

HOUSE BILL 2711

State of Washington 57th Legislature 2002 Regular Session

By Representative Sommers; by request of Department of Corrections

Read first time 01/24/2002. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to sentencing of offenders; amending RCW 9.94A.525,
2 9.92.151, 9.94A.728, and 70.48.210; reenacting and amending RCW
3 9.94A.515 and 9.94A.030; prescribing penalties; and providing an
4 effective date.

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

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

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- 11 XVI Aggravated Murder 1 (RCW 10.95.020)
- 12 XV Homicide by abuse (RCW 9A.32.055)
- 13 Malicious explosion 1 (RCW 70.74.280(1))
- 14 Murder 1 (RCW 9A.32.030)
- 15 XIV Murder 2 (RCW 9A.32.050)
- 16 XIII Malicious explosion 2 (RCW 70.74.280(2))

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

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

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

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

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

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

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

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

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

32 VI Bail Jumping with Murder 1 (RCW
33 9A.76.170(3)(a))
34 Bribery (RCW 9A.68.010)
35 Incest 1 (RCW 9A.64.020(1))
36 Intimidating a Judge (RCW 9A.72.160)
37 Intimidating a Juror/Witness (RCW
38 9A.72.110, 9A.72.130)

1 Malicious placement of an imitation device
2 2 (RCW 70.74.272(1)(b))
3 Manufacture, deliver, or possess with
4 intent to deliver narcotics from
5 Schedule I or II (except heroin or
6 cocaine) or flunitrazepam from
7 Schedule IV (RCW 69.50.401(a)(1)(i))
8 Rape of a Child 3 (RCW 9A.44.079)
9 Theft of a Firearm (RCW 9A.56.300)
10 Unlawful Storage of Anhydrous Ammonia (RCW
11 69.55.020)

12 V Abandonment of dependent person 1 (RCW
13 9A.42.060)
14 Advancing money or property for
15 extortionate extension of credit (RCW
16 9A.82.030)
17 Bail Jumping with class A Felony (RCW
18 9A.76.170(3)(b))
19 Child Molestation 3 (RCW 9A.44.089)
20 Criminal Mistreatment 1 (RCW 9A.42.020)
21 Custodial Sexual Misconduct 1 (RCW
22 9A.44.160)
23 Delivery of imitation controlled substance
24 by person eighteen or over to person
25 under eighteen (RCW 69.52.030(2))
26 Domestic Violence Court Order Violation
27 (RCW 10.99.040, 10.99.050, 26.09.300,
28 26.10.220, 26.26.138, 26.50.110,
29 26.52.070, or 74.34.145)
30 Extortion 1 (RCW 9A.56.120)
31 Extortionate Extension of Credit (RCW
32 9A.82.020)
33 Extortionate Means to Collect Extensions of
34 Credit (RCW 9A.82.040)
35 Incest 2 (RCW 9A.64.020(2))
36 Kidnapping 2 (RCW 9A.40.030)
37 Perjury 1 (RCW 9A.72.020)
38 Persistent prison misbehavior (RCW
39 9.94.070)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (5)(a) In the case of multiple prior convictions, for the purpose
23 of computing the offender score, count all convictions separately,
24 except:

25 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to
26 encompass the same criminal conduct, shall be counted as one offense,
27 the offense that yields the highest offender score. The current
28 sentencing court shall determine with respect to other prior adult
29 offenses for which sentences were served concurrently or prior juvenile
30 offenses for which sentences were served consecutively, whether those
31 offenses shall be counted as one offense or as separate offenses using
32 the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and
33 if the court finds that they shall be counted as one offense, then the
34 offense that yields the highest offender score shall be used. The
35 current sentencing court may presume that such other prior offenses
36 were not the same criminal conduct from sentences imposed on separate
37 dates, or in separate counties or jurisdictions, or in separate
38 complaints, indictments, or informations;

1 (ii) In the case of multiple prior convictions for offenses
2 committed before July 1, 1986, for the purpose of computing the
3 offender score, count all adult convictions served concurrently as one
4 offense, and count all juvenile convictions entered on the same date as
5 one offense. Use the conviction for the offense that yields the
6 highest offender score.

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

13 (6) If the present conviction is one of the anticipatory offenses
14 of criminal attempt, solicitation, or conspiracy, count each prior
15 conviction as if the present conviction were for a completed offense.
16 When these convictions are used as criminal history, score them the
17 same as a completed crime.

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

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

28 (9) If the present conviction is for a serious violent offense,
29 count three points for prior adult and juvenile convictions for crimes
30 in this category, two points for each prior adult and juvenile violent
31 conviction (not already counted), one point for each prior adult
32 nonviolent felony conviction, and 1/2 point for each prior juvenile
33 nonviolent felony conviction.

34 (10) If the present conviction is for Burglary 1, count prior
35 convictions as in subsection (8) of this section; however count ((two))
36 one point((s)) for each prior adult Burglary 2 or residential burglary
37 conviction, and ((one)) 1/2 point for each prior juvenile Burglary 2 or
38 residential burglary conviction.

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

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

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

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

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

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

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

34 **Sec. 3.** RCW 9.92.151 and 1990 c 3 s 201 are each amended to read
35 as follows:

36 The sentence of a prisoner confined in a county jail facility for
37 a felony, gross misdemeanor, or misdemeanor conviction may be reduced
38 by earned release credits in accordance with procedures that shall be

1 developed and promulgated by the correctional agency having
2 jurisdiction. The earned ((early)) release time shall be for good
3 behavior and good performance as determined by the correctional agency
4 having jurisdiction. Any program established pursuant to this section
5 shall allow an offender to earn ((early)) earned release credits for
6 presentence incarceration. The correctional agency shall not credit
7 the offender with earned ((early)) release credits in advance of the
8 offender actually earning the credits. In the case of an offender
9 convicted of a serious violent offense or a sex offense that is a class
10 A felony committed on or after July 1, 1990, the aggregate earned
11 ((early)) release time may not exceed fifteen percent of the sentence.
12 In the case of an offender not sentenced under RCW 9.94A.660 who has
13 been convicted of an uncategorized offense, a drug offense that is
14 ranked below seriousness level X or unranked, or serious traffic
15 offense, as defined by RCW 9.94A.030, the aggregate earned release time
16 may not exceed fifty percent of the sentence. In no other case may the
17 aggregate earned ((early)) release time exceed one-third of the total
18 sentence.

19 **Sec. 4.** RCW 9.94A.728 and 2000 c 28 s 28 are each amended to read
20 as follows:

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

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

1 time spent in custody at the facility and the amount of earned release
2 time. An offender who has been convicted of a felony committed after
3 July 23, 1995, that involves any applicable deadly weapon enhancements
4 under RCW 9.94A.510 (3) or (4), or both, shall not receive any good
5 time credits or earned release time for that portion of his or her
6 sentence that results from any deadly weapon enhancements. In the case
7 of an offender convicted of a serious violent offense, or a sex offense
8 that is a class A felony, committed on or after July 1, 1990, the
9 aggregate earned release time may not exceed fifteen percent of the
10 sentence. In the case of an offender not sentenced under RCW 9.94A.660
11 who has been convicted of an uncategorized offense, a drug offense that
12 is ranked below seriousness level X or unranked, or a serious traffic
13 offense, the aggregate earned release time may not exceed fifty percent
14 of the sentence. In no other case shall the aggregate earned release
15 time exceed one-third of the total sentence;

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

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

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

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

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

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

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

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

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

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

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

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

25 (7) The governor may pardon any offender;

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

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

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

1 **Sec. 5.** RCW 70.48.210 and 1990 c 3 s 203 are each amended to read
2 as follows:

3 (1) All cities and counties are authorized to establish and
4 maintain farms, camps, and work release programs and facilities, as
5 well as special detention facilities. The facilities shall meet the
6 requirements of chapter 70.48 RCW and any rules adopted thereunder.

7 (2) Farms and camps may be established either inside or outside the
8 territorial limits of a city or county. A sentence of confinement in
9 a city or county jail may include placement in a farm or camp. Unless
10 directed otherwise by court order, the chief law enforcement officer or
11 department of corrections, may transfer the prisoner to a farm or camp.
12 The sentencing court, chief law enforcement officer, or department of
13 corrections may not transfer to a farm or camp a greater number of
14 prisoners than can be furnished with constructive employment and can be
15 reasonably accommodated.

16 (3) The city or county may establish a city or county work release
17 program and housing facilities for the prisoners in the program. In
18 such regard, factors such as employment conditions and the condition of
19 jail facilities should be considered. When a work release program is
20 established the following provisions apply:

21 (a) A person convicted of a felony and placed in a city or county
22 jail is eligible for the work release program. A person sentenced to
23 a city or county jail is eligible for the work release program. The
24 program may be used as a condition of probation for a criminal offense.
25 Good conduct is a condition of participation in the program.

26 (b) The court may permit a person who is currently, regularly
27 employed to continue his or her employment. The chief law enforcement
28 officer or department of corrections shall make all necessary
29 arrangements if possible. The court may authorize the person to seek
30 suitable employment and may authorize the chief law enforcement officer
31 or department of corrections to make reasonable efforts to find
32 suitable employment for the person. A person participating in the work
33 release program may not work in an establishment where there is a labor
34 dispute.

35 (c) The work release prisoner shall be confined in a work release
36 facility or jail unless authorized to be absent from the facility for
37 program-related purposes, unless the court directs otherwise.

38 (d) Each work release prisoner's earnings may be collected by the
39 chief law enforcement officer or a designee. The chief law enforcement

1 officer or a designee may deduct from the earnings moneys for the
2 payments for the prisoner's board, personal expenses inside and outside
3 the jail, a share of the administrative expenses of this section,
4 court-ordered victim compensation, and court-ordered restitution.
5 Support payments for the prisoner's dependents, if any, shall be made
6 as directed by the court. With the prisoner's consent, the remaining
7 funds may be used to pay the prisoner's preexisting debts. Any
8 remaining balance shall be returned to the prisoner.

9 (e) The prisoner's sentence may be reduced by earned ((early))
10 release time in accordance with procedures that shall be developed and
11 promulgated by the work release facility. The earned ((early)) release
12 time shall be for good behavior and good performance as determined by
13 the facility. The facility shall not credit the offender with earned
14 ((early)) release credits in advance of the offender actually earning
15 the credits. In the case of an offender convicted of a serious violent
16 offense or a sex offense that is a class A felony committed on or after
17 July 1, 1990, the aggregate earned ((early)) release time may not
18 exceed fifteen percent of the sentence. In the case of an offender not
19 sentenced under RCW 9.94A.660 who has been convicted of an
20 uncategorized offense, a drug offense that is ranked below seriousness
21 level X or unranked, or serious traffic offense, as defined by RCW
22 9.94A.030, the aggregate earned release time may not exceed fifty
23 percent of the sentence. In no other case may the aggregate earned
24 ((early)) release time exceed one-third of the total sentence.

25 (f) If the work release prisoner violates the conditions of custody
26 or employment, the prisoner shall be returned to the sentencing court.
27 The sentencing court may require the prisoner to spend the remainder of
28 the sentence in actual confinement and may cancel any earned reduction
29 of the sentence.

30 (4) A special detention facility may be operated by a
31 noncorrectional agency or by noncorrectional personnel by contract with
32 the governing unit. The employees shall meet the standards of training
33 and education established by the criminal justice training commission
34 as authorized by RCW 43.101.080. The special detention facility may
35 use combinations of features including, but not limited to, low-
36 security or honor prisoner status, work farm, work release, community
37 review, prisoner facility maintenance and food preparation, training
38 programs, or alcohol or drug rehabilitation programs. Special
39 detention facilities may establish a reasonable fee schedule to cover

1 the cost of facility housing and programs. The schedule shall be on a
2 sliding basis that reflects the person's ability to pay.

3 **Sec. 6.** RCW 9.94A.030 and 2001 2nd sp.s. c 12 s 301, 2001 c 300 s
4 3, and 2001 c 7 s 2 are each reenacted and amended to read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

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

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

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

18 (4) "Community corrections officer" means an employee of the
19 department who is responsible for carrying out specific duties in
20 supervision of sentenced offenders and monitoring of sentence
21 conditions.

22 (5) "Community custody" means that portion of an offender's
23 sentence of confinement in lieu of earned release time or imposed
24 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
25 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
26 community subject to controls placed on the offender's movement and
27 activities by the department. For offenders placed on community
28 custody for crimes committed on or after July 1, 2000, the department
29 shall assess the offender's risk of reoffense and may establish and
30 modify conditions of community custody, in addition to those imposed by
31 the court, based upon the risk to community safety.

32 (6) "Community custody range" means the minimum and maximum period
33 of community custody included as part of a sentence under RCW
34 9.94A.715, as established by the commission or the legislature under
35 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

36 (7) "Community placement" means that period during which the
37 offender is subject to the conditions of community custody and/or
38 postrelease supervision, which begins either upon completion of the

1 term of confinement (postrelease supervision) or at such time as the
2 offender is transferred to community custody in lieu of earned release.
3 Community placement may consist of entirely community custody, entirely
4 postrelease supervision, or a combination of the two.

5 (8) "Community service" means compulsory service, without
6 compensation, performed for the benefit of the community by the
7 offender.

8 (9) "Community supervision" means a period of time during which a
9 convicted offender is subject to crime-related prohibitions and other
10 sentence conditions imposed by a court pursuant to this chapter or RCW
11 16.52.200(6) or 46.61.524. Where the court finds that any offender has
12 a chemical dependency that has contributed to his or her offense, the
13 conditions of supervision may, subject to available resources, include
14 treatment. For purposes of the interstate compact for out-of-state
15 supervision of parolees and probationers, RCW 9.95.270, community
16 supervision is the functional equivalent of probation and should be
17 considered the same as probation by other states.

18 (10) "Confinement" means total or partial confinement.

19 (11) "Conviction" means an adjudication of guilt pursuant to Titles
20 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
21 acceptance of a plea of guilty.

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

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

35 (14) "Day fine" means a fine imposed by the sentencing court that
36 equals the difference between the offender's net daily income and the
37 reasonable obligations that the offender has for the support of the
38 offender and any dependents.

1 (15) "Day reporting" means a program of enhanced supervision
2 designed to monitor the offender's daily activities and compliance with
3 sentence conditions, and in which the offender is required to report
4 daily to a specific location designated by the department or the
5 sentencing court.

6 (16) "Department" means the department of corrections.

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

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

27 (19) "Drug offender sentencing alternative" is a sentencing option
28 available to persons convicted of a felony offense other than a violent
29 offense or a sex offense and who are eligible for the option under RCW
30 9.94A.660.

31 (20) "Drug offense" means:

32 (a) Any felony violation of chapter 69.50 RCW except possession of
33 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
34 controlled substance (RCW 69.50.403);

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

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

4 (21) "Earned release" means earned release from confinement as
5 provided in RCW 9.94A.728.

6 (22) "Escape" means:

7 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
8 first degree (RCW 9A.76.110), escape in the second degree (RCW
9 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
10 willful failure to return from work release (RCW 72.65.070), or willful
11 failure to be available for supervision by the department while in
12 community custody (RCW 72.09.310); or

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

16 (23) "Felony traffic offense" means:

17 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
18 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
19 and-run injury-accident (RCW 46.52.020(4)); or

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

23 (24) "Fine" means a specific sum of money ordered by the sentencing
24 court to be paid by the offender to the court over a specific period of
25 time.

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

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

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

1 under the influence of intoxicating liquor or any drug, RCW
2 46.61.522(1)(b), or vehicular homicide while under the influence of
3 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
4 obligations may also include payment to a public agency of the expense
5 of an emergency response to the incident resulting in the conviction,
6 subject to RCW 38.52.430.

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

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

12 (b) Assault in the second degree;

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

14 (d) Child molestation in the second degree;

15 (e) Controlled substance homicide;

16 (f) Extortion in the first degree;

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

18 (h) Indecent liberties;

19 (i) Kidnapping in the second degree;

20 (j) Leading organized crime;

21 (k) Manslaughter in the first degree;

22 (l) Manslaughter in the second degree;

23 (m) Promoting prostitution in the first degree;

24 (n) Rape in the third degree;

25 (o) Robbery in the second degree;

26 (p) Sexual exploitation;

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

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

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

37 (t) Any other felony with a deadly weapon verdict under RCW
38 9.94A.602;

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

6 (v)(i) A prior conviction for indecent liberties under RCW
7 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
8 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
9 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
10 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

11 (ii) A prior conviction for indecent liberties under RCW
12 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
13 if: (A) The crime was committed against a child under the age of
14 fourteen; or (B) the relationship between the victim and perpetrator is
15 included in the definition of indecent liberties under RCW
16 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
17 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
18 through July 27, 1997.

19 (29) "Nonviolent offense" means an offense which is not a violent
20 offense.

21 (30) "Offender" means a person who has committed a felony
22 established by state law and is eighteen years of age or older or is
23 less than eighteen years of age but whose case is under superior court
24 jurisdiction under RCW 13.04.030 or has been transferred by the
25 appropriate juvenile court to a criminal court pursuant to RCW
26 13.40.110. Throughout this chapter, the terms "offender" and
27 "defendant" are used interchangeably.

28 (31) "Partial confinement" means confinement for no more than one
29 year in a facility or institution operated or utilized under contract
30 by the state or any other unit of government, or, if home detention or
31 work crew has been ordered by the court, in an approved residence, for
32 a substantial portion of each day with the balance of the day spent in
33 the community. Partial confinement includes work release, home
34 detention, work crew, and a combination of work crew and home
35 detention.

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

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

1 (ii) Has, before the commission of the offense under (a) of this
2 subsection, been convicted as an offender on at least two separate
3 occasions, whether in this state or elsewhere, of felonies that under
4 the laws of this state would be considered most serious offenses and
5 would be included in the offender score under RCW 9.94A.525; provided
6 that of the two or more previous convictions, at least one conviction
7 must have occurred before the commission of any of the other most
8 serious offenses for which the offender was previously convicted; or

9 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
10 of a child in the first degree, child molestation in the first degree,
11 rape in the second degree, rape of a child in the second degree, or
12 indecent liberties by forcible compulsion; (B) any of the following
13 offenses with a finding of sexual motivation: Murder in the first
14 degree, murder in the second degree, homicide by abuse, kidnapping in
15 the first degree, kidnapping in the second degree, assault in the first
16 degree, assault in the second degree, assault of a child in the first
17 degree, or burglary in the first degree; or (C) an attempt to commit
18 any crime listed in this subsection (32)(b)(i); and

19 (ii) Has, before the commission of the offense under (b)(i) of this
20 subsection, been convicted as an offender on at least one occasion,
21 whether in this state or elsewhere, of an offense listed in (b)(i) of
22 this subsection or any federal or out-of-state offense or offense under
23 prior Washington law that is comparable to the offenses listed in
24 (b)(i) of this subsection. A conviction for rape of a child in the
25 first degree constitutes a conviction under (b)(i) of this subsection
26 only when the offender was sixteen years of age or older when the
27 offender committed the offense. A conviction for rape of a child in
28 the second degree constitutes a conviction under (b)(i) of this
29 subsection only when the offender was eighteen years of age or older
30 when the offender committed the offense.

31 (33) "Postrelease supervision" is that portion of an offender's
32 community placement that is not community custody.

33 (34) "Restitution" means a specific sum of money ordered by the
34 sentencing court to be paid by the offender to the court over a
35 specified period of time as payment of damages. The sum may include
36 both public and private costs.

37 (35) "Risk assessment" means the application of an objective
38 instrument supported by research and adopted by the department for the
39 purpose of assessing an offender's risk of reoffense, taking into

1 consideration the nature of the harm done by the offender, place and
2 circumstances of the offender related to risk, the offender's
3 relationship to any victim, and any information provided to the
4 department by victims. The results of a risk assessment shall not be
5 based on unconfirmed or unconfirmable allegations.

6 (36) "Serious traffic offense" means:

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

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

15 (37) "Serious violent offense" is a subcategory of violent offense
16 and means:

17 (a)(i) Murder in the first degree;

18 (ii) Homicide by abuse;

19 (iii) Murder in the second degree;

20 (iv) Manslaughter in the first degree;

21 (v) Assault in the first degree;

22 (vi) Kidnapping in the first degree;

23 (vii) Rape in the first degree;

24 (viii) Assault of a child in the first degree; or

25 (ix) An attempt, criminal solicitation, or criminal conspiracy to
26 commit one of these felonies; 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 (38) "Sex offense" means:

31 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
32 RCW 9A.44.130(11);

33 (ii) A violation of RCW 9A.64.020;

34 (iii) A felony that is a violation of chapter 9.68A RCW other than
35 RCW 9.68A.070 or 9.68A.080; or

36 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
37 criminal solicitation, or criminal conspiracy to commit such crimes;

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

4 (c) A felony with a finding of sexual motivation under RCW
5 9.94A.835 or 13.40.135; or

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

9 (39) "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 (40) "Standard sentence range" means the sentencing court's
13 discretionary range in imposing a nonappealable sentence.

14 (41) "Statutory maximum sentence" means the maximum length of time
15 for which an offender may be confined as punishment for a crime as
16 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
17 crime, or other statute defining the maximum penalty for a crime.

18 (42) "Total confinement" means confinement inside the physical
19 boundaries of a facility or institution operated or utilized under
20 contract by the state or any other unit of government for twenty-four
21 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

22 (43) "Transition training" means written and verbal instructions
23 and assistance provided by the department to the offender during the
24 two weeks prior to the offender's successful completion of the work
25 ethic camp program. The transition training shall include instructions
26 in the offender's requirements and obligations during the offender's
27 period of community custody.

28 (44) "Uncategorized offense" means an offense that is not: (a) A
29 drug offense, felony traffic offense, most serious offense, serious
30 traffic offense, sex offense, or violent offense; or (b) a crime
31 against persons as defined in RCW 9.94A.411.

32 (45) "Victim" means any person who has sustained emotional,
33 psychological, physical, or financial injury to person or property as
34 a direct result of the crime charged.

35 (~~(45)~~) (46) "Violent offense" means:

36 (a) Any of the following felonies:

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

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

3 (iii) Manslaughter in the first degree;

4 (iv) Manslaughter in the second degree;

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

6 (vi) Kidnapping in the second degree;

7 (vii) Arson in the second degree;

8 (viii) Assault in the second degree;

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

10 (x) Extortion in the first degree;

11 (xi) Robbery in the second degree;

12 (xii) Drive-by shooting;

13 (xiii) Vehicular assault, when caused by the operation or driving
14 of a vehicle by a person while under the influence of intoxicating
15 liquor or any drug or by the operation or driving of a vehicle in a
16 reckless manner; and

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

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

27 (~~(46)~~) (47) "Work crew" means a program of partial confinement
28 consisting of civic improvement tasks for the benefit of the community
29 that complies with RCW 9.94A.725.

30 (~~(47)~~) (48) "Work ethic camp" means an alternative incarceration
31 program as provided in RCW 9.94A.690 designed to reduce recidivism and
32 lower the cost of corrections by requiring offenders to complete a
33 comprehensive array of real-world job and vocational experiences,
34 character-building work ethics training, life management skills
35 development, substance abuse rehabilitation, counseling, literacy
36 training, and basic adult education.

37 (~~(48)~~) (49) "Work release" means a program of partial confinement
38 available to offenders who are employed or engaged as a student in a
39 regular course of study at school.

1 NEW SECTION. **Sec. 7.** This act takes effect July 1, 2002, and
2 applies to sentences imposed on or after July 1, 2002.

--- END ---