervision period shall not exceed twenty-four  
24 months.

--- END ---