
HOUSE BILL 1280

State of Washington

66th Legislature

2019 Regular Session

By Representatives Hudgins and Appleton

Read first time 01/17/19. Referred to Committee on Public Safety.

1 AN ACT Relating to building safer communities in Washington by
2 modifying sentencing laws related to property crimes and other crimes
3 and implementing recommendations of the Washington state justice
4 reinvestment task force; amending RCW 9.94A.030, 9.94A.501,
5 9.94A.506, 9.94A.585, 9.94A.702, 9.94A.171, and 9.94A.860; reenacting
6 and amending RCW 9.94A.505, 9.94A.515, and 9.94A.701; adding new
7 sections to chapter 9.94A RCW; creating new sections; prescribing
8 penalties; providing an effective date; and declaring an emergency.

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

10 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

11 (a) Washington has the highest property crime rate in the
12 country.

13 (b) Washington is the only state in the country that does not
14 make supervision available to property offenders.

15 (c) In recent years, an increasing number of individuals
16 convicted of property crimes have been sentenced to prison. Evidence-
17 based data tells us that supervision paired with treatment,
18 including, but not limited to, chemical dependency services and
19 mental health and cognitive behavioral treatment and services, can
20 have a significant impact on reducing the likelihood of reoffending

1 for most people convicted of a crime, including people convicted of
2 property offenses.

3 (d) Supervision practices in Washington are promising and the
4 department of corrections continues to refine its approach to
5 community supervision, but there is an opportunity to further
6 strengthen the quality of supervision as it relates to other
7 offenders and also extend it to property crime offenders.

8 (e) Effective policy development in criminal justice can be
9 tracked, measured, and assessed to ensure that the intent and goals
10 of the legislature are realized.

11 (2) It is the intent of the legislature to continue building
12 safer communities by further strengthening the quality of existing
13 supervision practices, enabling targeted efforts at deterrence, and
14 implementing recommendations of the Washington state justice
15 reinvestment task force by changing sentencing policy to require
16 supervision of certain people convicted of property offenses; by
17 providing treatment, if needed, and programs to reduce recidivism;
18 and by providing additional support to local governments. The
19 legislature adopts this act with the goal of improving supervision
20 policies and reducing property crime by at least fifteen percent by
21 fiscal year 2025.

22 **Sec. 2.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to
23 read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout this chapter.

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

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

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

38 (4) "Community corrections officer" means an employee of the
39 department who is responsible for carrying out specific duties in

1 supervision of sentenced offenders and monitoring of sentence
2 conditions.

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

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

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

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

15 (9) "Conviction" means an adjudication of guilt pursuant to Title
16 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
17 and acceptance of a plea of guilty.

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

26 (11) "Criminal history" means the list of a defendant's prior
27 convictions and juvenile adjudications, whether in this state, in
28 federal court, or elsewhere, and any issued certificates of
29 restoration of opportunity pursuant to RCW 9.97.020.

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

34 (b) A conviction may be removed from a defendant's criminal
35 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
36 9.95.240, or a similar out-of-state statute, or if the conviction has
37 been vacated pursuant to a governor's pardon.

38 (c) The determination of a defendant's criminal history is
39 distinct from the determination of an offender score. A prior
40 conviction that was not included in an offender score calculated

1 pursuant to a former version of the sentencing reform act remains
2 part of the defendant's criminal history.

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

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

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

23 (a) To gain admission, prestige, or promotion within the gang;

24 (b) To increase or maintain the gang's size, membership,
25 prestige, dominance, or control in any geographical area;

26 (c) To exact revenge or retribution for the gang or any member of
27 the gang;

28 (d) To obstruct justice, or intimidate or eliminate any witness
29 against the gang or any member of the gang;

30 (e) To directly or indirectly cause any benefit, aggrandizement,
31 gain, profit, or other advantage for the gang, its reputation,
32 influence, or membership; or

33 (f) To provide the gang with any advantage in, or any control or
34 dominance over any criminal market sector, including, but not limited
35 to, manufacturing, delivering, or selling any controlled substance
36 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
37 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
38 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
39 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
40 9.68 RCW).

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

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

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

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

19 (19) "Disposable earnings" means that part of the earnings of an
20 offender remaining after the deduction from those earnings of any
21 amount required by law to be withheld. For the purposes of this
22 definition, "earnings" means compensation paid or payable for
23 personal services, whether denominated as wages, salary, commission,
24 bonuses, or otherwise, and, notwithstanding any other provision of
25 law making the payments exempt from garnishment, attachment, or other
26 process to satisfy a court-ordered legal financial obligation,
27 specifically includes periodic payments pursuant to pension or
28 retirement programs, or insurance policies of any type, but does not
29 include payments made under Title 50 RCW, except as provided in RCW
30 50.40.020 and 50.40.050, or Title 74 RCW.

31 (20) "Domestic violence" has the same meaning as defined in RCW
32 10.99.020 and 26.50.010.

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

37 (22) "Drug offense" means:

38 (a) Any felony violation of chapter 69.50 RCW except possession
39 of a controlled substance (RCW 69.50.4013) or forged prescription for
40 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) "Property offense" means:

15 (a) (i) Counterfeiting (RCW 9.16.035(4));

16 (ii) Identity Theft 1 (RCW 9.35.020(2));

17 (iii) Theft of Livestock 1 (RCW 9A.56.080);

18 (iv) Trafficking in Stolen Property 1 (RCW 9A.82.050);

19 (v) Unlawful Factoring of a Credit Card or Payment Card
20 Transaction (RCW 9A.56.290(4)(b));

21 (vi) Burglary 2 (RCW 9A.52.030);

22 (vii) Organized Retail Theft 1 (RCW 9A.56.350(2));

23 (viii) Retail Theft with Special Circumstances 1 (RCW
24 9A.56.360(2));

25 (ix) Theft of Livestock 2 (RCW 9A.56.083);

26 (x) Theft with the Intent to Resell 1 (RCW 9A.56.340(2));

27 (xi) Trafficking in Stolen Property 2 (RCW 9A.82.055);

28 (xii) Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b));

29 (xiii) Commercial Fishing Without a License 1 (RCW
30 77.15.500(3)(b));

31 (xiv) Counterfeiting (RCW 9.16.035(3));

32 (xv) Engaging in Fish Dealing Activity Unlicensed 1 (RCW
33 77.15.620(3)(b));

34 (xvi) Health Care False Claims (RCW 48.80.030);

35 (xvii) Identity Theft 2 (RCW 9.35.020(3));

36 (xviii) Malicious Mischief 1 (RCW 9A.48.070);

37 (xix) Organized Retail Theft 2 (RCW 9A.56.350(3));

38 (xx) Possession of Stolen Property 1 (RCW 9A.56.150);

39 (xxi) Possession of a Stolen Vehicle (RCW 9A.56.068);

1 (xxii) Retail Theft with Special Circumstances 2 (RCW
2 9A.56.360(3));
3 (xxiii) Scrap Processing, Recycling, or Supplying Without a
4 License (second or subsequent offense) (RCW 19.290.100(2)(b));
5 (xxiv) Theft 1 (RCW 9A.56.030);
6 (xxv) Theft of a Motor Vehicle (RCW 9A.56.065);
7 (xxvi) Theft of Rental, Leased, Lease-purchased, or Loaned
8 Property (valued at five thousand dollars or more) (RCW
9 9A.56.096(5)(a));
10 (xxvii) Theft with the Intent to Resell 2 (RCW 9A.56.340(3));
11 (xxviii) Trafficking in Insurance Claims (RCW 48.30A.015);
12 (xxix) Unlawful Factoring of a Credit Card or Payment Card
13 Transaction (RCW 9A.56.290(4)(a));
14 (xxx) False Verification for Welfare (RCW 74.08.055);
15 (xxxii) Forgery (RCW 9A.60.020);
16 (xxxiii) Malicious Mischief 2 (RCW 9A.48.080);
17 (xxxiv) Possession of Stolen Property 2 (RCW 9A.56.160);
18 (xxxv) Reckless Burning 1 (RCW 9A.48.040);
19 (xxxvi) Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075);
20 (xxxvii) Theft 2 (RCW 9A.56.040);
21 (xxxviii) Theft of Rental, Leased, Lease-purchased, or Loaned
22 Property (valued at seven hundred fifty dollars or more but less than
23 five thousand dollars) (RCW 9A.56.096(5)(b));
24 (xxxix) Unlawful Issuance of Checks or Drafts (RCW 9A.56.060);
25 (xl) Unlawful Possession of Fictitious Identification (RCW
26 9A.56.320(4));
27 (xli) Unlawful Possession of Instruments of Financial Fraud (RCW
28 9A.56.320(5));
29 (xlii) Unlawful Possession of Payment Instruments (RCW
30 9A.56.320(2));
31 (xliii) Unlawful Possession of a Personal Identification Device
32 (RCW 9A.56.320(3));
33 (xliv) Unlawful Production of Payment Instruments (RCW
34 9A.56.320(1));
35 (xlv) Unlawful Trafficking in Food Stamps (RCW 9.91.142);
36 (xlvi) Unlawful Use of Food Stamps (RCW 9.91.144);
37 (xlvii) Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070);
38 (b) An attempt, criminal solicitation, or criminal conspiracy to
39 commit a property offense under (a) of this subsection; or

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
3 property offense under (a) or (b) of this subsection.

4 **Sec. 3.** RCW 9.94A.501 and 2016 sp.s. c 28 s 1 are each amended
5 to read as follows:

6 (1) The department shall supervise the following offenders who
7 are sentenced to probation in superior court, pursuant to RCW
8 9.92.060, 9.95.204, or 9.95.210:

9 (a) Offenders convicted of:

10 (i) Sexual misconduct with a minor second degree;

11 (ii) Custodial sexual misconduct second degree;

12 (iii) Communication with a minor for immoral purposes; and

13 (iv) Violation of RCW 9A.44.132(2) (failure to register); and

14 (b) Offenders who have:

15 (i) A current conviction for a repetitive domestic violence
16 offense where domestic violence has been pleaded and proven after
17 August 1, 2011; and

18 (ii) A prior conviction for a repetitive domestic violence
19 offense or domestic violence felony offense where domestic violence
20 has been pleaded and proven after August 1, 2011.

21 (2) Misdemeanor and gross misdemeanor offenders supervised by the
22 department pursuant to this section shall be placed on community
23 custody.

24 (3) The department shall supervise every felony offender
25 sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702
26 whose risk assessment classifies the offender as one who is at a high
27 risk to reoffend.

28 (4) Notwithstanding any other provision of this section, the
29 department shall supervise an offender sentenced to community custody
30 regardless of risk classification if the offender:

31 (a) Has a current conviction for a sex offense or a serious
32 violent offense and was sentenced to a term of community custody
33 pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

34 (b) Has been identified by the department as a dangerous mentally
35 ill offender pursuant to RCW 72.09.370;

36 (c) Has an indeterminate sentence and is subject to parole
37 pursuant to RCW 9.95.017;

1 (d) Has a current conviction for violating RCW 9A.44.132(1)
2 (failure to register) and was sentenced to a term of community
3 custody pursuant to RCW 9.94A.701;

4 (e) (i) Has a current conviction for a domestic violence felony
5 offense where domestic violence has been pleaded and proven after
6 August 1, 2011, and a prior conviction for a repetitive domestic
7 violence offense or domestic violence felony offense where domestic
8 violence was pleaded and proven after August 1, 2011. This subsection
9 (4) (e) (i) applies only to offenses committed prior to July 24, 2015;

10 (ii) Has a current conviction for a domestic violence felony
11 offense where domestic violence was pleaded and proven and that was
12 committed on or after the effective date of this section. The state
13 and its officers, agents, and employees shall not be held criminally
14 or civilly liable for its supervision of an offender under this
15 subsection (4) (e) (ii) unless the state and its officers, agents, and
16 employees acted with gross negligence;

17 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or
18 9.94A.670;

19 (g) Is subject to supervision pursuant to RCW 9.94A.745; (~~or~~)

20 (h) Was convicted and sentenced under RCW 46.61.520 (vehicular
21 homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6)
22 (felony DUI), or RCW 46.61.504(6) (felony physical control); or

23 (i) Has a current conviction for a property offense as defined in
24 RCW 9.94A.030, and has an offender score of two points or more.

25 (5) The department shall supervise any offender who is released
26 by the indeterminate sentence review board and who was sentenced to
27 community custody or subject to community custody under the terms of
28 release.

29 (6) The department is not authorized to, and may not, supervise
30 any offender sentenced to a term of community custody or any
31 probationer unless the offender or probationer is one for whom
32 supervision is required under this section or RCW 9.94A.5011.

33 (7) The department shall conduct a risk assessment for every
34 felony offender sentenced to a term of community custody who may be
35 subject to supervision under this section or RCW 9.94A.5011.

36 (8) The period of time the department is authorized to supervise
37 an offender under this section may not exceed the duration of
38 community custody specified under RCW 9.94B.050, 9.94A.701 (1)
39 through (8), or 9.94A.702, except in cases where the court has
40 imposed an exceptional term of community custody under RCW 9.94A.535.

1 The period of time the department is authorized to supervise an
2 offender under this section may be reduced by the earned award of
3 positive achievement time pursuant to section 18 of this act.

4 **Sec. 4.** RCW 9.94A.505 and 2015 c 287 s 10 and 2015 c 81 s 1 are
5 each reenacted and amended to read as follows:

6 (1) When a person is convicted of a felony, the court shall
7 impose punishment as provided in this chapter.

8 (2)(a) The court shall impose a sentence as provided in the
9 following sections and as applicable in the case:

10 (i) Unless another term of confinement applies, a sentence within
11 the standard sentence range established in RCW 9.94A.510 ~~((\oplus))~~,
12 9.94A.517, or section 7 of this act;

13 (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

14 (iii) RCW 9.94A.570, relating to persistent offenders;

15 (iv) RCW 9.94A.540, relating to mandatory minimum terms;

16 (v) RCW 9.94A.650, relating to the first-time offender waiver;

17 (vi) RCW 9.94A.660, relating to the drug offender sentencing
18 alternative;

19 (vii) RCW 9.94A.670, relating to the special sex offender
20 sentencing alternative;

21 (viii) RCW 9.94A.655, relating to the parenting sentencing
22 alternative;

23 (ix) RCW 9.94A.507, relating to certain sex offenses;

24 (x) RCW 9.94A.535, relating to exceptional sentences;

25 (xi) RCW 9.94A.589, relating to consecutive and concurrent
26 sentences;

27 (xii) RCW 9.94A.603, relating to felony driving while under the
28 influence of intoxicating liquor or any drug and felony physical
29 control of a vehicle while under the influence of intoxicating liquor
30 or any drug.

31 (b) If a standard sentence range has not been established for the
32 offender's crime, the court shall impose a determinate sentence which
33 may include not more than one year of confinement; community
34 restitution work; a term of community custody under RCW 9.94A.702 not
35 to exceed one year; and/or other legal financial obligations. The
36 court may impose a sentence which provides more than one year of
37 confinement and a community custody term under RCW 9.94A.701 if the
38 court finds reasons justifying an exceptional sentence as provided in
39 RCW 9.94A.535.

1 (3) If the court imposes a sentence requiring confinement of
2 thirty days or less, the court may, in its discretion, specify that
3 the sentence be served on consecutive or intermittent days. A
4 sentence requiring more than thirty days of confinement shall be
5 served on consecutive days. Local jail administrators may schedule
6 court-ordered intermittent sentences as space permits.

7 (4) If a sentence imposed includes payment of a legal financial
8 obligation, it shall be imposed as provided in RCW 9.94A.750,
9 9.94A.753, 9.94A.760, and 43.43.7541.

10 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
11 court may not impose a sentence providing for a term of confinement
12 or community custody that exceeds the statutory maximum for the crime
13 as provided in chapter 9A.20 RCW.

14 (6) The sentencing court shall give the offender credit for all
15 confinement time served before the sentencing if that confinement was
16 solely in regard to the offense for which the offender is being
17 sentenced.

18 (7) The sentencing court shall not give the offender credit for
19 any time the offender was required to comply with an electronic
20 monitoring program prior to sentencing if the offender was convicted
21 of one of the following offenses:

22 (a) A violent offense;

23 (b) Any sex offense;

24 (c) Any drug offense;

25 (d) Reckless burning in the first or second degree as defined in
26 RCW 9A.48.040 or 9A.48.050;

27 (e) Assault in the third degree as defined in RCW 9A.36.031;

28 (f) Assault of a child in the third degree;

29 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or

30 (h) Harassment as defined in RCW 9A.46.020.

31 (8) The court shall order restitution as provided in RCW
32 9.94A.750 and 9.94A.753.

33 (9) As a part of any sentence, the court may impose and enforce
34 crime-related prohibitions and affirmative conditions as provided in
35 this chapter. "Crime-related prohibitions" may include a prohibition
36 on the use or possession of alcohol or controlled substances if the
37 court finds that any chemical dependency or substance abuse
38 contributed to the offense.

39 (10) In any sentence of partial confinement, the court may
40 require the offender to serve the partial confinement in work

1 release, in a program of home detention, on work crew, or in a
2 combined program of work crew and home detention.

3 **Sec. 5.** RCW 9.94A.506 and 2011 1st sp.s. c 40 s 26 are each
4 amended to read as follows:

5 The standard sentence ranges of total and partial confinement
6 under this chapter, except as provided in RCW 9.94A.517 and section 7
7 of this act, are subject to the following limitations:

8 (1) If the maximum term in the range is one year or less, the
9 minimum term in the range shall be no less than one-third of the
10 maximum term in the range, except that if the maximum term in the
11 range is ninety days or less, the minimum term may be less than one-
12 third of the maximum;

13 (2) If the maximum term in the range is greater than one year,
14 the minimum term in the range shall be no less than seventy-five
15 percent of the maximum term in the range, except that for murder in
16 the second degree in seriousness level XIV under RCW 9.94A.510, the
17 minimum term in the range shall be no less than fifty percent of the
18 maximum term in the range; and

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

21 **Sec. 6.** RCW 9.94A.515 and 2018 c 236 s 721 and 2018 c 7 s 7 are
22 each reenacted and amended to read as follows:

23 TABLE 2

24 CRIMES INCLUDED WITHIN EACH
25 SERIOUSNESS LEVEL

26 XVI Aggravated Murder 1 (RCW 10.95.020)

27 XV Homicide by abuse (RCW 9A.32.055)

28 Malicious explosion 1 (RCW

29 70.74.280(1))

30 Murder 1 (RCW 9A.32.030)

31 XIV Murder 2 (RCW 9A.32.050)

32 Trafficking 1 (RCW 9A.40.100(1))

33 XIII Malicious explosion 2 (RCW

34 70.74.280(2))

1 Malicious placement of an explosive 1
2 (RCW 70.74.270(1))
3 XII Assault 1 (RCW 9A.36.011)
4 Assault of a Child 1 (RCW 9A.36.120)
5 Malicious placement of an imitation
6 device 1 (RCW 70.74.272(1)(a))
7 Promoting Commercial Sexual Abuse of
8 a Minor (RCW 9.68A.101)
9 Rape 1 (RCW 9A.44.040)
10 Rape of a Child 1 (RCW 9A.44.073)
11 Trafficking 2 (RCW 9A.40.100(3))
12 XI Manslaughter 1 (RCW 9A.32.060)
13 Rape 2 (RCW 9A.44.050)
14 Rape of a Child 2 (RCW 9A.44.076)
15 Vehicular Homicide, by being under the
16 influence of intoxicating liquor or
17 any drug (RCW 46.61.520)
18 Vehicular Homicide, by the operation of
19 any vehicle in a reckless manner
20 (RCW 46.61.520)
21 X Child Molestation 1 (RCW 9A.44.083)
22 Criminal Mistreatment 1 (RCW
23 9A.42.020)
24 Indecent Liberties (with forcible
25 compulsion) (RCW
26 9A.44.100(1)(a))
27 Kidnapping 1 (RCW 9A.40.020)
28 Leading Organized Crime (RCW
29 9A.82.060(1)(a))
30 Malicious explosion 3 (RCW
31 70.74.280(3))
32 Sexually Violent Predator Escape (RCW
33 9A.76.115)
34 IX Abandonment of Dependent Person 1
35 (RCW 9A.42.060)

1 Assault of a Child 2 (RCW 9A.36.130)
2 Explosive devices prohibited (RCW
3 70.74.180)
4 Hit and Run—Death (RCW
5 46.52.020(4)(a))
6 Homicide by Watercraft, by being under
7 the influence of intoxicating liquor
8 or any drug (RCW 79A.60.050)
9 Inciting Criminal Profiteering (RCW
10 9A.82.060(1)(b))
11 Malicious placement of an explosive 2
12 (RCW 70.74.270(2))
13 Robbery 1 (RCW 9A.56.200)
14 Sexual Exploitation (RCW 9.68A.040)
15 VIII Arson 1 (RCW 9A.48.020)
16 Commercial Sexual Abuse of a Minor
17 (RCW 9.68A.100)
18 Homicide by Watercraft, by the
19 operation of any vessel in a reckless
20 manner (RCW 79A.60.050)
21 Manslaughter 2 (RCW 9A.32.070)
22 Promoting Prostitution 1 (RCW
23 9A.88.070)
24 Theft of Ammonia (RCW 69.55.010)
25 VII Air bag diagnostic systems (causing
26 bodily injury or death) (RCW
27 46.37.660(2)(b))
28 Air bag replacement requirements
29 (causing bodily injury or death)
30 (RCW 46.37.660(1)(b))
31 Burglary 1 (RCW 9A.52.020)
32 Child Molestation 2 (RCW 9A.44.086)
33 Civil Disorder Training (RCW
34 9A.48.120)

1 Dealing in depictions of minor engaged
2 in sexually explicit conduct 1
3 (RCW 9.68A.050(1))
4 Drive-by Shooting (RCW 9A.36.045)
5 Homicide by Watercraft, by disregard
6 for the safety of others (RCW
7 79A.60.050)
8 Indecent Liberties (without forcible
9 compulsion) (RCW 9A.44.100(1)
10 (b) and (c))
11 Introducing Contraband 1 (RCW
12 9A.76.140)
13 Malicious placement of an explosive 3
14 (RCW 70.74.270(3))
15 Manufacture or import counterfeit,
16 nonfunctional, damaged, or
17 previously deployed air bag
18 (causing bodily injury or death)
19 (RCW 46.37.650(1)(b))
20 Negligently Causing Death By Use of a
21 Signal Preemption Device (RCW
22 46.37.675)
23 Sell, install, or reinstall counterfeit,
24 nonfunctional, damaged, or
25 previously deployed airbag (RCW
26 46.37.650(2)(b))
27 Sending, bringing into state depictions
28 of minor engaged in sexually
29 explicit conduct 1 (RCW
30 9.68A.060(1))
31 Unlawful Possession of a Firearm in the
32 first degree (RCW 9.41.040(1))
33 Use of a Machine Gun or Bump-fire
34 Stock in Commission of a Felony
35 (RCW 9.41.225)

1 Vehicular Homicide, by disregard for
2 the safety of others (RCW
3 46.61.520)

4 VI Bail Jumping with Murder 1 (RCW
5 9A.76.170(3)(a))
6 Bribery (RCW 9A.68.010)
7 Incest 1 (RCW 9A.64.020(1))
8 Intimidating a Judge (RCW 9A.72.160)
9 Intimidating a Juror/Witness (RCW
10 9A.72.110, 9A.72.130)
11 Malicious placement of an imitation
12 device 2 (RCW 70.74.272(1)(b))
13 Possession of Depictions of a Minor
14 Engaged in Sexually Explicit
15 Conduct 1 (RCW 9.68A.070(1))
16 Rape of a Child 3 (RCW 9A.44.079)
17 Theft of a Firearm (RCW 9A.56.300)
18 Theft from a Vulnerable Adult 1 (RCW
19 9A.56.400(1))
20 Unlawful Storage of Ammonia (RCW
21 69.55.020)

22 V Abandonment of Dependent Person 2
23 (RCW 9A.42.070)
24 Advancing money or property for
25 extortionate extension of credit
26 (RCW 9A.82.030)
27 Air bag diagnostic systems (RCW
28 46.37.660(2)(c))
29 Air bag replacement requirements
30 (RCW 46.37.660(1)(c))
31 Bail Jumping with class A Felony
32 (RCW 9A.76.170(3)(b))
33 Child Molestation 3 (RCW 9A.44.089)
34 Criminal Mistreatment 2 (RCW
35 9A.42.030)

1 Custodial Sexual Misconduct 1 (RCW
2 9A.44.160)
3 Dealing in Depictions of Minor
4 Engaged in Sexually Explicit
5 Conduct 2 (RCW 9.68A.050(2))
6 Domestic Violence Court Order
7 Violation (RCW 10.99.040,
8 10.99.050, 26.09.300, 26.10.220,
9 ((~~26.26.138~~) 26.26B.050,
10 26.50.110, 26.52.070, or 74.34.145)
11 Extortion 1 (RCW 9A.56.120)
12 Extortionate Extension of Credit (RCW
13 9A.82.020)
14 Extortionate Means to Collect
15 Extensions of Credit (RCW
16 9A.82.040)
17 Incest 2 (RCW 9A.64.020(2))
18 Kidnapping 2 (RCW 9A.40.030)
19 Manufacture or import counterfeit,
20 nonfunctional, damaged, or
21 previously deployed air bag (RCW
22 46.37.650(1)(c))
23 Perjury 1 (RCW 9A.72.020)
24 Persistent prison misbehavior (RCW
25 9.94.070)
26 Possession of a Stolen Firearm (RCW
27 9A.56.310)
28 Rape 3 (RCW 9A.44.060)
29 Rendering Criminal Assistance 1 (RCW
30 9A.76.070)
31 Sell, install, or reinstall counterfeit,
32 nonfunctional, damaged, or
33 previously deployed airbag (RCW
34 46.37.650(2)(c))

1 Sending, Bringing into State Depictions
2 of Minor Engaged in Sexually
3 Explicit Conduct 2 (RCW
4 9.68A.060(2))
5 Sexual Misconduct with a Minor 1
6 (RCW 9A.44.093)
7 Sexually Violating Human Remains
8 (RCW 9A.44.105)
9 Stalking (RCW 9A.46.110)
10 ~~((Taking Motor Vehicle Without
11 Permission 1 (RCW 9A.56.070)))~~
12 IV Arson 2 (RCW 9A.48.030)
13 Assault 2 (RCW 9A.36.021)
14 Assault 3 (of a Peace Officer with a
15 Projectile Stun Gun) (RCW
16 9A.36.031(1)(h))
17 Assault 4 (third domestic violence
18 offense) (RCW 9A.36.041(3))
19 Assault by Watercraft (RCW
20 79A.60.060)
21 Bribing a Witness/Bribe Received by
22 Witness (RCW 9A.72.090,
23 9A.72.100)
24 Cheating 1 (RCW 9.46.1961)
25 Commercial Bribery (RCW 9A.68.060)
26 ~~((Counterfeiting (RCW 9.16.035(4))))~~
27 Driving While Under the Influence
28 (RCW 46.61.502(6))
29 Endangerment with a Controlled
30 Substance (RCW 9A.42.100)
31 Escape 1 (RCW 9A.76.110)
32 Hit and Run—Injury (RCW
33 46.52.020(4)(b))
34 Hit and Run with Vessel—Injury
35 Accident (RCW 79A.60.200(3))

1 ((Identity Theft 1 (RCW 9.35.020(2))))
2 Indecent Exposure to Person Under Age
3 Fourteen (subsequent sex offense)
4 (RCW 9A.88.010)
5 Influencing Outcome of Sporting Event
6 (RCW 9A.82.070)
7 Malicious Harassment (RCW
8 9A.36.080)
9 Physical Control of a Vehicle While
10 Under the Influence (RCW
11 46.61.504(6))
12 Possession of Depictions of a Minor
13 Engaged in Sexually Explicit
14 Conduct 2 (RCW 9.68A.070(2))
15 Residential Burglary (RCW 9A.52.025)
16 Robbery 2 (RCW 9A.56.210)
17 ((Theft of Livestock 1 (RCW
18 9A.56.080)))
19 Threats to Bomb (RCW 9.61.160)
20 ((Trafficking in Stolen Property 1 (RCW
21 9A.82.050)
22 Unlawful factoring of a credit card or
23 payment card transaction (RCW
24 9A.56.290(4)(b))))
25 Unlawful transaction of health coverage
26 as a health care service contractor
27 (RCW 48.44.016(3))
28 Unlawful transaction of health coverage
29 as a health maintenance
30 organization (RCW 48.46.033(3))
31 Unlawful transaction of insurance
32 business (RCW 48.15.023(3))
33 Unlicensed practice as an insurance
34 professional (RCW 48.17.063(2))

1 Use of Proceeds of Criminal
2 Profiteering (RCW 9A.82.080 (1)
3 and (2))
4 Vehicle Prowling 2 (third or subsequent
5 offense) (RCW 9A.52.100(3))
6 Vehicular Assault, by being under the
7 influence of intoxicating liquor or
8 any drug, or by the operation or
9 driving of a vehicle in a reckless
10 manner (RCW 46.61.522)
11 Viewing of Depictions of a Minor
12 Engaged in Sexually Explicit
13 Conduct 1 (RCW 9.68A.075(1))
14 Willful Failure to Return from Furlough
15 (RCW 72.66.060)
16 III Animal Cruelty 1 (Sexual Conduct or
17 Contact) (RCW 16.52.205(3))
18 Assault 3 (Except Assault 3 of a Peace
19 Officer With a Projectile Stun Gun)
20 (RCW 9A.36.031 except subsection
21 (1)(h))
22 Assault of a Child 3 (RCW 9A.36.140)
23 Bail Jumping with class B or C Felony
24 (RCW 9A.76.170(3)(c))
25 (~~Burglary 2 (RCW 9A.52.030)~~)
26 Communication with a Minor for
27 Immoral Purposes (RCW
28 9.68A.090)
29 Criminal Gang Intimidation (RCW
30 9A.46.120)
31 Custodial Assault (RCW 9A.36.100)
32 Cyberstalking (subsequent conviction or
33 threat of death) (RCW 9.61.260(3))
34 Escape 2 (RCW 9A.76.120)
35 Extortion 2 (RCW 9A.56.130)
36 Harassment (RCW 9A.46.020)

1 Intimidating a Public Servant (RCW
2 9A.76.180)
3 Introducing Contraband 2 (RCW
4 9A.76.150)
5 Malicious Injury to Railroad Property
6 (RCW 81.60.070)
7 Mortgage Fraud (RCW 19.144.080)
8 Negligently Causing Substantial Bodily
9 Harm By Use of a Signal
10 Preemption Device (RCW
11 46.37.674)
12 ~~((Organized Retail Theft 1 (RCW
13 9A.56.350(2))))~~
14 Perjury 2 (RCW 9A.72.030)
15 Possession of Incendiary Device (RCW
16 9.40.120)
17 Possession of Machine Gun, Bump-fire
18 Stock, or Short-Barreled Shotgun or
19 Rifle (RCW 9.41.190)
20 Promoting Prostitution 2 (RCW
21 9A.88.080)
22 ~~((Retail Theft with Special
23 Circumstances 1 (RCW
24 9A.56.360(2))))~~
25 Securities Act violation (RCW
26 21.20.400)
27 Tampering with a Witness (RCW
28 9A.72.120)
29 Telephone Harassment (subsequent
30 conviction or threat of death) (RCW
31 9.61.230(2))
32 ~~((Theft of Livestock 2 (RCW
33 9A.56.083))~~
34 Theft with the Intent to Resell 1 (RCW
35 9A.56.340(2))

1 Failure to Register as a Sex Offender
2 (second or subsequent offense)
3 (RCW 9A.44.130 prior to June 10,
4 2010, and RCW 9A.44.132)
5 ~~((Health Care False Claims (RCW
6 48.80.030)
7 Identity Theft 2 (RCW 9.35.020(3))))~~
8 Improperly Obtaining Financial
9 Information (RCW 9.35.010)
10 ~~((Malicious Mischief 1 (RCW
11 9A.48.070)
12 Organized Retail Theft 2 (RCW
13 9A.56.350(3))
14 Possession of Stolen Property 1 (RCW
15 9A.56.150)
16 Possession of a Stolen Vehicle (RCW
17 9A.56.068)
18 Retail Theft with Special Circumstances
19 2 (RCW 9A.56.360(3))
20 Scrap Processing, Recycling, or
21 Supplying Without a License
22 (second or subsequent offense)
23 (RCW 19.290.100)
24 Theft 1 (RCW 9A.56.030)
25 Theft of a Motor Vehicle (RCW
26 9A.56.065)
27 Theft of Rental, Leased, Lease-
28 purchased, or Loaned Property
29 (valued at five thousand dollars or
30 more) (RCW 9A.56.096(5)(a))
31 Theft with the Intent to Resell 2 (RCW
32 9A.56.340(3))
33 Trafficking in Insurance Claims (RCW
34 48.30A.015)~~

1 Theft 2 (RCW 9A.56.040))
2 Theft from a Vulnerable Adult 2 (RCW
3 9A.56.400(2))
4 ((Theft of Rental, Leased, Lease-
5 purchased, or Loaned Property
6 (valued at seven hundred fifty
7 dollars or more but less than five
8 thousand dollars) (RCW
9 9A.56.096(5)(b))))
10 Transaction of insurance business
11 beyond the scope of licensure
12 (RCW 48.17.063)
13 Unlawful Fish and Shellfish Catch
14 Accounting (RCW 77.15.630(3)(b))
15 ((Unlawful Issuance of Checks or Drafts
16 (RCW 9A.56.060)
17 Unlawful Possession of Fictitious
18 Identification (RCW 9A.56.320)
19 Unlawful Possession of Instruments of
20 Financial Fraud (RCW 9A.56.320)
21 Unlawful Possession of Payment
22 Instruments (RCW 9A.56.320)
23 Unlawful Possession of a Personal
24 Identification Device (RCW
25 9A.56.320)
26 Unlawful Production of Payment
27 Instruments (RCW 9A.56.320)
28 Unlawful Releasing, Planting,
29 Possessing, or Placing Deleterious
30 Exotic Wildlife (RCW
31 77.15.250(2)(b))
32 Unlawful Trafficking in Food Stamps
33 (RCW 9.91.142)
34 Unlawful Use of Food Stamps (RCW
35 9.91.144))

1 Unlawful Use of Net to Take Fish 1

2 (RCW 77.15.580(3)(b))

3 Unlawful Use of Prohibited Aquatic

4 Animal Species (RCW

5 77.15.253(3))

6 Unlawfully Releasing, Planting,

7 Possessing, or Placing Deleterious

8 Exotic Wildlife (RCW

9 77.15.250(2)(b))

10 Vehicle Prowl 1 (RCW 9A.52.095)

11 Violating Commercial Fishing Area or

12 Time 1 (RCW 77.15.550(3)(b))

13 NEW SECTION. **Sec. 7.**

14 (1)

15 TABLE 5 - PROPERTY OFFENSE SENTENCING GRID

Seriousness Level	Offender Score									
	0	1	2	3	4	5	6	7	8	9 or more
4	15-180 days	30-240 days	30-300 days	12+-14 months	12+-16 months	14-18 months	16-24 months	24-30 months	30-36.5 months	36.5-42 months
3	10-90 days	15-180 days	20-180 days	30-240 days	30-300 days	12+-14 months	12+-16 months	14-18 months	16-24 months	24-30 months
2	3-90 days	10-120 days	15-180 days	20-180 days	30-240 days	30-300 days	12+-14 months	12+-16 months	14-18 months	16-20 months
1	3-60 days	3-90 days	10-120 days	20-180 days	30-240 days	30-300 days	30-300 days	12+-14 months	12+-16 months	14-18 months

28 References to days and months represent the standard sentence
29 range.

30 (2) The court may utilize any other sanctions or alternatives as
31 authorized by law, including but not limited to the special drug
32 offender sentencing alternative under RCW 9.94A.660 or drug court
33 under chapter 2.30 RCW.

1 (3) Nothing in this section creates an entitlement for a criminal
2 defendant to any specific sanction, alternative, sentence option, or
3 substance abuse treatment.

4 NEW SECTION. **Sec. 8.**

5 TABLE 6 - PROPERTY OFFENSES
6 INCLUDED WITHIN EACH SERIOUSNESS LEVEL

7	IV	Counterfeiting (RCW 9.16.035(4))
8		Identity Theft 1 (RCW 9.35.020(2))
9		Theft of Livestock 1 (RCW 9A.56.080)
10		Trafficking in Stolen Property 1 (RCW
11		9A.82.050)
12		Unlawful Factoring of a Credit Card or
13		Payment Card Transaction (RCW
14		9A.56.290(4)(b))
15	III	Burglary 2 (RCW 9A.52.030)
16		Organized Retail Theft 1 (RCW
17		9A.56.350(2))
18		Possession of a Stolen Vehicle (RCW
19		9A.56.068)
20		Retail Theft with Special Circumstances 1
21		(RCW 9A.56.360(2))
22		Taking Motor Vehicle Without Permission 1
23		(RCW 9A.56.070)
24		Theft of a Motor Vehicle (RCW 9A.56.065)
25		Theft of Livestock 2 (RCW 9A.56.083)
26		Theft with the Intent to Resell 1 (RCW
27		9A.56.340(2))
28		Trafficking in Stolen Property 2 (RCW
29		9A.82.055)
30		Unlawful Hunting of Big Game 1 (RCW
31		77.15.410(3)(b))
32	II	Commercial Fishing Without a License 1
33		(RCW 77.15.500(3)(b))
34		Counterfeiting (RCW 9.16.035(3))

1 Engaging in Fish Dealing Activity
2 Unlicensed 1 (RCW 77.15.620(3)(b))
3 Health Care False Claims (RCW 48.80.030)
4 Identity Theft 2 (RCW 9.35.020(3))
5 Malicious Mischief 1 (RCW 9A.48.070)
6 Organized Retail Theft 2 (RCW
7 9A.56.350(3))
8 Possession of Stolen Property 1 (RCW
9 9A.56.150)
10 Retail Theft with Special Circumstances 2
11 (RCW 9A.56.360(3))
12 Scrap Processing, Recycling, or Supplying
13 Without a License (second or
14 subsequent offense) (RCW
15 19.290.100(2)(b))
16 Theft 1 (RCW 9A.56.030)
17 Theft of Rental, Leased, or Lease-
18 purchased, or Loaned Property (valued
19 at five thousand dollars or more) (RCW
20 9A.56.096(5)(a))
21 Theft with the Intent to Resell 2 (RCW
22 9A.56.340(3))
23 Trafficking in Insurance Claims (RCW
24 48.30A.015)
25 Unlawful Factoring of a Credit Card or
26 Payment Card Transaction (RCW
27 9A.56.290(4)(a))
28 I False Verification for Welfare (RCW
29 74.08.055)
30 Forgery (RCW 9A.60.020)
31 Malicious Mischief 2 (RCW 9A.48.080)
32 Possession of Stolen Property 2 (RCW
33 9A.56.160)
34 Reckless Burning 1 (RCW 9A.48.040)

1 Taking Motor Vehicle Without Permission 2
2 (RCW 9A.56.075)
3 Theft 2 (RCW 9A.56.040)
4 Theft of Rental, Leased, Lease-purchased,
5 or Loan Property (valued at seven
6 hundred fifty dollars or more but less
7 than five thousand dollars) (RCW
8 9A.56.096(5)(b))
9 Unlawful Issuance of Checks or Drafts
10 (RCW 9A.56.060)
11 Unlawful Possession of Fictitious
12 Identification (RCW 9A.56.320(4))
13 Unlawful Possession of Instruments of
14 Financial Fraud (RCW 9A.56.320(5))
15 Unlawful Possession of Payment
16 Instruments (RCW 9A.56.320(2))
17 Unlawful Possession of a Personal
18 Identification Device (RCW
19 9A.56.320(3))
20 Unlawful Production of Payment
21 Instruments (RCW 9A.56.320(1))
22 Unlawful Trafficking in Food Stamps
23 (RCW 9.91.142)
24 Unlawful Use of Food Stamps (RCW
25 9.91.144)

26 **Sec. 9.** RCW 9.94A.585 and 2002 c 290 s 19 are each amended to
27 read as follows:

28 (1) A sentence within the standard sentence range, under RCW
29 9.94A.510 ~~((~~or~~))~~, 9.94A.517, or section 7 of this act, for an offense
30 shall not be appealed. For purposes of this section, a sentence
31 imposed on a first-time offender under RCW 9.94A.650 shall also be
32 deemed to be within the standard sentence range for the offense and
33 shall not be appealed.

34 (2) A sentence outside the standard sentence range for the
35 offense is subject to appeal by the defendant or the state. The

1 appeal shall be to the court of appeals in accordance with rules
2 adopted by the supreme court.

3 (3) Pending review of the sentence, the sentencing court or the
4 court of appeals may order the defendant confined or placed on
5 conditional release, including bond.

6 (4) To reverse a sentence which is outside the standard sentence
7 range, the reviewing court must find: (a) Either that the reasons
8 supplied by the sentencing court are not supported by the record
9 which was before the judge or that those reasons do not justify a
10 sentence outside the standard sentence range for that offense; or (b)
11 that the sentence imposed was clearly excessive or clearly too
12 lenient.

13 (5) A review under this section shall be made solely upon the
14 record that was before the sentencing court. Written briefs shall not
15 be required and the review and decision shall be made in an expedited
16 manner according to rules adopted by the supreme court.

17 (6) The court of appeals shall issue a written opinion in support
18 of its decision whenever the judgment of the sentencing court is
19 reversed and may issue written opinions in any other case where the
20 court believes that a written opinion would provide guidance to
21 sentencing courts and others in implementing this chapter and in
22 developing a common law of sentencing within the state.

23 (7) The department may petition for a review of a sentence
24 committing an offender to the custody or jurisdiction of the
25 department. The review shall be limited to errors of law. Such
26 petition shall be filed with the court of appeals no later than
27 ninety days after the department has actual knowledge of terms of the
28 sentence. The petition shall include a certification by the
29 department that all reasonable efforts to resolve the dispute at the
30 superior court level have been exhausted.

31 **Sec. 10.** RCW 9.94A.701 and 2010 c 267 s 11 and 2010 c 224 s 5
32 are each reenacted and amended to read as follows:

33 (1) If an offender is sentenced to the custody of the department
34 for one of the following crimes, the court shall, in addition to the
35 other terms of the sentence, sentence the offender to community
36 custody for three years:

- 37 (a) A sex offense not sentenced under RCW 9.94A.507; or
38 (b) A serious violent offense.

1 (2) A court shall, in addition to the other terms of the
2 sentence, sentence an offender to community custody for eighteen
3 months when the court sentences the person to the custody of the
4 department for a violent offense that is not considered a serious
5 violent offense.

6 (3) A court shall, in addition to the other terms of the
7 sentence, sentence an offender to community custody for one year when
8 the court sentences the person to the custody of the department for:

9 (a) Any crime against persons under RCW 9.94A.411(2);

10 (b) An offense involving the unlawful possession of a firearm
11 under RCW 9.41.040, where the offender is a criminal street gang
12 member or associate;

13 (c) A felony offense under chapter 69.50 or 69.52 RCW, committed
14 on or after July 1, 2000; (~~(or)~~)

15 (d) A felony violation of RCW 9A.44.132(1) (failure to register)
16 that is the offender's first violation for a felony failure to
17 register; or

18 (e) Any property offense, as defined in RCW 9.94A.030 if the
19 offender has an offender score of two points or more.

20 (4) If an offender is sentenced under the drug offender
21 sentencing alternative, the court shall impose community custody as
22 provided in RCW 9.94A.660.

23 (5) If an offender is sentenced under the special sex offender
24 sentencing alternative, the court shall impose community custody as
25 provided in RCW 9.94A.670.

26 (6) If an offender is sentenced to a work ethic camp, the court
27 shall impose community custody as provided in RCW 9.94A.690.

28 (7) If an offender is sentenced under the parenting sentencing
29 alternative, the court shall impose a term of community custody as
30 provided in RCW 9.94A.655.

31 (8) If a sex offender is sentenced as a nonpersistent offender
32 pursuant to RCW 9.94A.507, the court shall impose community custody
33 as provided in that section.

34 (9) The term of community custody specified by this section shall
35 be reduced by the court whenever an offender's standard range term of
36 confinement in combination with the term of community custody exceeds
37 the statutory maximum for the crime as provided in RCW 9A.20.021.

38 **Sec. 11.** RCW 9.94A.702 and 2010 c 267 s 12 are each amended to
39 read as follows:

1 (1) If an offender is sentenced to a term of confinement for one
2 year or less for one of the following offenses, the court may impose
3 up to one year of community custody:

4 (a) A sex offense;

5 (b) A violent offense;

6 (c) A crime against a person under RCW 9.94A.411;

7 (d) A felony violation of chapter 69.50 or 69.52 RCW, or an
8 attempt, conspiracy, or solicitation to commit such a crime; or

9 (e) A felony violation of RCW 9A.44.132(1) (failure to register).

10 (2) If an offender is sentenced to a term of confinement for one
11 year or less for a property offense, as defined in RCW 9.94A.030, and
12 the offender has an offender score of two points or more, the court
13 shall impose one year of community custody.

14 (3) If an offender is sentenced to a first-time offender waiver,
15 the court may impose community custody as provided in RCW 9.94A.650.

16 **Sec. 12.** RCW 9.94A.171 and 2011 1st sp.s. c 40 s 1 are each
17 amended to read as follows:

18 (1) A term of confinement ordered in a sentence pursuant to this
19 chapter shall be tolled by any period of time during which the
20 offender has absented himself or herself from confinement without the
21 prior approval of the entity in whose custody the offender has been
22 placed. A term of partial confinement shall be tolled during any
23 period of time spent in total confinement pursuant to a new
24 conviction.

25 (2) Any term of community custody shall be tolled by any period
26 of time during which the offender has absented himself or herself
27 from supervision without prior approval of the entity under whose
28 supervision the offender has been placed.

29 (3) (a) For offenders other than sex offenders serving a sentence
30 for a sex offense as defined in RCW 9.94A.030, any period of
31 community custody shall be tolled during any period of time the
32 offender is in confinement for any reason unless the offender is
33 detained pursuant to RCW 9.94A.740 or 9.94A.631 for the period of
34 time prior to the hearing or for confinement pursuant to sanctions
35 imposed for violation of sentence conditions, in which case, the
36 period of community custody shall not toll. However, sanctions that
37 result in the imposition of the remaining sentence or the original
38 sentence will continue to toll the period of community custody. In

1 addition, inpatient treatment ordered by the court in lieu of jail
2 time shall not toll the period of community custody.

3 (b) For sex offenders serving a sentence for a sex offense as
4 defined in RCW 9.94A.030, any period of community custody shall be
5 tolled during any period of time the sex offender is in confinement
6 for any reason.

7 (c) For offenders serving a sentence for a property offense, as
8 defined in RCW 9.94A.030, any period of community custody shall be
9 tolled during any period of time the offender is in confinement for
10 any reason.

11 (4) For terms of confinement or community custody, the date for
12 the tolling of the sentence shall be established by the entity
13 responsible for the confinement or supervision.

14 (5) For the purposes of this section, "tolling" means the period
15 of time in which community custody or confinement time is paused and
16 for which the offender does not receive credit towards the term
17 ordered.

18 **Sec. 13.** RCW 9.94A.860 and 2016 c 179 s 3 are each amended to
19 read as follows:

20 (1) The sentencing guidelines commission is hereby created,
21 located within the office of financial management. Except as provided
22 in RCW 9.94A.875, the commission shall serve to advise the governor
23 and the legislature as necessary on issues relating to adult and
24 juvenile (~~(sentencing)~~) justice. The commission may meet, as
25 necessary, to accomplish these purposes within funds appropriated.

26 (2) The commission consists of twenty voting members, one of whom
27 the governor shall designate as chairperson. With the exception of ex
28 officio voting members, the voting members of the commission shall be
29 appointed by the governor, or his or her designee, subject to
30 confirmation by the senate.

31 (3) The voting membership consists of the following:

32 (a) The (~~(head of the state agency having general responsibility~~
33 ~~for adult correction programs)~~) secretary of the department having
34 general responsibility for adult corrections programs, as an ex
35 officio member;

36 (b) The director of financial management or designee, as an ex
37 officio member;

38 (c) The chair of the indeterminate sentence review board, as an
39 ex officio member;

1 (d) The head of the state agency, or the agency head's designee,
2 having responsibility for juvenile corrections programs, as an ex
3 officio member;

4 (e) Two prosecuting attorneys;

5 (f) Two attorneys with particular expertise in defense work;

6 (g) (~~Four~~) Two persons who are superior court judges;

7 (h) One person who is the chief law enforcement officer of a
8 county (~~or~~) and one person who is the chief law enforcement officer
9 of a city;

10 (i) Four members of the public who are not prosecutors, defense
11 attorneys, judges, or law enforcement officers, one of whom is a
12 victim of crime or a crime victims' advocate;

13 (j) One person who is an elected official of a county government,
14 other than a prosecuting attorney or sheriff;

15 (k) One person who is an elected official of a city government;

16 (l) One person who is an administrator of juvenile court
17 services; and

18 (m) The chief justice of the supreme court or the chief justice's
19 designee, as an ex officio member.

20 In making the appointments, the governor shall endeavor to assure
21 that the commission membership includes adequate representation and
22 expertise relating to both the adult criminal justice system and the
23 juvenile justice system. In making the appointments, the governor
24 shall seek the recommendations of Washington prosecutors in respect
25 to the prosecuting attorney members, of the Washington state bar
26 association in respect to the defense attorney members, of the
27 superior court judges' association in respect to the members who are
28 judges, of the Washington association of sheriffs and police chiefs
29 in respect to the member who is a law enforcement officer, of the
30 Washington state association of counties in respect to the member who
31 is a county official, of the association of Washington cities in
32 respect to the member who is a city official, of the office of crime
33 victims advocacy and other organizations of crime victims in respect
34 to the member who is a victim of crime or a crime victims' advocate,
35 and of the Washington association of juvenile court administrators in
36 respect to the member who is an administrator of juvenile court
37 services.

38 (4)(a) All voting members of the commission, except ex officio
39 voting members, shall serve terms of three years and until their
40 successors are appointed and confirmed.

1 (b) The governor shall stagger the terms of the members appointed
2 under subsection (3)(j), (k), and (l) of this section by appointing
3 one of them for a term of one year, one for a term of two years, and
4 one for a term of three years.

5 (5) The speaker of the house of representatives and the president
6 of the senate may each appoint two nonvoting members to the
7 commission, one from each of the two largest caucuses in each house.
8 The members so appointed shall serve two-year terms, or until they
9 cease to be members of the house from which they were appointed,
10 whichever occurs first.

11 (6) The executive director of the caseload forecast council or
12 his or her designee shall be an ex officio, nonvoting member of the
13 commission.

14 (7) The members of the commission may be reimbursed for travel
15 expenses as provided in RCW 43.03.050 and 43.03.060. Legislative
16 members may be reimbursed by their respective houses as provided
17 under RCW 44.04.120. Except for the reimbursement of travel expenses,
18 members shall not be compensated.

19 NEW SECTION. **Sec. 14.** (1) Not less than once per biennium, the
20 commission working in conjunction with the caseload forecast council
21 and other entities, as needed, shall review:

22 (a) Property crime rates;

23 (b) The impact on supervision, jail, and prison populations of
24 sentencing under the property crime grid in this chapter;

25 (c) Recidivism rates, as measured by rearrest among other
26 outcomes, of supervision, jail, and prison populations;

27 (d) Racial disproportionality impacts;

28 (e) The effectiveness of the minimum three day sentencing ranges
29 under the property offense sentencing grid in section 7 of this act
30 and whether such minimum ranges should be amended;

31 (f) How risk assessments are used to make informed decisions
32 regarding pretrial detainees and whether localities would benefit
33 from increased pretrial opportunities; and

34 (g) New programs implemented through grant funding established
35 pursuant to sections 15 and 16 of this act.

36 (2) Until January 31, 2023, no later than January 1st of each
37 odd-numbered year, the commission shall submit a report to the
38 appropriate committees of the legislature that includes:

1 (a) The determinations described in subsection (1) of this
2 section and descriptions of the methodology employed by the
3 commission in reaching those determinations; and

4 (b) An overview and the effectiveness of the law enforcement
5 grant program under section 15 of this act.

6 (3) The commission may request assistance from other state
7 agencies including, but not limited to, the caseload forecast
8 council, the department of corrections, the department of social and
9 health services, and other agencies.

10 NEW SECTION. **Sec. 15.** (1) The department of commerce shall
11 establish a law enforcement grant program. To be eligible for a
12 grant, local law enforcement agencies shall submit proposals to the
13 department of commerce that focus on increasing the capacity of the
14 law enforcement agency to address property crime within their
15 jurisdiction through one of the following strategies:

16 (a) Focusing on intervention and enforcement through the use of
17 increased staffing resources, including with overtime funds, to
18 target property crime with evidence-driven approaches;

19 (b) Increasing technological capacity to support intervention and
20 enforcement with the purchase of technology for crime prevention and
21 criminal justice problem solving. Technology shall include, but not
22 be limited to, crime mapping software, global positioning systems
23 technology, and smart phone tools;

24 (c) Enhancing analytical capacity through the development or
25 expansion of analytical capabilities that focus on crime mapping,
26 analysis of crime trends, and developing data-driven strategies that
27 focus on property crime reduction through the employment of civilian
28 crime analysts;

29 (d) Engaging with community partners in order to develop projects
30 that focus on preventing property crime in the community. Community
31 partners may include, but are not limited to, public and private
32 service providers, the courts, and probation services;

33 (e) Increasing direct services to property crime victims through
34 local law enforcement efforts.

35 (2) Preference shall be given to grant applicants that can
36 clearly outline a comprehensive plan for municipalities to work with
37 law enforcement, community-based organizations, and government
38 agencies to address property crime and can either: (a) Demonstrate a
39 commitment to regional, multijurisdictional strategies or (b)

1 document that its affected communities experience high rates of
2 property crime.

3 (3) The department of commerce shall attempt to utilize national
4 resources and expertise on policing.

5 (4) The department of commerce shall utilize the sentencing
6 guidelines commission to evaluate grant applications and monitor the
7 effectiveness of grant projects in terms of property crime reduction.

8 (5) The department of commerce, in collaboration with the
9 sentencing guidelines commission, shall provide an annual report to
10 the appropriate committees of the legislature that provides an
11 overview of the grants distributed and the effectiveness of the grant
12 projects in terms of property crime reduction, pursuant to section
13 14(2)(b) of this act.

14 NEW SECTION. **Sec. 16.** (1) Grants awarded under section 15 of
15 this act shall be considered one-time grants and may be renewed for
16 effective programs as determined by the department of commerce. The
17 department of commerce shall consult with counties and local law
18 enforcement agencies when determining grant eligibility requirements
19 and criteria. The department of commerce shall publish guidelines and
20 an application for the competitive portion of the grant programs no
21 later than January 1, 2020.

22 (2) The department of commerce shall monitor and enforce grant
23 compliance, including enforcement by withdrawing grant funds or
24 requiring reimbursement of grant funds.

25 (3) The department of commerce may adopt rules and procedures as
26 necessary to carry out section 15 of this act.

27 (4) A grantee may not supplant current local funds for law
28 enforcement with funds provided by the department of commerce under
29 section 15 of this act.

30 NEW SECTION. **Sec. 17.** Sections 7, 8, 14, and 15 of this act are
31 each added to chapter 9.94A RCW.

32 NEW SECTION. **Sec. 18.** A new section is added to chapter 9.94A
33 RCW to read as follows:

34 (1) If an offender sentenced under this chapter or chapter 9.94B
35 RCW is supervised by the department, the offender may earn positive
36 achievement time in accordance with procedures that are developed and
37 adopted by the department.

1 (a) The positive achievement time shall be awarded to offenders
2 who are in compliance with supervision terms and are making progress
3 towards the goals of their individualized supervision case plan,
4 including: Participation in specific targeted interventions, risk-
5 related programming, or treatment; or completing steps towards
6 specific targeted goals that enhance protective factors and
7 stability, as determined by the department.

8 (b) For each month of community custody served, offenders may
9 earn positive achievement time of fifteen days.

10 (c) Positive achievement time is accrued monthly and time shall
11 not be applied to an offender's term of supervision prior to the
12 earning of the time.

13 (d) The department may develop rules to allow for the partial
14 revocation of previously accrued positive achievement time as an
15 alternative to confinement for certain low-level violations as
16 specified by the department.

17 (2) An offender is not eligible to earn positive achievement time
18 if he or she:

19 (a) Was sentenced under RCW 9.94A.507 or 10.95.030;

20 (b) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or
21 9.94A.670;

22 (c) Is subject to supervision pursuant to RCW 9.94A.745;

23 (d) Has been identified by the department as a dangerous mentally
24 ill offender pursuant to RCW 72.09.370;

25 (e) Has an indeterminate sentence and is subject to parole
26 pursuant to RCW 9.95.017; or

27 (f) Is serving community custody pursuant to early release under
28 RCW 9.94A.730.

29 NEW SECTION. **Sec. 19.** The department of corrections has
30 discretion to implement section 18 of this act over a period of time
31 not to exceed twelve months. For any offender under active
32 supervision by the department as of the effective date of this
33 section, he or she is not eligible to earn positive achievement time
34 pursuant to section 18 of this act until he or she has received an
35 orientation by the department regarding positive achievement time.

36 NEW SECTION. **Sec. 20.** (1) Within existing resources, the
37 department of corrections must hire an independent consultant to
38 perform a comprehensive workload study of the department's community

1 correction division. This study must include a review of the case
2 management model, policies and procedures, record management, and
3 workflow.

4 (2) An initial report identifying the findings with
5 recommendations must be submitted to the appropriate fiscal
6 committees of the legislature and the department by June 30, 2021.
7 The initial report recommendations must include benchmark timelines
8 as they pertain to the implementation of the recommendations. The
9 report must include measureable performance metrics and
10 implementation benchmarks.

11 (3) The department must provide a status update on the
12 department's implementation of those recommendations to the
13 appropriate fiscal committees of the legislature no later than six
14 months and one year after the initial report.

15 NEW SECTION. **Sec. 21.** Sections 3, 18, and 19 of this act are
16 necessary for the immediate preservation of the public peace, health,
17 or safety, or support of the state government and its existing public
18 institutions, and take effect July 1, 2019.

19 NEW SECTION. **Sec. 22.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

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