

2SSB 6172 - H COMM AMD

By Committee on Criminal Justice & Corrections

ADOPTED 03/03/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9.68A.090 and 2003 c 53 s 42 and 2003 c 26 s 1 are
4 each reenacted and amended to read as follows:

5 (1) Except as provided in subsection (2) of this section, a person
6 who communicates with a minor for immoral purposes, or a person who
7 communicates with someone the person believes to be a minor for immoral
8 purposes, is guilty of a gross misdemeanor.

9 (2) A person who communicates with a minor for immoral purposes is
10 guilty of a class C felony punishable according to chapter 9A.20 RCW if
11 the person has previously been convicted under this section or of a
12 felony sexual offense under chapter 9.68A, 9A.44, or 9A.64 RCW or of
13 any other felony sexual offense in this or any other state or if the
14 person communicates with a minor or with someone the person believes to
15 be a minor for immoral purposes through the sending of an electronic
16 communication.

17 **Sec. 2.** RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are
18 each reenacted and amended to read as follows:

19 TABLE 2

20 CRIMES INCLUDED WITHIN
21 EACH SERIOUSNESS LEVEL

22	XVI	Aggravated Murder 1 (RCW
23		10.95.020)
24	XV	Homicide by abuse (RCW 9A.32.055)
25		Malicious explosion 1 (RCW
26		70.74.280(1))
27		Murder 1 (RCW 9A.32.030)

1 XIV Murder 2 (RCW 9A.32.050)
2 Trafficking 1 (RCW 9A.40.100(1))
3 XIII Malicious explosion 2 (RCW
4 70.74.280(2))
5 Malicious placement of an explosive 1
6 (RCW 70.74.270(1))
7 XII Assault 1 (RCW 9A.36.011)
8 Assault of a Child 1 (RCW 9A.36.120)
9 Malicious placement of an imitation
10 device 1 (RCW 70.74.272(1)(a))
11 Rape 1 (RCW 9A.44.040)
12 Rape of a Child 1 (RCW 9A.44.073)
13 Trafficking 2 (RCW 9A.40.100(2))
14 XI Manslaughter 1 (RCW 9A.32.060)
15 Rape 2 (RCW 9A.44.050)
16 Rape of a Child 2 (RCW 9A.44.076)
17 X Child Molestation 1 (RCW 9A.44.083)
18 Indecent Liberties (with forcible
19 compulsion) (RCW
20 9A.44.100(1)(a))
21 Kidnapping 1 (RCW 9A.40.020)
22 Leading Organized Crime (RCW
23 9A.82.060(1)(a))
24 Malicious explosion 3 (RCW
25 70.74.280(3))
26 Sexually Violent Predator Escape
27 (RCW 9A.76.115)
28 IX Assault of a Child 2 (RCW 9A.36.130)
29 Explosive devices prohibited (RCW
30 70.74.180)
31 Hit and Run--Death (RCW
32 46.52.020(4)(a))
33 Homicide by Watercraft, by being
34 under the influence of intoxicating
35 liquor or any drug (RCW
36 79A.60.050)

1 Inciting Criminal Profiteering (RCW
2 9A.82.060(1)(b))
3 Malicious placement of an explosive 2
4 (RCW 70.74.270(2))
5 Robbery 1 (RCW 9A.56.200)
6 Sexual Exploitation (RCW 9.68A.040)
7 Vehicular Homicide, by being under
8 the influence of intoxicating liquor
9 or any drug (RCW 46.61.520)
10 VIII Arson 1 (RCW 9A.48.020)
11 Homicide by Watercraft, by the
12 operation of any vessel in a
13 reckless manner (RCW
14 79A.60.050)
15 Manslaughter 2 (RCW 9A.32.070)
16 Promoting Prostitution 1 (RCW
17 9A.88.070)
18 Theft of Ammonia (RCW 69.55.010)
19 Vehicular Homicide, by the operation
20 of any vehicle in a reckless
21 manner (RCW 46.61.520)
22 VII Burglary 1 (RCW 9A.52.020)
23 Child Molestation 2 (RCW 9A.44.086)
24 Civil Disorder Training (RCW
25 9A.48.120)
26 Dealing in depictions of minor
27 engaged in sexually explicit
28 conduct (RCW 9.68A.050)
29 Drive-by Shooting (RCW 9A.36.045)
30 Homicide by Watercraft, by disregard
31 for the safety of others (RCW
32 79A.60.050)
33 Indecent Liberties (without forcible
34 compulsion) (RCW 9A.44.100(1)
35 (b) and (c))
36 Introducing Contraband 1 (RCW
37 9A.76.140)

1 Malicious placement of an explosive 3
2 (RCW 70.74.270(3))
3 Negligently Causing Death By Use of
4 a Signal Preemption Device
5 (RCW 46.37.675)
6 Sending, bringing into state depictions
7 of minor engaged in sexually
8 explicit conduct (RCW
9 9.68A.060)
10 Unlawful Possession of a Firearm in
11 the first degree (RCW
12 9.41.040(1))
13 Use of a Machine Gun in Commission
14 of a Felony (RCW 9.41.225)
15 Vehicular Homicide, by disregard for
16 the safety of others (RCW
17 46.61.520)
18 VI Bail Jumping with Murder 1 (RCW
19 9A.76.170(3)(a))
20 Bribery (RCW 9A.68.010)
21 Incest 1 (RCW 9A.64.020(1))
22 Intimidating a Judge (RCW
23 9A.72.160)
24 Intimidating a Juror/Witness (RCW
25 9A.72.110, 9A.72.130)
26 Malicious placement of an imitation
27 device 2 (RCW 70.74.272(1)(b))
28 Possession of Depictions of a Minor
29 Engaged in Sexually Explicit
30 Conduct (RCW 9.68A.070)
31 Rape of a Child 3 (RCW 9A.44.079)
32 Theft of a Firearm (RCW 9A.56.300)
33 Unlawful Storage of Ammonia (RCW
34 69.55.020)
35 V Abandonment of dependent person 1
36 (RCW 9A.42.060)

1 Advancing money or property for
2 extortionate extension of credit
3 (RCW 9A.82.030)
4 Bail Jumping with class A Felony
5 (RCW 9A.76.170(3)(b))
6 Child Molestation 3 (RCW 9A.44.089)
7 Criminal Mistreatment 1 (RCW
8 9A.42.020)
9 Custodial Sexual Misconduct 1 (RCW
10 9A.44.160)
11 Domestic Violence Court Order
12 Violation (RCW 10.99.040,
13 10.99.050, 26.09.300, 26.10.220,
14 26.26.138, 26.50.110, 26.52.070,
15 or 74.34.145)
16 Extortion 1 (RCW 9A.56.120)
17 Extortionate Extension of Credit
18 (RCW 9A.82.020)
19 Extortionate Means to Collect
20 Extensions of Credit (RCW
21 9A.82.040)
22 Incest 2 (RCW 9A.64.020(2))
23 Kidnapping 2 (RCW 9A.40.030)
24 Perjury 1 (RCW 9A.72.020)
25 Persistent prison misbehavior (RCW
26 9.94.070)
27 Possession of a Stolen Firearm (RCW
28 9A.56.310)
29 Rape 3 (RCW 9A.44.060)
30 Rendering Criminal Assistance 1
31 (RCW 9A.76.070)
32 Sexual Misconduct with a Minor 1
33 (RCW 9A.44.093)
34 Sexually Violating Human Remains
35 (RCW 9A.44.105)
36 Stalking (RCW 9A.46.110)

1 Taking Motor Vehicle Without
2 Permission 1 (RCW 9A.56.070)
3 IV Arson 2 (RCW 9A.48.030)
4 Assault 2 (RCW 9A.36.021)
5 Assault 3 (of a Peace Officer with a
6 Projectile Stun Gun) (RCW
7 9A.36.031(1)(h))
8 Assault by Watercraft (RCW
9 79A.60.060)
10 Bribing a Witness/Bribe Received by
11 Witness (RCW 9A.72.090,
12 9A.72.100)
13 Cheating 1 (RCW 9.46.1961)
14 Commercial Bribery (RCW
15 9A.68.060)
16 Counterfeiting (RCW 9.16.035(4))
17 Endangerment with a Controlled
18 Substance (RCW 9A.42.100)
19 Escape 1 (RCW 9A.76.110)
20 Hit and Run--Injury (RCW
21 46.52.020(4)(b))
22 Hit and Run with Vessel--Injury
23 Accident (RCW 79A.60.200(3))
24 Identity Theft 1 (RCW 9.35.020(2))
25 Indecent Exposure to Person Under
26 Age Fourteen (subsequent sex
27 offense) (RCW 9A.88.010)
28 Influencing Outcome of Sporting
29 Event (RCW 9A.82.070)
30 Malicious Harassment (RCW
31 9A.36.080)
32 Residential Burglary (RCW
33 9A.52.025)
34 Robbery 2 (RCW 9A.56.210)
35 Theft of Livestock 1 (RCW 9A.56.080)
36 Threats to Bomb (RCW 9.61.160)

1 Trafficking in Stolen Property 1 (RCW
2 9A.82.050)
3 Unlawful factoring of a credit card or
4 payment card transaction (RCW
5 9A.56.290(4)(b))
6 Unlawful transaction of health
7 coverage as a health care service
8 contractor (RCW 48.44.016(3))
9 Unlawful transaction of health
10 coverage as a health maintenance
11 organization (RCW 48.46.033(3))
12 Unlawful transaction of insurance
13 business (RCW 48.15.023(3))
14 Unlicensed practice as an insurance
15 professional (RCW 48.17.063(3))
16 Use of Proceeds of Criminal
17 Profiteering (RCW 9A.82.080 (1)
18 and (2))
19 Vehicular Assault, by being under the
20 influence of intoxicating liquor or
21 any drug, or by the operation or
22 driving of a vehicle in a reckless
23 manner (RCW 46.61.522)
24 Willful Failure to Return from
25 Furlough (RCW 72.66.060)
26 III Abandonment of dependent person 2
27 (RCW 9A.42.070)
28 Assault 3 (Except Assault 3 of a Peace
29 Officer With a Projectile Stun
30 Gun) (RCW 9A.36.031 except
31 subsection (1)(h))
32 Assault of a Child 3 (RCW 9A.36.140)
33 Bail Jumping with class B or C Felony
34 (RCW 9A.76.170(3)(c))
35 Burglary 2 (RCW 9A.52.030)

1 Communication with a Minor for
2 Immoral Purposes (RCW
3 9.68A.090)
4 Criminal Gang Intimidation (RCW
5 9A.46.120)
6 Criminal Mistreatment 2 (RCW
7 9A.42.030)
8 Custodial Assault (RCW 9A.36.100)
9 Cyberstalking (subsequent conviction
10 or threat of death) (RCW
11 9.61.260(3))
12 Escape 2 (RCW 9A.76.120)
13 Extortion 2 (RCW 9A.56.130)
14 Harassment (RCW 9A.46.020)
15 Intimidating a Public Servant (RCW
16 9A.76.180)
17 Introducing Contraband 2 (RCW
18 9A.76.150)
19 Malicious Injury to Railroad Property
20 (RCW 81.60.070)
21 Negligently Causing Substantial Bodily
22 Harm By Use of a Signal
23 Preemption Device (RCW
24 46.37.674)
25 Patronizing a Juvenile Prostitute
26 (RCW 9.68A.100)
27 Perjury 2 (RCW 9A.72.030)
28 Possession of Incendiary Device (RCW
29 9.40.120)
30 Possession of Machine Gun or Short-
31 Barreled Shotgun or Rifle (RCW
32 9.41.190)
33 Promoting Prostitution 2 (RCW
34 9A.88.080)
35 Securities Act violation (RCW
36 21.20.400)

1 Tampering with a Witness (RCW
2 9A.72.120)
3 Telephone Harassment (subsequent
4 conviction or threat of death)
5 (RCW 9.61.230(2))
6 Theft of Livestock 2 (RCW 9A.56.083)
7 Trafficking in Stolen Property 2 (RCW
8 9A.82.055)
9 Unlawful Imprisonment (RCW
10 9A.40.040)
11 Unlawful possession of firearm in the
12 second degree (RCW 9.41.040(2))
13 Vehicular Assault, by the operation or
14 driving of a vehicle with disregard
15 for the safety of others (RCW
16 46.61.522)
17 Willful Failure to Return from Work
18 Release (RCW 72.65.070)
19 II Computer Trespass 1 (RCW
20 9A.52.110)
21 Counterfeiting (RCW 9.16.035(3))
22 Escape from Community Custody
23 (RCW 72.09.310)
24 Health Care False Claims (RCW
25 48.80.030)
26 Identity Theft 2 (RCW 9.35.020(3))
27 Improperly Obtaining Financial
28 Information (RCW 9.35.010)
29 Malicious Mischief 1 (RCW
30 9A.48.070)
31 Possession of Stolen Property 1 (RCW
32 9A.56.150)
33 Theft 1 (RCW 9A.56.030)
34 Theft of Rental, Leased, or Lease-
35 purchased Property (valued at one
36 thousand five hundred dollars or
37 more) (RCW 9A.56.096(5)(a))

1 Trafficking in Insurance Claims (RCW
2 48.30A.015)
3 Unlawful factoring of a credit card or
4 payment card transaction (RCW
5 9A.56.290(4)(a))
6 Unlawful Practice of Law (RCW
7 2.48.180)
8 Unlicensed Practice of a Profession or
9 Business (RCW 18.130.190(7))
10 Voyeurism (RCW 9A.44.115)
11 I Attempting to Elude a Pursuing Police
12 Vehicle (RCW 46.61.024)
13 False Verification for Welfare (RCW
14 74.08.055)
15 Forgery (RCW 9A.60.020)
16 Fraudulent Creation or Revocation of a
17 Mental Health Advance Directive
18 (RCW 9A.60.060)
19 Malicious Mischief 2 (RCW
20 9A.48.080)
21 Mineral Trespass (RCW 78.44.330)
22 Possession of Stolen Property 2 (RCW
23 9A.56.160)
24 Reckless Burning 1 (RCW 9A.48.040)
25 Taking Motor Vehicle Without
26 Permission 2 (RCW 9A.56.075)
27 Theft 2 (RCW 9A.56.040)
28 Theft of Rental, Leased, or Lease-
29 purchased Property (valued at two
30 hundred fifty dollars or more but
31 less than one thousand five
32 hundred dollars) (RCW
33 9A.56.096(5)(b))
34 Transaction of insurance business
35 beyond the scope of licensure
36 (RCW 48.17.063(4))

1 Unlawful Issuance of Checks or Drafts
2 (RCW 9A.56.060)
3 Unlawful Possession of Fictitious
4 Identification (RCW 9A.56.320)
5 Unlawful Possession of Instruments of
6 Financial Fraud (RCW
7 9A.56.320)
8 Unlawful Possession of Payment
9 Instruments (RCW 9A.56.320)
10 Unlawful Possession of a Personal
11 Identification Device (RCW
12 9A.56.320)
13 Unlawful Production of Payment
14 Instruments (RCW 9A.56.320)
15 Unlawful Trafficking in Food Stamps
16 (RCW 9.91.142)
17 Unlawful Use of Food Stamps (RCW
18 9.91.144)
19 Vehicle Prowl 1 (RCW 9A.52.095)

20 **Sec. 3.** RCW 9.68A.070 and 1990 c 155 s 1 are each amended to read
21 as follows:

22 A person who knowingly possesses visual or printed matter depicting
23 a minor engaged in sexually explicit conduct is guilty of a class ((E))
24 B felony.

25 **Sec. 4.** RCW 9.94A.030 and 2005 c 436 s 1 are each amended to read
26 as follows:

27 Unless the context clearly requires otherwise, the definitions in
28 this section apply throughout this chapter.

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

31 (2) "Collect," or any derivative thereof, "collect and remit," or
32 "collect and deliver," when used with reference to the department,
33 means that the department, either directly or through a collection
34 agreement authorized by RCW 9.94A.760, is responsible for monitoring
35 and enforcing the offender's sentence with regard to the legal

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

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

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

9 (5) "Community custody" means that portion of an offender's
10 sentence of confinement in lieu of earned release time or imposed
11 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
12 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
13 community subject to controls placed on the offender's movement and
14 activities by the department. For offenders placed on community
15 custody for crimes committed on or after July 1, 2000, the department
16 shall assess the offender's risk of reoffense and may establish and
17 modify conditions of community custody, in addition to those imposed by
18 the court, based upon the risk to community safety.

19 (6) "Community custody range" means the minimum and maximum period
20 of community custody included as part of a sentence under RCW
21 9.94A.715, as established by the commission or the legislature under
22 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

23 (7) "Community placement" means that period during which the
24 offender is subject to the conditions of community custody and/or
25 postrelease supervision, which begins either upon completion of the
26 term of confinement (postrelease supervision) or at such time as the
27 offender is transferred to community custody in lieu of earned release.
28 Community placement may consist of entirely community custody, entirely
29 postrelease supervision, or a combination of the two.

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

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

36 (10) "Community supervision" means a period of time during which a
37 convicted offender is subject to crime-related prohibitions and other
38 sentence conditions imposed by a court pursuant to this chapter or RCW

1 16.52.200(6) or 46.61.524. Where the court finds that any offender has
2 a chemical dependency that has contributed to his or her offense, the
3 conditions of supervision may, subject to available resources, include
4 treatment. For purposes of the interstate compact for out-of-state
5 supervision of parolees and probationers, RCW 9.95.270, community
6 supervision is the functional equivalent of probation and should be
7 considered the same as probation by other states.

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

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

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

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

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

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

30 (c) The determination of a defendant's criminal history is distinct
31 from the determination of an offender score. A prior conviction that
32 was not included in an offender score calculated pursuant to a former
33 version of the sentencing reform act remains part of the defendant's
34 criminal history.

35 (15) "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 (16) "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 (17) "Department" means the department of corrections.

7 (18) "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 restitution work, or
11 dollars or terms of a legal financial obligation. The fact that an
12 offender through earned release can reduce the actual period of
13 confinement shall not affect the classification of the sentence as a
14 determinate sentence.

15 (19) "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 (20) "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 (21) "Drug offense" means:

32 (a) Any felony violation of chapter 69.50 RCW except possession of
33 a controlled substance (RCW 69.50.4013) 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 (22) "Earned release" means earned release from confinement as
5 provided in RCW 9.94A.728.

6 (23) "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 (24) "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 (25) "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 (26) "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 (27) "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 (28) "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

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

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

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

13 (b) Assault in the second degree;

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

15 (d) Child molestation in the second degree;

16 (e) Controlled substance homicide;

17 (f) Extortion in the first degree;

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

19 (h) Indecent liberties;

20 (i) Kidnapping in the second degree;

21 (j) Leading organized crime;

22 (k) Manslaughter in the first degree;

23 (l) Manslaughter in the second degree;

24 (m) Promoting prostitution in the first degree;

25 (n) Rape in the third degree;

26 (o) Robbery in the second degree;

27 (p) Sexual exploitation;

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

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

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

1 (t) Any other felony with a deadly weapon verdict under RCW
2 9.94A.602;

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

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

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

21 (30) "Nonviolent offense" means an offense which is not a violent
22 offense.

23 (31) "Offender" means a person who has committed a felony
24 established by state law and is eighteen years of age or older or is
25 less than eighteen years of age but whose case is under superior court
26 jurisdiction under RCW 13.04.030 or has been transferred by the
27 appropriate juvenile court to a criminal court pursuant to RCW
28 13.40.110. Throughout this chapter, the terms "offender" and
29 "defendant" are used interchangeably.

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

38 (33) "Persistent offender" is an offender who:

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

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

11 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
12 of a child in the first degree, child molestation in the first degree,
13 rape in the second degree, rape of a child in the second degree, or
14 indecent liberties by forcible compulsion; (B) any of the following
15 offenses with a finding of sexual motivation: Murder in the first
16 degree, murder in the second degree, homicide by abuse, kidnapping in
17 the first degree, kidnapping in the second degree, assault in the first
18 degree, assault in the second degree, assault of a child in the first
19 degree, or burglary in the first degree; or (C) an attempt to commit
20 any crime listed in this subsection (33)(b)(i); and

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

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

35 (35) "Private school" means a school regulated under chapter
36 28A.195 or 28A.205 RCW.

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

1 (37) "Restitution" means a specific sum of money ordered by the
2 sentencing court to be paid by the offender to the court over a
3 specified period of time as payment of damages. The sum may include
4 both public and private costs.

5 (38) "Risk assessment" means the application of an objective
6 instrument supported by research and adopted by the department for the
7 purpose of assessing an offender's risk of reoffense, taking into
8 consideration the nature of the harm done by the offender, place and
9 circumstances of the offender related to risk, the offender's
10 relationship to any victim, and any information provided to the
11 department by victims. The results of a risk assessment shall not be
12 based on unconfirmed or unconfirmable allegations.

13 (39) "Serious traffic offense" means:

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

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

22 (40) "Serious violent offense" is a subcategory of violent offense
23 and means:

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

25 (ii) Homicide by abuse;

26 (iii) Murder in the second degree;

27 (iv) Manslaughter in the first degree;

28 (v) Assault in the first degree;

29 (vi) Kidnapping in the first degree;

30 (vii) Rape in the first degree;

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

32 (ix) An attempt, criminal solicitation, or criminal conspiracy to
33 commit one of these felonies; or

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

37 (41) "Sex offense" means:

1 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
2 RCW 9A.44.130(11);
3 (ii) A violation of RCW 9A.64.020;
4 (iii) A felony that is a violation of chapter 9.68A RCW other than
5 RCW ((~~9.68A.070 or~~) 9.68A.080; or
6 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
7 criminal solicitation, or criminal conspiracy to commit such crimes;
8 (b) Any conviction for a felony offense in effect at any time prior
9 to July 1, 1976, that is comparable to a felony classified as a sex
10 offense in (a) of this subsection;
11 (c) A felony with a finding of sexual motivation under RCW
12 9.94A.835 or 13.40.135; or
13 (d) Any federal or out-of-state conviction for an offense that
14 under the laws of this state would be a felony classified as a sex
15 offense under (a) of this subsection.
16 (42) "Sexual motivation" means that one of the purposes for which
17 the defendant committed the crime was for the purpose of his or her
18 sexual gratification.
19 (43) "Standard sentence range" means the sentencing court's
20 discretionary range in imposing a nonappealable sentence.
21 (44) "Statutory maximum sentence" means the maximum length of time
22 for which an offender may be confined as punishment for a crime as
23 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
24 crime, or other statute defining the maximum penalty for a crime.
25 (45) "Total confinement" means confinement inside the physical
26 boundaries of a facility or institution operated or utilized under
27 contract by the state or any other unit of government for twenty-four
28 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.
29 (46) "Transition training" means written and verbal instructions
30 and assistance provided by the department to the offender during the
31 two weeks prior to the offender's successful completion of the work
32 ethic camp program. The transition training shall include instructions
33 in the offender's requirements and obligations during the offender's
34 period of community custody.
35 (47) "Victim" means any person who has sustained emotional,
36 psychological, physical, or financial injury to person or property as
37 a direct result of the crime charged.
38 (48) "Violent offense" means:

1 (a) Any of the following felonies:
2 (i) Any felony defined under any law as a class A felony or an
3 attempt to commit a class A felony;
4 (ii) Criminal solicitation of or criminal conspiracy to commit a
5 class A felony;
6 (iii) Manslaughter in the first degree;
7 (iv) Manslaughter in the second degree;
8 (v) Indecent liberties if committed by forcible compulsion;
9 (vi) Kidnapping in the second degree;
10 (vii) Arson in the second degree;
11 (viii) Assault in the second degree;
12 (ix) Assault of a child in the second degree;
13 (x) Extortion in the first degree;
14 (xi) Robbery in the second degree;
15 (xii) Drive-by shooting;
16 (xiii) Vehicular assault, when caused by the operation or driving
17 of a vehicle by a person while under the influence of intoxicating
18 liquor or any drug or by the operation or driving of a vehicle in a
19 reckless manner; and
20 (xiv) Vehicular homicide, when proximately caused by the driving of
21 any vehicle by any person while under the influence of intoxicating
22 liquor or any drug as defined by RCW 46.61.502, or by the operation of
23 any vehicle in a reckless manner;
24 (b) Any conviction for a felony offense in effect at any time prior
25 to July 1, 1976, that is comparable to a felony classified as a violent
26 offense in (a) of this subsection; and
27 (c) 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 violent
29 offense under (a) or (b) of this subsection.
30 (49) "Work crew" means a program of partial confinement consisting
31 of civic improvement tasks for the benefit of the community that
32 complies with RCW 9.94A.725.
33 (50) "Work ethic camp" means an alternative incarceration program
34 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
35 the cost of corrections by requiring offenders to complete a
36 comprehensive array of real-world job and vocational experiences,
37 character-building work ethics training, life management skills

1 development, substance abuse rehabilitation, counseling, literacy
2 training, and basic adult education.

3 (51) "Work release" means a program of partial confinement
4 available to offenders who are employed or engaged as a student in a
5 regular course of study at school.

6 **Sec. 5.** RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read
7 as follows:

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

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

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

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

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

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

35 (6) "Community custody range" means the minimum and maximum period
36 of community custody included as part of a sentence under RCW

1 9.94A.715, as established by the commission or the legislature under
2 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

3 (7) "Community placement" means that period during which the
4 offender is subject to the conditions of community custody and/or
5 postrelease supervision, which begins either upon completion of the
6 term of confinement (postrelease supervision) or at such time as the
7 offender is transferred to community custody in lieu of earned release.
8 Community placement may consist of entirely community custody, entirely
9 postrelease supervision, or a combination of the two.

10 (8) "Community restitution" means compulsory service, without
11 compensation, performed for the benefit of the community by the
12 offender.

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

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

24 (11) "Conviction" means an adjudication of guilt pursuant to Titles
25 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
26 acceptance of a plea of guilty.

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

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

37 (a) The history shall include, where known, for each conviction (i)

1 whether the defendant has been placed on probation and the length and
2 terms thereof; and (ii) whether the defendant has been incarcerated and
3 the length of incarceration.

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

8 (c) The determination of a defendant's criminal history is distinct
9 from the determination of an offender score. A prior conviction that
10 was not included in an offender score calculated pursuant to a former
11 version of the sentencing reform act remains part of the defendant's
12 criminal history.

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

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

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

23 (17) "Determinate sentence" means a sentence that states with
24 exactitude the number of actual years, months, or days of total
25 confinement, of partial confinement, of community supervision, the
26 number of actual hours or days of community restitution work, or
27 dollars or terms of a legal financial obligation. The fact that an
28 offender through earned release can reduce the actual period of
29 confinement shall not affect the classification of the sentence as a
30 determinate sentence.

31 (18) "Disposable earnings" means that part of the earnings of an
32 offender remaining after the deduction from those earnings of any
33 amount required by law to be withheld. For the purposes of this
34 definition, "earnings" means compensation paid or payable for personal
35 services, whether denominated as wages, salary, commission, bonuses, or
36 otherwise, and, notwithstanding any other provision of law making the
37 payments exempt from garnishment, attachment, or other process to
38 satisfy a court-ordered legal financial obligation, specifically

1 includes periodic payments pursuant to pension or retirement programs,
2 or insurance policies of any type, but does not include payments made
3 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
4 or Title 74 RCW.

5 (19) "Drug offender sentencing alternative" is a sentencing option
6 available to persons convicted of a felony offense other than a violent
7 offense or a sex offense and who are eligible for the option under RCW
8 9.94A.660.

9 (20) "Drug offense" means:

10 (a) Any felony violation of chapter 69.50 RCW except possession of
11 a controlled substance (RCW 69.50.4013) or forged prescription for a
12 controlled substance (RCW 69.50.403);

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

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

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

21 (22) "Escape" means:

22 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
23 first degree (RCW 9A.76.110), escape in the second degree (RCW
24 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
25 willful failure to return from work release (RCW 72.65.070), or willful
26 failure to be available for supervision by the department while in
27 community custody (RCW 72.09.310); 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 an escape
30 under (a) of this subsection.

31 (23) "Felony traffic offense" means:

32 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
33 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
34 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

10 (27) "Legal financial obligation" means a sum of money that is
11 ordered by a superior court of the state of Washington for legal
12 financial obligations which may include restitution to the victim,
13 statutorily imposed crime victims' compensation fees as assessed
14 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
15 court-appointed attorneys' fees, and costs of defense, fines, and any
16 other financial obligation that is assessed to the offender as a result
17 of a felony conviction. Upon conviction for vehicular assault while
18 under the influence of intoxicating liquor or any drug, RCW
19 46.61.522(1)(b), or vehicular homicide while under the influence of
20 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
21 obligations may also include payment to a public agency of the expense
22 of an emergency response to the incident resulting in the conviction,
23 subject to RCW 38.52.430.

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

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

29 (b) Assault in the second degree;

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

31 (d) Child molestation in the second degree;

32 (e) Controlled substance homicide;

33 (f) Extortion in the first degree;

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

35 (h) Indecent liberties;

36 (i) Kidnapping in the second degree;

37 (j) Leading organized crime;

38 (k) Manslaughter in the first degree;

1 (l) Manslaughter in the second degree;
2 (m) Promoting prostitution in the first degree;
3 (n) Rape in the third degree;
4 (o) Robbery in the second degree;
5 (p) Sexual exploitation;
6 (q) Vehicular assault, when caused by the operation or driving of
7 a vehicle by a person while under the influence of intoxicating liquor
8 or any drug or by the operation or driving of a vehicle in a reckless
9 manner;
10 (r) Vehicular homicide, when proximately caused by the driving of
11 any vehicle by any person while under the influence of intoxicating
12 liquor or any drug as defined by RCW 46.61.502, or by the operation of
13 any vehicle in a reckless manner;
14 (s) Any other class B felony offense with a finding of sexual
15 motivation;
16 (t) Any other felony with a deadly weapon verdict under RCW
17 9.94A.602;
18 (u) Any felony offense in effect at any time prior to December 2,
19 1993, that is comparable to a most serious offense under this
20 subsection, or any federal or out-of-state conviction for an offense
21 that under the laws of this state would be a felony classified as a
22 most serious offense under this subsection;
23 (v)(i) A prior conviction for indecent liberties under RCW
24 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
25 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
26 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
27 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
28 (ii) A prior conviction for indecent liberties under RCW
29 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
30 if: (A) The crime was committed against a child under the age of
31 fourteen; or (B) the relationship between the victim and perpetrator is
32 included in the definition of indecent liberties under RCW
33 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
34 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
35 through July 27, 1997.
36 (29) "Nonviolent offense" means an offense which is not a violent
37 offense.

1 (30) "Offender" means a person who has committed a felony
2 established by state law and is eighteen years of age or older or is
3 less than eighteen years of age but whose case is under superior court
4 jurisdiction under RCW 13.04.030 or has been transferred by the
5 appropriate juvenile court to a criminal court pursuant to RCW
6 13.40.110. Throughout this chapter, the terms "offender" and
7 "defendant" are used interchangeably.

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

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

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

19 (ii) Has, before the commission of the offense under (a) of this
20 subsection, been convicted as an offender on at least two separate
21 occasions, whether in this state or elsewhere, of felonies that under
22 the laws of this state would be considered most serious offenses and
23 would be included in the offender score under RCW 9.94A.525; provided
24 that of the two or more previous convictions, at least one conviction
25 must have occurred before the commission of any of the other most
26 serious offenses for which the offender was previously convicted; or

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

37 (ii) Has, before the commission of the offense under (b)(i) of this
38 subsection, been convicted as an offender on at least one occasion,

1 whether in this state or elsewhere, of an offense listed in (b)(i) of
2 this subsection or any federal or out-of-state offense or offense under
3 prior Washington law that is comparable to the offenses listed in
4 (b)(i) of this subsection. A conviction for rape of a child in the
5 first degree constitutes a conviction under (b)(i) of this subsection
6 only when the offender was sixteen years of age or older when the
7 offender committed the offense. A conviction for rape of a child in
8 the second degree constitutes a conviction under (b)(i) of this
9 subsection only when the offender was eighteen years of age or older
10 when the offender committed the offense.

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

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

17 (35) "Risk assessment" means the application of an objective
18 instrument supported by research and adopted by the department for the
19 purpose of assessing an offender's risk of reoffense, taking into
20 consideration the nature of the harm done by the offender, place and
21 circumstances of the offender related to risk, the offender's
22 relationship to any victim, and any information provided to the
23 department by victims. The results of a risk assessment shall not be
24 based on unconfirmed or unconfirmable allegations.

25 (36) "Serious traffic offense" means:

26 (a) Driving while under the influence of intoxicating liquor or any
27 drug (RCW 46.61.502), actual physical control while under the influence
28 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
29 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
30 or

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

34 (37) "Serious violent offense" is a subcategory of violent offense
35 and means:

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

37 (ii) Homicide by abuse;

38 (iii) Murder in the second degree;

1 (iv) Manslaughter in the first degree;
2 (v) Assault in the first degree;
3 (vi) Kidnapping in the first degree;
4 (vii) Rape in the first degree;
5 (viii) Assault of a child in the first degree; or
6 (ix) An attempt, criminal solicitation, or criminal conspiracy to
7 commit one of these felonies; 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 serious
10 violent offense under (a) of this subsection.
11 (38) "Sex offense" means:
12 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
13 RCW 9A.44.130(11);
14 (ii) A violation of RCW 9A.64.020;
15 (iii) A felony that is a violation of chapter 9.68A RCW other than
16 RCW ((~~9.68A.070~~ or)) 9.68A.080; or
17 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
18 criminal solicitation, or criminal conspiracy to commit such crimes;
19 (b) Any conviction for a felony offense in effect at any time prior
20 to July 1, 1976, that is comparable to a felony classified as a sex
21 offense in (a) of this subsection;
22 (c) A felony with a finding of sexual motivation under RCW
23 9.94A.835 or 13.40.135; or
24 (d) 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 sex
26 offense under (a) of this subsection.
27 (39) "Sexual motivation" means that one of the purposes for which
28 the defendant committed the crime was for the purpose of his or her
29 sexual gratification.
30 (40) "Standard sentence range" means the sentencing court's
31 discretionary range in imposing a nonappealable sentence.
32 (41) "Statutory maximum sentence" means the maximum length of time
33 for which an offender may be confined as punishment for a crime as
34 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
35 crime, or other statute defining the maximum penalty for a crime.
36 (42) "Total confinement" means confinement inside the physical
37 boundaries of a facility or institution operated or utilized under

1 contract by the state or any other unit of government for twenty-four
2 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

3 (43) "Transition training" means written and verbal instructions
4 and assistance provided by the department to the offender during the
5 two weeks prior to the offender's successful completion of the work
6 ethic camp program. The transition training shall include instructions
7 in the offender's requirements and obligations during the offender's
8 period of community custody.

9 (44) "Victim" means any person who has sustained emotional,
10 psychological, physical, or financial injury to person or property as
11 a direct result of the crime charged.

12 (45) "Violent offense" means:

13 (a) Any of the following felonies:

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

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

18 (iii) Manslaughter in the first degree;

19 (iv) Manslaughter in the second degree;

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

21 (vi) Kidnapping in the second degree;

22 (vii) Arson in the second degree;

23 (viii) Assault in the second degree;

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

25 (x) Extortion in the first degree;

26 (xi) Robbery in the second degree;

27 (xii) Drive-by shooting;

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

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

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

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

4 (46) "Work crew" means a program of partial confinement consisting
5 of civic improvement tasks for the benefit of the community that
6 complies with RCW 9.94A.725.

7 (47) "Work ethic camp" means an alternative incarceration program
8 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
9 the cost of corrections by requiring offenders to complete a
10 comprehensive array of real-world job and vocational experiences,
11 character-building work ethics training, life management skills
12 development, substance abuse rehabilitation, counseling, literacy
13 training, and basic adult education.

14 (48) "Work release" means a program of partial confinement
15 available to offenders who are employed or engaged as a student in a
16 regular course of study at school.

17 NEW SECTION. **Sec. 6.** Section 4 of this act expires July 1, 2006.

18 NEW SECTION. **Sec. 7.** Section 5 of this act takes effect July 1,
19 2006.

20 NEW SECTION. **Sec. 8.** If specific funding for the purposes of
21 section 2 of this act, referencing section 2 of this act by bill or
22 chapter number and section number, is not provided by June 30, 2006, in
23 the omnibus appropriations act, section 2 of this act is null and
24 void."

25 Correct the title.

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