

3252 AMS BENT DAVI 045

WITHDRAWN 3/2/2006

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

3 "**Sec. 1.** RCW 9.94A.030 and 2005 c 436 s 1 are each amended to read as
4 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.

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

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

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

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

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

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

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

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

38 (a) The history shall include, where known, for each conviction (i)
39 whether the defendant has been placed on probation and the length and

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

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

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

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

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

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

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

30 (19) "Disposable earnings" means that part of the earnings of an
31 offender remaining after the deduction from those earnings of any
32 amount required by law to be withheld. For the purposes of this
33 definition, "earnings" means compensation paid or payable for personal
34 services, whether denominated as wages, salary, commission, bonuses, or
35 otherwise, and, notwithstanding any other provision of law making the
36 payments exempt from garnishment, attachment, or other process to
37 satisfy a court-ordered legal financial obligation, specifically
38 includes periodic payments pursuant to pension or retirement programs,
39 or insurance policies of any type, but does not include payments made

1 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
2 or Title 74 RCW.

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

7 (21) "Drug offense" means:

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

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

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

17 (22) "Earned release" means earned release from confinement as
18 provided in RCW 9.94A.728.

19 (23) "Escape" means:

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

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

29 (24) "Felony traffic offense" means:

30 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
31 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
32 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

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

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

23 (a) Any felony defined under any law as a class A felony or
24 criminal solicitation of or criminal conspiracy to commit a class A
25 felony;

26 (b) Assault in the second degree;

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

28 (d) Child molestation in the second degree;

29 (e) Controlled substance homicide;

30 (f) Extortion in the first degree;

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

32 (h) Indecent liberties;

33 (i) Kidnapping in the second degree;

34 (j) Leading organized crime;

35 (k) Manslaughter in the first degree;

36 (l) Manslaughter in the second degree;

37 (m) Promoting prostitution in the first degree;

38 (n) Rape in the third degree;

39 (o) Robbery in the second degree;

1 (p) Sexual exploitation;

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

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

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

12 (t) Any other felony with a deadly weapon verdict under RCW
13 9.94A.602;

14 (u) Any felony offense in effect at any time prior to December 2,
15 1993, that is comparable to a most serious offense under this
16 subsection, or any federal or out-of-state conviction for an offense
17 that under the laws of this state would be a felony classified as a
18 most serious offense under this subsection;

19 (v)(i) A prior conviction for indecent liberties under RCW
20 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
21 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
22 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
23 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

24 (ii) A prior conviction for indecent liberties under RCW
25 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
26 if: (A) The crime was committed against a child under the age of
27 fourteen; or (B) the relationship between the victim and perpetrator is
28 included in the definition of indecent liberties under RCW
29 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
30 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
31 through July 27, 1997;

32 (w) Any out-of-state conviction for a felony offense that resulted
33 in a sentence of ten years or more.

34 (30) "Nonviolent offense" means an offense which is not a violent
35 offense.

36 (31) "Offender" means a person who has committed a felony
37 established by state law and is eighteen years of age or older or is
38 less than eighteen years of age but whose case is under superior court
39 jurisdiction under RCW 13.04.030 or has been transferred by the

1 appropriate juvenile court to a criminal court pursuant to RCW
2 13.40.110. Throughout this chapter, the terms "offender" and
3 "defendant" are used interchangeably.

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

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

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

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

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

33 (ii) Has, before the commission of the offense under (b)(i) of this
34 subsection, been convicted as an offender on at least one occasion,
35 whether in this state or elsewhere, of an offense listed in (b)(i) of
36 this subsection or any federal or out-of-state offense or offense under
37 prior Washington law that is comparable to the offenses listed in
38 (b)(i) of this subsection. A conviction for rape of a child in the
39 first degree constitutes a conviction under (b)(i) of this subsection

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

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

8 (35) "Private school" means a school regulated under chapter
9 28A.195 or 28A.205 RCW.

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

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

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

23 (39) "Serious traffic offense" means:

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

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

32 (40) "Serious violent offense" is a subcategory of violent offense
33 and means:

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

35 (ii) Homicide by abuse;

36 (iii) Murder in the second degree;

37 (iv) Manslaughter in the first degree;

38 (v) Assault in the first degree;

39 (vi) Kidnapping in the first degree;

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

1 ethic camp program. The transition training shall include instructions
2 in the offender's requirements and obligations during the offender's
3 period of community custody.

4 (47) "Victim" means any person who has sustained emotional,
5 psychological, physical, or financial injury to person or property as
6 a direct result of the crime charged.

7 (48) "Violent offense" means:

8 (a) Any of the following felonies:

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

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

13 (iii) Manslaughter in the first degree;

14 (iv) Manslaughter in the second degree;

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

16 (vi) Kidnapping in the second degree;

17 (vii) Arson in the second degree;

18 (viii) Assault in the second degree;

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

20 (x) Extortion in the first degree;

21 (xi) Robbery in the second degree;

22 (xii) Drive-by shooting;

23 (xiii) Vehicular assault, when caused by the operation or driving
24 of a vehicle by a person while under the influence of intoxicating
25 liquor or any drug or by the operation or driving of a vehicle in a
26 reckless manner; and

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

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

34 (c) 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 violent
36 offense under (a) or (b) of this subsection.

37 (49) "Work crew" means a program of partial confinement consisting
38 of civic improvement tasks for the benefit of the community that
39 complies with RCW 9.94A.725.

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

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

11 **Sec. 2.** RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read
12 as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout this chapter.

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

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

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

26 (4) "Community corrections officer" means an employee of the
27 department who is responsible for carrying out specific duties in
28 supervision of sentenced offenders and monitoring of sentence
29 conditions.

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

1 modify conditions of community custody, in addition to those imposed by
2 the court, based upon the risk to community safety.

3 (6) "Community custody range" means the minimum and maximum period
4 of community custody included as part of a sentence under RCW
5 9.94A.715, as established by the commission or the legislature under
6 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

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

14 (8) "Community restitution" means compulsory service, without
15 compensation, performed for the benefit of the community by the
16 offender.

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

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

28 (11) "Conviction" means an adjudication of guilt pursuant to Titles
29 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
30 acceptance of a plea of guilty.

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

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

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

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

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

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

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

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

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

35 (18) "Disposable earnings" means that part of the earnings of an
36 offender remaining after the deduction from those earnings of any
37 amount required by law to be withheld. For the purposes of this
38 definition, "earnings" means compensation paid or payable for personal
39 services, whether denominated as wages, salary, commission, bonuses, or

1 otherwise, and, notwithstanding any other provision of law making the
2 payments exempt from garnishment, attachment, or other process to
3 satisfy a court-ordered legal financial obligation, specifically
4 includes periodic payments pursuant to pension or retirement programs,
5 or insurance policies of any type, but does not include payments made
6 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
7 or Title 74 RCW.

8 (19) "Drug offender sentencing alternative" is a sentencing option
9 available to persons convicted of a felony offense other than a violent
10 offense or a sex offense and who are eligible for the option under RCW
11 9.94A.660.

12 (20) "Drug offense" means:

13 (a) Any felony violation of chapter 69.50 RCW except possession of
14 a controlled substance (RCW 69.50.4013) or forged prescription for a
15 controlled substance (RCW 69.50.403);

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

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

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

24 (22) "Escape" means:

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

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

34 (23) "Felony traffic offense" means:

35 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
36 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
37 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

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

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

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

32 (b) Assault in the second degree;

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

34 (d) Child molestation in the second degree;

35 (e) Controlled substance homicide;

36 (f) Extortion in the first degree;

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

38 (h) Indecent liberties;

39 (i) Kidnapping in the second degree;

1 (j) Leading organized crime;
2 (k) Manslaughter in the first degree;
3 (l) Manslaughter in the second degree;
4 (m) Promoting prostitution in the first degree;
5 (n) Rape in the third degree;
6 (o) Robbery in the second degree;
7 (p) Sexual exploitation;
8 (q) Vehicular assault, when caused by the operation or driving of
9 a vehicle by a person while under the influence of intoxicating liquor
10 or any drug or by the operation or driving of a vehicle in a reckless
11 manner;
12 (r) Vehicular homicide, when proximately caused by the driving of
13 any vehicle by any person while under the influence of intoxicating
14 liquor or any drug as defined by RCW 46.61.502, or by the operation of
15 any vehicle in a reckless manner;
16 (s) Any other class B felony offense with a finding of sexual
17 motivation;
18 (t) Any other felony with a deadly weapon verdict under RCW
19 9.94A.602;
20 (u) Any felony offense in effect at any time prior to December 2,
21 1993, that is comparable to a most serious offense under this
22 subsection, or any federal or out-of-state conviction for an offense
23 that under the laws of this state would be a felony classified as a
24 most serious offense under this subsection;
25 (v)(i) A prior conviction for indecent liberties under RCW
26 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
27 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
28 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
29 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
30 (ii) A prior conviction for indecent liberties under RCW
31 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
32 if: (A) The crime was committed against a child under the age of
33 fourteen; or (B) the relationship between the victim and perpetrator is
34 included in the definition of indecent liberties under RCW
35 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
36 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
37 through July 27, 1997;
38 (w) Any out-of-state conviction for a felony offense that resulted
39 in a sentence of ten years or more.

1 (29) "Nonviolent offense" means an offense which is not a violent
2 offense.

3 (30) "Offender" means a person who has committed a felony
4 established by state law and is eighteen years of age or older or is
5 less than eighteen years of age but whose case is under superior court
6 jurisdiction under RCW 13.04.030 or has been transferred by the
7 appropriate juvenile court to a criminal court pursuant to RCW
8 13.40.110. Throughout this chapter, the terms "offender" and
9 "defendant" are used interchangeably.

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

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

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

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

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

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

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

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

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

27 (36) "Serious traffic offense" means:

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

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

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

38 (a)(i) Murder in the first degree;
39 (ii) Homicide by abuse;

1 (iii) Murder in the second degree;
2 (iv) Manslaughter in the first degree;
3 (v) Assault in the first degree;
4 (vi) Kidnapping in the first degree;
5 (vii) Rape in the first degree;
6 (viii) Assault of a child in the first degree; or
7 (ix) An attempt, criminal solicitation, or criminal conspiracy to
8 commit one of these felonies; or

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

12 (38) "Sex offense" means:

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

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

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

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

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

23 (c) A felony with a finding of sexual motivation under RCW
24 9.94A.835 or 13.40.135; or

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

28 (39) "Sexual motivation" means that one of the purposes for which
29 the defendant committed the crime was for the purpose of his or her
30 sexual gratification.

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

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

37 (42) "Total confinement" means confinement inside the physical
38 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. 3.** Section 1 of this act expires July 1, 2006.

18 NEW SECTION. **Sec. 4.** Section 2 of this act takes effect July 1,
19 2006.

20 NEW SECTION. **Sec. 5.** This act may be known and cited as the
21 Chelsea Harrison act.

22 **HB 3252** - S AMD

23 By Senator Benton

24 On page 1, line 2 of the title, after "alternative;" strike the
25 remainder of the title and insert "amending RCW 9.94A.030 and
26 9.94A.030; creating a new section; providing an effective date; and
27 providing an expiration date."

28 **Effect:** Amends the definition of "most serious offense" for
29 purposes of the three-strikes law to include any out-of-state
30 conviction for a felony offense that resulted in a sentence of 10 years
31 or more.

--- END ---