

**SHB 1041** - S COMM AMD

By Committee on Law & Justice

ADOPTED 04/03/2019

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

3 "NEW SECTION. **Sec. 1.** This act may be known and cited as the  
4 new hope act.

5 **Sec. 2.** RCW 9.94A.637 and 2009 c 325 s 3 and 2009 c 288 s 2 are  
6 each reenacted and amended to read as follows:

7 (1) ~~((a))~~ When an offender has completed all requirements of the  
8 sentence, including any and all legal financial obligations, and  
9 while under the custody ~~((and))~~ or supervision of the department, the  
10 secretary or the secretary's designee shall notify the sentencing  
11 court, which shall discharge the offender and provide the offender  
12 with a certificate of discharge by issuing the certificate to the  
13 offender in person or by mailing the certificate to the offender's  
14 last known address. A certificate of discharge issued under this  
15 subsection (1) is effective on the date the offender completed all  
16 conditions of his or her sentence.

17 ~~((b-i))~~ (2)(a) When an offender has reached the end of his or  
18 her supervision with the department and has completed all the  
19 requirements of the sentence except his or her legal financial  
20 obligations, the secretary's designee shall provide the county clerk  
21 with a notice that the offender has completed all nonfinancial  
22 requirements of the sentence. The notice must list the specific  
23 sentence requirements that have been completed, so that it is clear  
24 to the sentencing court that the offender is entitled to discharge  
25 upon completion of the legal financial obligations of the sentence.

26 ~~((ii))~~ (b) When the department has provided the county clerk  
27 with notice under (a) of this subsection showing that an offender has  
28 completed all the requirements of the sentence and the offender  
29 subsequently satisfies all legal financial obligations under the  
30 sentence, the county clerk shall promptly notify the sentencing  
31 court ~~((, including the notice from the department, which))~~. Upon

1 receipt of the notice under this subsection (2)(b), the court shall  
2 discharge the offender and provide the offender with a certificate of  
3 discharge ((by issuing the certificate to the offender in person or  
4 by mailing the certificate to the offender's last known address)). A  
5 certificate of discharge issued under this subsection (2) is  
6 effective on the date the offender completed all conditions of his or  
7 her sentence.

8 ~~((c) When an offender who is subject to requirements of the~~  
9 ~~sentence in addition to the payment of legal financial obligations~~  
10 ~~either is not subject to supervision by the department or does not~~  
11 ~~complete the requirements while under supervision of the department,~~  
12 ~~it is the offender's responsibility to provide the court with~~  
13 ~~verification of the completion of the sentence conditions other than~~  
14 ~~the payment of legal financial obligations. When the offender~~  
15 ~~satisfies all legal financial obligations under the sentence, the~~  
16 ~~county clerk shall notify the sentencing court that the legal~~  
17 ~~financial obligations have been satisfied. When the court has~~  
18 ~~received both notification from the clerk and adequate verification~~  
19 ~~from the offender that the sentence requirements have been completed,~~  
20 ~~the court shall discharge the offender and provide the offender~~  
21 ~~with))~~

22 (3) In the absence of a certificate of discharge issued under  
23 subsection (1) or (2) of this section, the offender may file a motion  
24 with the sentencing court for a certificate of discharge. The  
25 sentencing court shall issue a certificate of discharge upon  
26 verification of completion of all sentencing conditions, including  
27 any and all legal financial obligations. A certificate of discharge  
28 issued under this subsection (3) is effective on the date the  
29 offender completed all conditions of his or her sentence.

30 (4) In the absence of a certificate of discharge issued under  
31 subsection (1), (2), or (3) of this section, the offender may file a  
32 motion with the sentencing court for a certificate of discharge and  
33 shall provide verification of completion of all nonfinancial  
34 conditions of his or her sentence, unless the court finds good cause  
35 to waive this requirement. A certificate of discharge issued under  
36 this subsection (4) is effective on the later of: (a) Five years  
37 after completion of community custody, or if the offender was not  
38 required to serve community custody, after the completion of full and  
39 partial confinement; or (b) the date any and all legal financial  
40 obligations were satisfied.

1        (5) The court shall issue a certificate of discharge by issuing  
2 the certificate to the offender in person or by mailing the  
3 certificate to the offender's last known address.

4        ~~((2))~~ (6) (a) ~~((For purposes of this subsection (2),))~~ A no-  
5 contact order is not a requirement of the offender's sentence. An  
6 offender who has completed all requirements of the sentence,  
7 including any and all legal financial obligations, is eligible for a  
8 certificate of discharge even if the offender has an existing no-  
9 contact order that excludes or prohibits the offender from having  
10 contact with a specified person or ~~((business))~~ entity or coming  
11 within a set distance of any specified location.

12        ~~((b))~~ In the case of an eligible offender who has a no-contact  
13 order as part of the judgment and sentence, the offender may petition  
14 the sentencing court to issue a certificate of discharge and a  
15 separate no-contact order ~~((by filing a petition in the sentencing  
16 court and)),~~ which must include paying the appropriate filing fee  
17 ~~((associated with the petition))~~ for the separate no-contact order.  
18 This filing fee does not apply to an offender seeking a certificate  
19 of discharge when the offender has a no-contact order separate from  
20 the judgment and sentence.

21        ~~((i) (A) The court shall issue a certificate of discharge and a  
22 separate no-contact order under this subsection (2) if the court  
23 determines that the offender has completed all requirements of the  
24 sentence, including all legal financial obligations.))~~ The court  
25 shall reissue the no-contact order separately under a new civil cause  
26 number for the remaining term and under the same conditions as  
27 contained in the judgment and sentence.

28        ~~((B))~~ (b) The clerk of the court shall send a copy of the new  
29 no-contact order to the individuals or entities protected by the no-  
30 contact order, along with an explanation of the reason for the  
31 change, if there is an address available in the court file. If no  
32 address is available, the clerk of the court shall forward a copy of  
33 the order to the prosecutor, who shall send a copy of the no-contact  
34 order with an explanation of the reason for the change to the last  
35 known address of the protected individuals or entities.

36        ~~((ii) Whenever an order under this subsection (2) is issued,))~~  
37 (c) The clerk of the court shall forward a copy of the order to the  
38 appropriate law enforcement agency specified in the order on or  
39 before the next judicial day. The clerk shall also include a cover  
40 sheet that indicates the case number of the judgment and sentence

1 that has been discharged. Upon receipt of the copy of the order and  
2 cover sheet, the law enforcement agency shall enter the order into  
3 any computer-based criminal intelligence information system available  
4 in this state used by law enforcement agencies to list outstanding  
5 warrants. The order shall remain in this system until it expires. The  
6 new order, and case number of the discharged judgment and sentence,  
7 shall be linked in the criminal intelligence information system for  
8 purposes of enforcing the no-contact order.

9 ~~((+iii))~~ (d) A separately issued no-contact order may be  
10 enforced under chapter 26.50 RCW.

11 ~~((+iv))~~ (e) A separate no-contact order issued under this  
12 subsection ~~((+2))~~ (6) is not a modification of the offender's  
13 sentence.

14 ~~((+3))~~ (7) Every signed certificate and order of discharge shall  
15 be filed with the county clerk of the sentencing county. In addition,  
16 the court shall send to the department a copy of every signed  
17 certificate and order of discharge for offender sentences under the  
18 authority of the department. The county clerk shall enter into a  
19 database maintained by the administrator for the courts the names of  
20 all felons who have been issued certificates of discharge, the date  
21 of discharge, and the date of conviction and offense.

22 ~~((+4))~~ (8) An offender who is not convicted of a violent offense  
23 or a sex offense and is sentenced to a term involving community  
24 supervision may be considered for a discharge of sentence by the  
25 sentencing court prior to the completion of community supervision,  
26 provided that the offender has completed at least one-half of the  
27 term of community supervision and has met all other sentence  
28 requirements.

29 ~~((+5))~~ (9) The discharge shall have the effect of restoring all  
30 civil rights not already restored by RCW 29A.08.520, and the  
31 certificate of discharge shall so state. Nothing in this section  
32 prohibits the use of an offender's prior record for purposes of  
33 determining sentences for later offenses as provided in this chapter.  
34 Nothing in this section affects or prevents use of the offender's  
35 prior conviction in a later criminal prosecution either as an element  
36 of an offense or for impeachment purposes. A certificate of discharge  
37 is not based on a finding of rehabilitation.

38 ~~((+6))~~ (10) Unless otherwise ordered by the sentencing court, a  
39 certificate of discharge shall not terminate the offender's  
40 obligation to comply with an order that excludes or prohibits the

1 offender from having contact with a specified person or coming within  
2 a set distance of any specified location that was contained in the  
3 judgment and sentence. An offender who violates such an order after a  
4 certificate of discharge has been issued shall be subject to  
5 prosecution according to the chapter under which the order was  
6 originally issued.

7 ~~((7))~~ (11) Upon release from custody, the offender may apply to  
8 the department for counseling and help in adjusting to the community.  
9 This voluntary help may be provided for up to one year following the  
10 release from custody.

11 **Sec. 3.** RCW 9.94A.640 and 2012 c 183 s 3 are each amended to  
12 read as follows:

13 (1) Every offender who has been discharged under RCW 9.94A.637  
14 may apply to the sentencing court for a vacation of the offender's  
15 record of conviction. If the court finds the offender meets the tests  
16 prescribed in subsection (2) of this section, the court may clear the  
17 record of conviction by: (a) Permitting the offender to withdraw the  
18 offender's plea of guilty and to enter a plea of not guilty; or (b)  
19 if the offender has been convicted after a plea of not guilty, by the  
20 court setting aside the verdict of guilty; and (c) by the court  
21 dismissing the information or indictment against the offender.

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

23 (a) There are any criminal charges against the offender pending  
24 in any court of this state or another state, or in any federal court;

25 (b) The offense was a violent offense as defined in RCW  
26 9.94A.030 ~~((7~~

27 ~~(c) the offense was a))~~ or crime against persons as defined in  
28 RCW 43.43.830, except the following offenses may be vacated if the  
29 conviction did not include a firearm, deadly weapon, or sexual  
30 motivation enhancement: (i) Assault in the second degree under RCW  
31 9A.36.021; (ii) assault in the third degree under RCW 9A.36.031 when  
32 not committed against a law enforcement officer or peace officer; and  
33 (iii) robbery in the second degree under RCW 9A.56.210;

34 ~~((d))~~ (c) The offense is a class B felony and the offender has  
35 been convicted of a new crime in this state, another state, or  
36 federal court in the ten years prior to the application for vacation;

37 (d) The offense is a class C felony and the offender has been  
38 convicted of a new crime in this state, another state, or federal

1 court (~~since the date of the offender's discharge under RCW~~  
2 ~~9.94A.637~~) in the five years prior to the application for vacation;

3 (e) The offense is a class B felony and less than ten years have  
4 passed since the (~~date the applicant was discharged under RCW~~  
5 ~~9.94A.637~~) later of: (i) The applicant's release from community  
6 custody; (ii) the applicant's release from full and partial  
7 confinement; or (iii) the applicant's sentencing date;

8 (f) The offense was a class C felony, other than a class C felony  
9 described in RCW 46.61.502(6) or 46.61.504(6), and less than five  
10 years have passed since the (~~date the applicant was discharged under~~  
11 ~~RCW 9.94A.637~~) later of: (i) The applicant's release from community  
12 custody; (ii) the applicant's release from full and partial  
13 confinement; or (iii) the applicant's sentencing date; or

14 (g) The offense was a (~~class C~~) felony described in RCW  
15 46.61.502(~~(+6)~~) or 46.61.504(~~(+6)~~).

16 (3) (a) Except as otherwise provided, once the court vacates a  
17 record of conviction under subsection (1) of this section, the fact  
18 that the offender has been convicted of the offense shall not be  
19 included in the offender's criminal history for purposes of  
20 determining a sentence in any subsequent conviction, and the offender  
21 shall be released from all penalties and disabilities resulting from  
22 the offense. For all purposes, including responding to questions on  
23 employment applications, an offender whose conviction has been  
24 vacated may state that the offender has never been convicted of that  
25 crime. A conviction that has been vacated under this section may not  
26 be disseminated or disclosed by the state patrol or local law  
27 enforcement agency to any person, except other criminal justice  
28 enforcement agencies. Nothing in this section affects or prevents the  
29 use of an offender's prior conviction in a later criminal  
30 prosecution, and nothing in this section affects the requirements for  
31 restoring a right to possess a firearm under RCW 9.41.040.

32 (b) A conviction vacated on or after the effective date of this  
33 section qualifies as a prior conviction for the purpose of charging a  
34 present recidivist offense occurring on or after the effective date  
35 of this section, and may be used to establish an ongoing pattern of  
36 abuse for purposes of RCW 9.94A.535.

37 **Sec. 4.** RCW 9.96.060 and 2017 c 336 s 2, 2017 c 272 s 9, and  
38 2017 c 128 s 1 are each reenacted and amended to read as follows:

1 (1) Every person convicted of a misdemeanor or gross misdemeanor  
2 offense who has completed all of the terms of the sentence for the  
3 misdemeanor or gross misdemeanor offense may apply to the sentencing  
4 court for a vacation of the applicant's record of conviction for the  
5 offense. If the court finds the applicant meets the tests prescribed  
6 in subsection (2) of this section, the court may in its discretion  
7 vacate the record of conviction by: (a) (i) Permitting the applicant  
8 to withdraw the applicant's plea of guilty and to enter a plea of not  
9 guilty; or (ii) if the applicant has been convicted after a plea of  
10 not guilty, the court setting aside the verdict of guilty; and (b)  
11 the court dismissing the information, indictment, complaint, or  
12 citation against the applicant and vacating the judgment and  
13 sentence.

14 (2) An applicant may not have the record of conviction for a  
15 misdemeanor or gross misdemeanor offense vacated if any one of the  
16 following is present:

17 (a) There are any criminal charges against the applicant pending  
18 in any court of this state or another state, or in any federal or  
19 tribal court, at the time of application;

20 (b) The offense was a violent offense as defined in RCW 9.94A.030  
21 or an attempt to commit a violent offense;

22 (c) The offense was a violation of RCW 46.61.502 (driving while  
23 under the influence), 46.61.504 (actual physical control while under  
24 the influence), 9.91.020 (operating a railroad, etc. while  
25 intoxicated), or the offense is considered a "prior offense" under  
26 RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug  
27 violation within ten years of the date of arrest for the prior  
28 offense or less than ten years has elapsed since the date of the  
29 arrest for the prior offense;

30 (d) The offense was any misdemeanor or gross misdemeanor  
31 violation, including attempt, of chapter 9.68 RCW (obscenity and  
32 pornography), chapter 9.68A RCW (sexual exploitation of children), or  
33 chapter 9A.44 RCW (sex offenses), except for failure to register as a  
34 sex offender under RCW 9A.44.132;

35 (e) The applicant was convicted of a misdemeanor or gross  
36 misdemeanor offense as defined in RCW 10.99.020, or the court  
37 determines after a review of the court file that the offense was  
38 committed by one family member or household member against another,  
39 or the court, after considering the damage to person or property that  
40 resulted in the conviction, any prior convictions for crimes defined

1 in RCW 10.99.020, or for comparable offenses in another state or in  
2 federal court, and the totality of the records under review by the  
3 court regarding the conviction being considered for vacation,  
4 determines that the offense involved domestic violence, and any one  
5 of the following factors exist:

6 (i) The applicant has not provided written notification of the  
7 vacation petition to the prosecuting attorney's office that  
8 prosecuted the offense for which vacation is sought, or has not  
9 provided that notification to the court;

10 (ii) The applicant has ~~((previously had a conviction for domestic~~  
11 ~~violence))~~ two or more domestic violence convictions stemming from  
12 different incidents. For purposes of this subsection, however, if the  
13 current application is for more than one conviction that arose out of  
14 a single incident, none of those convictions counts as a previous  
15 conviction;

16 (iii) The applicant has signed an affidavit under penalty of  
17 perjury affirming that the applicant has not previously had a  
18 conviction for a domestic violence offense, and a criminal history  
19 check reveals that the applicant has had such a conviction; or

20 (iv) Less than five years have elapsed since the person completed  
21 the terms of the original conditions of the sentence, including any  
22 financial obligations and successful completion of any treatment  
23 ordered as a condition of sentencing;

24 (f) For any offense other than those described in (e) of this  
25 subsection, less than three years have passed since the person  
26 completed the terms of the sentence, including any financial  
27 obligations;

28 (g) The offender has been convicted of a new crime in this state,  
29 another state, or federal or tribal court ~~((since the date of~~  
30 ~~conviction))~~ in the three years prior to the vacation application; or

31 (h) ~~((The applicant has ever had the record of another conviction~~  
32 ~~vacated; or~~

33 ~~(i))~~ The applicant is currently restrained ~~((, or has been~~  
34 ~~restrained within five years prior to the vacation application,))~~ by  
35 a domestic violence protection order, a no-contact order, an  
36 antiharassment order, or a civil restraining order which restrains  
37 one party from contacting the other party or was previously  
38 restrained by such an order and was found to have committed one or  
39 more violations of the order in the five years prior to the vacation  
40 application.



1 (3) Subject to RCW 9.96.070, every person convicted of  
2 prostitution under RCW 9A.88.030 who committed the offense as a  
3 result of being a victim of trafficking, RCW 9A.40.100, promoting  
4 prostitution in the first degree, RCW 9A.88.070, promoting commercial  
5 sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons  
6 under the trafficking victims protection act of 2000, 22 U.S.C. Sec.  
7 7101 et seq. may apply to the sentencing court for vacation of the  
8 applicant's record of conviction for the prostitution offense. An  
9 applicant may not have the record of conviction for prostitution  
10 vacated if any one of the following is present:

11 (a) There are any criminal charges against the applicant pending  
12 in any court of this state or another state, or in any federal court,  
13 for any crime other than prostitution; or

14 (b) The offender has been convicted of another crime, except  
15 prostitution, in this state, another state, or federal court since  
16 the date of conviction. The limitation in this subsection (3)(b) does  
17 not apply to convictions where the offender proves by a preponderance  
18 of the evidence that he or she committed the crime as a result of  
19 being a victim of trafficking, RCW 9A.40.100, promoting prostitution  
20 in the first degree, RCW 9A.88.070, promoting commercial sexual abuse  
21 of a minor, RCW 9.68A.101, or trafficking in persons under the  
22 trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et  
23 seq., according to the requirements provided in RCW 9.96.070 for each  
24 respective conviction.

25 (4) Every person convicted prior to January 1, 1975, of violating  
26 any statute or rule regarding the regulation of fishing activities,  
27 including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070,  
28 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240  
29 who claimed to be exercising a treaty Indian fishing right, may apply  
30 to the sentencing court for vacation of the applicant's record of the  
31 misdemeanor, gross misdemeanor, or felony conviction for the offense.  
32 If the person is deceased, a member of the person's family or an  
33 official representative of the tribe of which the person was a member  
34 may apply to the court on behalf of the deceased person.  
35 Notwithstanding the requirements of RCW 9.94A.640, the court shall  
36 vacate the record of conviction if:

37 (a) The applicant is a member of a tribe that may exercise treaty  
38 Indian fishing rights at the location where the offense occurred; and

39 (b) The state has been enjoined from taking enforcement action of  
40 the statute or rule to the extent that it interferes with a treaty

1 Indian fishing right as determined under *United States v. Washington*,  
2 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp.  
3 899 (D. Oregon 1969), and any posttrial orders of those courts, or  
4 any other state supreme court or federal court decision.

5 (5) (a) Except as provided in (c) of this subsection, once the  
6 court vacates a record of conviction under this section, the person  
7 shall be released from all penalties and disabilities resulting from  
8 the offense and the fact that the person has been convicted of the  
9 offense shall not be included in the person's criminal history for  
10 purposes of determining a sentence in any subsequent conviction. For  
11 all purposes, including responding to questions on employment or  
12 housing applications, a person whose conviction has been vacated  
13 under this section may state that he or she has never been convicted  
14 of that crime. However, nothing in this section affects the  
15 requirements for restoring a right to possess a firearm under RCW  
16 9.41.040. Except as provided in (b) of this subsection, nothing in  
17 this section affects or prevents the use of an offender's prior  
18 conviction in a later criminal prosecution.

19 (b) When a court vacates a record of domestic violence as defined  
20 in RCW 10.99.020 under this section, the state may not use the  
21 vacated conviction in a later criminal prosecution unless the  
22 conviction was for: (i) Violating the provisions of a restraining  
23 order, no-contact order, or protection order restraining or enjoining  
24 the person or restraining the person from going on to the grounds of  
25 or entering a residence, workplace, school, or day care, or  
26 prohibiting the person from knowingly coming within, or knowingly  
27 remaining within, a specified distance of a location (RCW 10.99.040,  
28 10.99.050, 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050, 26.44.063,  
29 26.44.150, 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);  
30 or (ii) stalking (RCW 9A.46.110). A vacated conviction under this  
31 section is not considered a conviction of such an offense for the  
32 purposes of 27 C.F.R. 478.11.

33 ~~((6) All costs incurred by the court and probation services~~  
34 ~~shall be paid by the person making the motion to vacate the record~~  
35 ~~unless a determination is made pursuant to chapter 10.101 RCW that~~  
36 ~~the person making the motion is indigent, at the time the motion is~~  
37 ~~brought.~~

38 ~~(7))~~ (c) A conviction vacated on or after the effective date of  
39 this section qualifies as a prior conviction for the purpose of

1 charging a present recidivist offense as defined in RCW 9.94A.030  
2 occurring on or after the effective date of this section.

3 (6) The clerk of the court in which the vacation order is entered  
4 shall immediately transmit the order vacating the conviction to the  
5 Washington state patrol identification section and to the local  
6 police agency, if any, which holds criminal history information for  
7 the person who is the subject of the conviction. The Washington state  
8 patrol and any such local police agency shall immediately update  
9 their records to reflect the vacation of the conviction, and shall  
10 transmit the order vacating the conviction to the federal bureau of  
11 investigation. A conviction that has been vacated under this section  
12 may not be disseminated or disclosed by the state patrol or local law  
13 enforcement agency to any person, except other criminal justice  
14 enforcement agencies.

15 **Sec. 5.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to  
16 read as follows:

17 Unless the context clearly requires otherwise, the definitions in  
18 this section apply throughout this chapter.

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

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

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

31 (4) "Community corrections officer" means an employee of the  
32 department who is responsible for carrying out specific duties in  
33 supervision of sentenced offenders and monitoring of sentence  
34 conditions.

35 (5) "Community custody" means that portion of an offender's  
36 sentence of confinement in lieu of earned release time or imposed as  
37 part of a sentence under this chapter and served in the community  
38 subject to controls placed on the offender's movement and activities  
39 by the department.

1 (6) "Community protection zone" means the area within eight  
2 hundred eighty feet of the facilities and grounds of a public or  
3 private school.

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

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

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

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

19 (11) "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, and any issued certificates of  
22 restoration of opportunity pursuant to RCW 9.97.020.

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

27 (b) A conviction may be removed from a defendant's criminal  
28 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
29 9.95.240, or a similar out-of-state statute, or if the conviction has  
30 been vacated pursuant to a governor's pardon. However, when a  
31 defendant is charged with a recidivist offense, "criminal history"  
32 includes a vacated prior conviction for the sole purpose of  
33 establishing that such vacated prior conviction constitutes an  
34 element of the present recidivist offense as provided in RCW  
35 9.94A.640(3)(b) and 9.96.060(5)(c).

36 (c) The determination of a defendant's criminal history is  
37 distinct from the determination of an offender score. A prior  
38 conviction that was not included in an offender score calculated  
39 pursuant to a former version of the sentencing reform act remains  
40 part of the defendant's criminal history.

1 (12) "Criminal street gang" means any ongoing organization,  
2 association, or group of three or more persons, whether formal or  
3 informal, having a common name or common identifying sign or symbol,  
4 having as one of its primary activities the commission of criminal  
5 acts, and whose members or associates individually or collectively  
6 engage in or have engaged in a pattern of criminal street gang  
7 activity. This definition does not apply to employees engaged in  
8 concerted activities for their mutual aid and protection, or to the  
9 activities of labor and bona fide nonprofit organizations or their  
10 members or agents.

11 (13) "Criminal street gang associate or member" means any person  
12 who actively participates in any criminal street gang and who  
13 intentionally promotes, furthers, or assists in any criminal act by  
14 the criminal street gang.

15 (14) "Criminal street gang-related offense" means any felony or  
16 misdemeanor offense, whether in this state or elsewhere, that is  
17 committed for the benefit of, at the direction of, or in association  
18 with any criminal street gang, or is committed with the intent to  
19 promote, further, or assist in any criminal conduct by the gang, or  
20 is committed for one or more of the following reasons:

- 21 (a) To gain admission, prestige, or promotion within the gang;
- 22 (b) To increase or maintain the gang's size, membership,  
23 prestige, dominance, or control in any geographical area;
- 24 (c) To exact revenge or retribution for the gang or any member of  
25 the gang;
- 26 (d) To obstruct justice, or intimidate or eliminate any witness  
27 against the gang or any member of the gang;
- 28 (e) To directly or indirectly cause any benefit, aggrandizement,  
29 gain, profit, or other advantage for the gang, its reputation,  
30 influence, or membership; or

31 (f) To provide the gang with any advantage in, or any control or  
32 dominance over any criminal market sector, including, but not limited  
33 to, manufacturing, delivering, or selling any controlled substance  
34 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
35 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
36 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual  
37 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter  
38 9.68 RCW).

39 (15) "Day fine" means a fine imposed by the sentencing court that  
40 equals the difference between the offender's net daily income and the

1 reasonable obligations that the offender has for the support of the  
2 offender and any dependents.

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

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

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

17 (19) "Disposable earnings" means that part of the earnings of an  
18 offender remaining after the deduction from those earnings of any  
19 amount required by law to be withheld. For the purposes of this  
20 definition, "earnings" means compensation paid or payable for  
21 personal services, whether denominated as wages, salary, commission,  
22 bonuses, or otherwise, and, notwithstanding any other provision of  
23 law making the payments exempt from garnishment, attachment, or other  
24 process to satisfy a court-ordered legal financial obligation,  
25 specifically includes periodic payments pursuant to pension or  
26 retirement programs, or insurance policies of any type, but does not  
27 include payments made under Title 50 RCW, except as provided in RCW  
28 50.40.020 and 50.40.050, or Title 74 RCW.

29 (20) "Domestic violence" has the same meaning as defined in RCW  
30 10.99.020 and 26.50.010.

31 (21) "Drug offender sentencing alternative" is a sentencing  
32 option available to persons convicted of a felony offense other than  
33 a violent offense or a sex offense and who are eligible for the  
34 option under RCW 9.94A.660.

35 (22) "Drug offense" means:

36 (a) Any felony violation of chapter 69.50 RCW except possession  
37 of a controlled substance (RCW 69.50.4013) or forged prescription for  
38 a controlled substance (RCW 69.50.403);

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

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

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

9 (24) "Electronic monitoring" means tracking the location of an  
10 individual, whether pretrial or posttrial, through the use of  
11 technology that is capable of determining or identifying the  
12 monitored individual's presence or absence at a particular location  
13 including, but not limited to:

14 (a) Radio frequency signaling technology, which detects if the  
15 monitored individual is or is not at an approved location and  
16 notifies the monitoring agency of the time that the monitored  
17 individual either leaves the approved location or tampers with or  
18 removes the monitoring device; or

19 (b) Active or passive global positioning system technology, which  
20 detects the location of the monitored individual and notifies the  
21 monitoring agency of the monitored individual's location.

22 (25) "Escape" means:

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

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

32 (26) "Felony traffic offense" means:

33 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
34 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
35 run injury-accident (RCW 46.52.020(4)), felony driving while under  
36 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),  
37 or felony physical control of a vehicle while under the influence of  
38 intoxicating liquor or any drug (RCW 46.61.504(6)); 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 (27) "Fine" means a specific sum of money ordered by the  
5 sentencing court to be paid by the offender to the court over a  
6 specific period of time.

7 (28) "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 (29) "Home detention" is a subset of electronic monitoring and  
11 means a program of partial confinement available to offenders wherein  
12 the offender is confined in a private residence twenty-four hours a  
13 day, unless an absence from the residence is approved, authorized, or  
14 otherwise permitted in the order by the court or other supervising  
15 agency that ordered home detention, and the offender is subject to  
16 electronic monitoring.

17 (30) "Homelessness" or "homeless" means a condition where an  
18 individual lacks a fixed, regular, and adequate nighttime residence  
19 and who has a primary nighttime residence that is:

20 (a) A supervised, publicly or privately operated shelter designed  
21 to provide temporary living accommodations;

22 (b) A public or private place not designed for, or ordinarily  
23 used as, a regular sleeping accommodation for human beings; or

24 (c) A private residence where the individual stays as a transient  
25 invitee.

26 (31) "Legal financial obligation" means a sum of money that is  
27 ordered by a superior court of the state of Washington for legal  
28 financial obligations which may include restitution to the victim,  
29 statutorily imposed crime victims' compensation fees as assessed  
30 pursuant to RCW 7.68.035, court costs, county or interlocal drug  
31 funds, court-appointed attorneys' fees, and costs of defense, fines,  
32 and any other financial obligation that is assessed to the offender  
33 as a result of a felony conviction. Upon conviction for vehicular  
34 assault while under the influence of intoxicating liquor or any drug,  
35 RCW 46.61.522(1)(b), or vehicular homicide while under the influence  
36 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal  
37 financial obligations may also include payment to a public agency of  
38 the expense of an emergency response to the incident resulting in the  
39 conviction, subject to RCW 38.52.430.



1 (32) "Minor child" means a biological or adopted child of the  
2 offender who is under age eighteen at the time of the offender's  
3 current offense.

4 (33) "Most serious offense" means any of the following felonies  
5 or a felony attempt to commit any of the following felonies:

6 (a) Any felony defined under any law as a class A felony or  
7 criminal solicitation of or criminal conspiracy to commit a class A  
8 felony;

9 (b) Assault in the second degree;

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

11 (d) Child molestation in the second degree;

12 (e) Controlled substance homicide;

13 (f) Extortion in the first degree;

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

15 (h) Indecent liberties;

16 (i) Kidnapping in the second degree;

17 (j) Leading organized crime;

18 (k) Manslaughter in the first degree;

19 (l) Manslaughter in the second degree;

20 (m) Promoting prostitution in the first degree;

21 (n) Rape in the third degree;

22 (o) Robbery in the second degree;

23 (p) Sexual exploitation;

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

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

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

34 (t) Any other felony with a deadly weapon verdict under RCW  
35 9.94A.825;

36 (u) Any felony offense in effect at any time prior to December 2,  
37 1993, that is comparable to a most serious offense under this  
38 subsection, or any federal or out-of-state conviction for an offense  
39 that under the laws of this state would be a felony classified as a  
40 most serious offense under this subsection;

1 (v) (i) A prior conviction for indecent liberties under RCW  
2 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.  
3 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),  
4 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW  
5 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,  
6 until July 1, 1988;

7 (ii) A prior conviction for indecent liberties under RCW  
8 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
9 if: (A) The crime was committed against a child under the age of  
10 fourteen; or (B) the relationship between the victim and perpetrator  
11 is included in the definition of indecent liberties under RCW  
12 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,  
13 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,  
14 1993, through July 27, 1997;

15 (w) Any out-of-state conviction for a felony offense with a  
16 finding of sexual motivation if the minimum sentence imposed was ten  
17 years or more; provided that the out-of-state felony offense must be  
18 comparable to a felony offense under this title and Title 9A RCW and  
19 the out-of-state definition of sexual motivation must be comparable  
20 to the definition of sexual motivation contained in this section.

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

23 (35) "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  
26 court 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. In addition, for the purpose of community custody  
29 requirements under this chapter, "offender" also means a misdemeanor  
30 or gross misdemeanor probationer ordered by a superior court to  
31 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and  
32 supervised by the department pursuant to RCW 9.94A.501 and  
33 9.94A.5011. Throughout this chapter, the terms "offender" and  
34 "defendant" are used interchangeably.

35 (36) "Partial confinement" means confinement for no more than one  
36 year in a facility or institution operated or utilized under contract  
37 by the state or any other unit of government, or, if home detention,  
38 electronic monitoring, or work crew has been ordered by the court or  
39 home detention has been ordered by the department as part of the  
40 parenting program or the graduated reentry program, in an approved

1 residence, for a substantial portion of each day with the balance of  
2 the day spent in the community. Partial confinement includes work  
3 release, home detention, work crew, electronic monitoring, and a  
4 combination of work crew, electronic monitoring, and home detention.

5 (37) "Pattern of criminal street gang activity" means:

6 (a) The commission, attempt, conspiracy, or solicitation of, or  
7 any prior juvenile adjudication of or adult conviction of, two or  
8 more of the following criminal street gang-related offenses:

9 (i) Any "serious violent" felony offense as defined in this  
10 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a  
11 Child 1 (RCW 9A.36.120);

12 (ii) Any "violent" offense as defined by this section, excluding  
13 Assault of a Child 2 (RCW 9A.36.130);

14 (iii) Deliver or Possession with Intent to Deliver a Controlled  
15 Substance (chapter 69.50 RCW);

16 (iv) Any violation of the firearms and dangerous weapon act  
17 (chapter 9.41 RCW);

18 (v) Theft of a Firearm (RCW 9A.56.300);

19 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

20 (vii) Malicious Harassment (RCW 9A.36.080);

21 (viii) Harassment where a subsequent violation or deadly threat  
22 is made (RCW 9A.46.020(2)(b));

23 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

24 (x) Any felony conviction by a person eighteen years of age or  
25 older with a special finding of involving a juvenile in a felony  
26 offense under RCW 9.94A.833;

27 (xi) Residential Burglary (RCW 9A.52.025);

28 (xii) Burglary 2 (RCW 9A.52.030);

29 (xiii) Malicious Mischief 1 (RCW 9A.48.070);

30 (xiv) Malicious Mischief 2 (RCW 9A.48.080);

31 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);

32 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

33 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW  
34 9A.56.070);

35 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
36 9A.56.075);

37 (xix) Extortion 1 (RCW 9A.56.120);

38 (xx) Extortion 2 (RCW 9A.56.130);

39 (xxi) Intimidating a Witness (RCW 9A.72.110);

40 (xxii) Tampering with a Witness (RCW 9A.72.120);

1 (xxiii) Reckless Endangerment (RCW 9A.36.050);

2 (xxiv) Coercion (RCW 9A.36.070);

3 (xxv) Harassment (RCW 9A.46.020); or

4 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

5 (b) That at least one of the offenses listed in (a) of this  
6 subsection shall have occurred after July 1, 2008;

7 (c) That the most recent committed offense listed in (a) of this  
8 subsection occurred within three years of a prior offense listed in  
9 (a) of this subsection; and

10 (d) Of the offenses that were committed in (a) of this  
11 subsection, the offenses occurred on separate occasions or were  
12 committed by two or more persons.

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

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

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

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

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

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

7 (39) "Predatory" means: (a) The perpetrator of the crime was a  
8 stranger to the victim, as defined in this section; (b) the  
9 perpetrator established or promoted a relationship with the victim  
10 prior to the offense and the victimization of the victim was a  
11 significant reason the perpetrator established or promoted the  
12 relationship; or (c) the perpetrator was: (i) A teacher, counselor,  
13 volunteer, or other person in authority in any public or private  
14 school and the victim was a student of the school under his or her  
15 authority or supervision. For purposes of this subsection, "school"  
16 does not include home-based instruction as defined in RCW  
17 28A.225.010; (ii) a coach, trainer, volunteer, or other person in  
18 authority in any recreational activity and the victim was a  
19 participant in the activity under his or her authority or  
20 supervision; (iii) a pastor, elder, volunteer, or other person in  
21 authority in any church or religious organization, and the victim was  
22 a member or participant of the organization under his or her  
23 authority; or (iv) a teacher, counselor, volunteer, or other person  
24 in authority providing home-based instruction and the victim was a  
25 student receiving home-based instruction while under his or her  
26 authority or supervision. For purposes of this subsection: (A) "Home-  
27 based instruction" has the same meaning as defined in RCW  
28 28A.225.010; and (B) "teacher, counselor, volunteer, or other person  
29 in authority" does not include the parent or legal guardian of the  
30 victim.

31 (40) "Private school" means a school regulated under chapter  
32 28A.195 or 28A.205 RCW.

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

34 (42) "Repetitive domestic violence offense" means any:

35 (a)(i) Domestic violence assault that is not a felony offense  
36 under RCW 9A.36.041;

37 (ii) Domestic violence violation of a no-contact order under  
38 chapter 10.99 RCW that is not a felony offense;

1 (iii) Domestic violence violation of a protection order under  
2 chapter 26.09, 26.10, (~~26.26~~) 26.26B, or 26.50 RCW that is not a  
3 felony offense;

4 (iv) Domestic violence harassment offense under RCW 9A.46.020  
5 that is not a felony offense; or

6 (v) Domestic violence stalking offense under RCW 9A.46.110 that  
7 is not a felony offense; or

8 (b) Any federal, out-of-state, tribal court, military, county, or  
9 municipal conviction for an offense that under the laws of this state  
10 would be classified as a repetitive domestic violence offense under  
11 (a) of this subsection.

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

16 (44) "Risk assessment" means the application of the risk  
17 instrument recommended to the department by the Washington state  
18 institute for public policy as having the highest degree of  
19 predictive accuracy for assessing an offender's risk of reoffense.

20 (45) "Serious traffic offense" means:

21 (a) Nonfelony driving while under the influence of intoxicating  
22 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
23 while under the influence of intoxicating liquor or any drug (RCW  
24 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
25 attended vehicle (RCW 46.52.020(5)); or

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

29 (46) "Serious violent offense" is a subcategory of violent  
30 offense and means:

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

32 (ii) Homicide by abuse;

33 (iii) Murder in the second degree;

34 (iv) Manslaughter in the first degree;

35 (v) Assault in the first degree;

36 (vi) Kidnapping in the first degree;

37 (vii) Rape in the first degree;

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

39 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
40 commit one of these felonies; 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  
3 serious violent offense under (a) of this subsection.

4 (47) "Sex offense" means:

5 (a)(i) A felony that is a violation of chapter 9A.44 RCW other  
6 than RCW 9A.44.132;

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

8 (iii) A felony that is a violation of chapter 9.68A RCW other  
9 than RCW 9.68A.080;

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

13 (v) A felony violation of RCW 9A.44.132(1) (failure to register  
14 as a sex offender) if the person has been convicted of violating RCW  
15 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130  
16 prior to June 10, 2010, on at least one prior occasion;

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

20 (c) A felony with a finding of sexual motivation under RCW  
21 9.94A.835 or 13.40.135; or

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

25 (48) "Sexual motivation" means that one of the purposes for which  
26 the defendant committed the crime was for the purpose of his or her  
27 sexual gratification.

28 (49) "Standard sentence range" means the sentencing court's  
29 discretionary range in imposing a nonappealable sentence.

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

35 (51) "Stranger" means that the victim did not know the offender  
36 twenty-four hours before the offense.

37 (52) "Total confinement" means confinement inside the physical  
38 boundaries of a facility or institution operated or utilized under  
39 contract by the state or any other unit of government for twenty-four  
40 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

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

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

10 (55) "Violent offense" means:

11 (a) Any of the following felonies:

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

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

16 (iii) Manslaughter in the first degree;

17 (iv) Manslaughter in the second degree;

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

19 (vi) Kidnapping in the second degree;

20 (vii) Arson in the second degree;

21 (viii) Assault in the second degree;

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

23 (x) Extortion in the first degree;

24 (xi) Robbery in the second degree;

25 (xii) Drive-by shooting;

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

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

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

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



1 (56) "Work crew" means a program of partial confinement  
2 consisting of civic improvement tasks for the benefit of the  
3 community that complies with RCW 9.94A.725.

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

11 (58) "Work release" means a program of partial confinement  
12 available to offenders who are employed or engaged as a student in a  
13 regular course of study at school.

14 (59) "Recidivist offense" means a felony offense where a prior  
15 conviction of the same offense or other specified offense is an  
16 element of the crime including, but not limited to:

17 (a) Assault in the fourth degree where domestic violence is  
18 pleaded and proven, RCW 9A.36.041(3);

19 (b) Cyberstalking, RCW 9.61.260(3)(a);

20 (c) Harassment, RCW 9A.46.020(2)(b)(i);

21 (d) Indecent exposure, RCW 9A.88.010(2)(c);

22 (e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);

23 (f) Telephone harassment, RCW 9.61.230(2)(a); and

24 (g) Violation of a no-contact or protection order, RCW  
25 26.50.110(5)."

**SHB 1041** - S COMM AMD

By Committee on Law & Justice

**ADOPTED 04/03/2019**

26 On page 1, line 3 of the title, after "records;" strike the  
27 remainder of the title and insert "amending RCW 9.94A.640 and  
28 9.94A.030; reenacting and amending RCW 9.94A.637 and 9.96.060; and  
29 creating a new section."

--- END ---