
HOUSE BILL 2504

State of Washington

68th Legislature

2024 Regular Session

By Representative Goodman

1 AN ACT Relating to sentencing of felony offenses; amending RCW
2 9.94A.518, 9.94A.525, 9.94A.537, 9.94A.585, 9.94A.030, 9.68A.040,
3 46.61.504, 69.55.010, 18.64.046, 9.94A.470, 9.94A.475, 9.94A.505,
4 9.94A.510, 9.94A.517, 9.94A.530, 9.94A.660, 9.94A.729, 9.94A.833, and
5 10.01.210; reenacting and amending RCW 9.94A.533 and 9.94A.515;
6 adding new sections to chapter 9.94A RCW; creating a new section;
7 repealing RCW 9.94A.506; providing an effective date; and providing
8 an expiration date.

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

10 PART I: NEW SENTENCING GRID, FELONY SERIOUSNESS LEVELS, AND RELATED
11 PROVISIONS

12 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A
13 RCW to read as follows:

14 TABLE 1
15 Sentencing Grid - Offenses Committed On or After
16 August 1, 2028
17 OFFENDER SCORE

| 1 2 3 4 5 6 | SERIOUS NESS LEVEL | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9+ | AGGRAV ATED DEPART URE CAP | REPEAT SV/ VIOLENT , SEX, OR DV |
|----------------------------|--------------------------|--|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|-------------------------------------|---|
| 7 8 | XVIII | Life sentence without parole/death penalty for offenders at or over the age of 18. For offenders under the age of 18, a term of 25 years to life. | | | | | | | | | | N/A | N/A |
| 9 10 11 12 | XVII | 240- 320 <i>Zone</i> 4 | 249- 332 <i>Zone</i> 4 | 260- 347 <i>Zone</i> 4 | 274- 365 <i>Zone</i> 4 | 289- 385 <i>Zone</i> 4 | 306- 409 <i>Zone</i> 4 | 327- 436 <i>Zone</i> 4 | 350- 467 <i>Zone</i> 4 | 377- 502 <i>Zone</i> 4 | 407- 543 <i>Zone</i> 4 | 54 | 15% |
| 13 14 15 16 | XVI | 128- 171 <i>Zone</i> 4 | 141- 188 <i>Zone</i> 4 | 155- 207 <i>Zone</i> 4 | 171- 228 <i>Zone</i> 4 | 188- 251 <i>Zone</i> 4 | 208- 278 <i>Zone</i> 4 | 230- 307 <i>Zone</i> 4 | 255- 340 <i>Zone</i> 4 | 282- 376 <i>Zone</i> 4 | 285- 380 <i>Zone</i> 4 | 38 | 15% |
| 17 18 19 20 | XV | 114- 153 <i>Zone</i> 4 | 126- 168 <i>Zone</i> 4 | 138- 185 <i>Zone</i> 4 | 153- 204 <i>Zone</i> 4 | 169- 225 <i>Zone</i> 4 | 186- 248 <i>Zone</i> 4 | 206- 275 <i>Zone</i> 4 | 228- 304 <i>Zone</i> 4 | 252- 336 <i>Zone</i> 4 | 255- 340 <i>Zone</i> 4 | 34 | 15% |
| 21 22 23 24 | XIV | 101- 135 <i>Zone</i> 4 | 111- 148 <i>Zone</i> 4 | 122- 163 <i>Zone</i> 4 | 135- 180 <i>Zone</i> 4 | 149- 198 <i>Zone</i> 4 | 164- 219 <i>Zone</i> 4 | 182- 242 <i>Zone</i> 4 | 201- 268 <i>Zone</i> 4 | 222- 297 <i>Zone</i> 4 | 225- 300 <i>Zone</i> 4 | 30 | 15% |
| 25 26 27 28 | XIII | 70- 117 <i>Zone</i> 4 | 77- 128 <i>Zone</i> 4 | 84- 141 <i>Zone</i> 4 | 93- 155 <i>Zone</i> 4 | 102- 171 <i>Zone</i> 4 | 113- 188 <i>Zone</i> 4 | 124- 207 <i>Zone</i> 4 | 136- 227 <i>Zone</i> 4 | 150- 250 <i>Zone</i> 4 | 156- 260 <i>Zone</i> 4 | 26 | 15% |
| 29 30 31 32 | XII | 60- 101 <i>Zone</i> 4 | 66- 111 <i>Zone</i> 4 | 73- 122 <i>Zone</i> 4 | 80- 134 <i>Zone</i> 4 | 88- 148 <i>Zone</i> 4 | 97- 163 <i>Zone</i> 4 | 107- 179 <i>Zone</i> 4 | 118- 197 <i>Zone</i> 4 | 130- 217 <i>Zone</i> 4 | 135- 225 <i>Zone</i> 4 | 22 | 15% |
| 33 34 35 36 | XI | 51- 85 <i>Zone</i> 4 | 56- 94 <i>Zone</i> 4 | 62- 103 <i>Zone</i> 4 | 68- 113 <i>Zone</i> 4 | 75- 125 <i>Zone</i> 4 | 82- 137 <i>Zone</i> 4 | 90- 151 <i>Zone</i> 4 | 99- 166 <i>Zone</i> 4 | 109- 183 <i>Zone</i> 4 | 114- 190 <i>Zone</i> 4 | 19 | 15% |

| | | | | | | | | | | | | | |
|----|------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|----|-----|
| 1 | X | 41- 69 <i>Zone</i> 4 | 46- 76 <i>Zone</i> 4 | 50- 84 <i>Zone</i> 4 | 55- 92 <i>Zone</i> 4 | 61- 102 <i>Zone</i> 4 | 67- 112 <i>Zone</i> 4 | 74- 123 <i>Zone</i> 4 | 81- 135 <i>Zone</i> 4 | 89- 149 <i>Zone</i> 4 | 93- 155 <i>Zone</i> 4 | 15 | 20% |
| 2 | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | |
| 4 | | | | | | | | | | | | | |
| 5 | IX | 19- 33 <i>Zone</i> 3 | 22- 37 <i>Zone</i> 3 | 26- 43 <i>Zone</i> 3 | 30- 50 <i>Zone</i> 3 | 34- 57 <i>Zone</i> 3 | 39- 66 <i>Zone</i> 3 | 45- 76 <i>Zone</i> 3 | 52- 87 <i>Zone</i> 4 | 60- 100 <i>Zone</i> 4 | 72- 120 <i>Zone</i> 4 | 12 | 20% |
| 6 | | | | | | | | | | | | | |
| 7 | | | | | | | | | | | | | |
| 8 | | | | | | | | | | | | | |
| 9 | VIII | 17- 28 <i>Zone</i> 3 | 19- 33 <i>Zone</i> 3 | 22- 38 <i>Zone</i> 3 | 26- 43 <i>Zone</i> 3 | 30- 50 <i>Zone</i> 3 | 34- 58 <i>Zone</i> 3 | 40- 66 <i>Zone</i> 3 | 46- 76 <i>Zone</i> 3 | 52- 88 <i>Zone</i> 4 | 63- 105 <i>Zone</i> 4 | 10 | 20% |
| 10 | | | | | | | | | | | | | |
| 11 | | | | | | | | | | | | | |
| 12 | | | | | | | | | | | | | |
| 13 | VII | 14- 24 <i>Zone</i> 3 | 17- 28 <i>Zone</i> 3 | 19- 32 <i>Zone</i> 3 | 22- 37 <i>Zone</i> 3 | 25- 43 <i>Zone</i> 3 | 29- 49 <i>Zone</i> 3 | 34- 57 <i>Zone</i> 3 | 39- 65 <i>Zone</i> 3 | 45- 75 <i>Zone</i> 3 | 54- 90 <i>Zone</i> 4 | 9 | 20% |
| 14 | | | | | | | | | | | | | |
| 15 | | | | | | | | | | | | | |
| 16 | | | | | | | | | | | | | |
| 17 | VI | 12- 20 <i>Zone</i> 2 | 14- 23 <i>Zone</i> 3 | 16- 27 <i>Zone</i> 3 | 18- 31 <i>Zone</i> 3 | 21- 36 <i>Zone</i> 3 | 24- 41 <i>Zone</i> 3 | 28- 47 <i>Zone</i> 3 | 32- 54 <i>Zone</i> 3 | 37- 63 <i>Zone</i> 3 | 45- 75 <i>Zone</i> 3 | 7 | 20% |
| 18 | | | | | | | | | | | | | |
| 19 | | | | | | | | | | | | | |
| 20 | | | | | | | | | | | | | |
| 21 | V | 3- 12 <i>Zone</i> 2 | 4- 14 <i>Zone</i> 2 | 5- 17 <i>Zone</i> 2 | 6- 20 <i>Zone</i> 2 | 7- 24 <i>Zone</i> 2 | 8- 29 <i>Zone</i> 2 | 10- 35 <i>Zone</i> 2 | 12- 42 <i>Zone</i> 2 | 15- 51 <i>Zone</i> 3 | 18- 60 <i>Zone</i> 3 | 6 | 25% |
| 22 | | | | | | | | | | | | | |
| 23 | | | | | | | | | | | | | |
| 24 | | | | | | | | | | | | | |
| 25 | IV | 2- 9 <i>Zone</i> 1 | 3- 11 <i>Zone</i> 1 | 4- 14 <i>Zone</i> 2 | 5- 17 <i>Zone</i> 2 | 6- 20 <i>Zone</i> 2 | 7- 24 <i>Zone</i> 2 | 8- 29 <i>Zone</i> 2 | 10- 35 <i>Zone</i> 2 | 12- 42 <i>Zone</i> 2 | 14- 49 <i>Zone</i> 3 | 4 | 25% |
| 26 | | | | | | | | | | | | | |
| 27 | | | | | | | | | | | | | |
| 28 | | | | | | | | | | | | | |
| 29 | III | 2- 7 <i>Zone</i> 1 | 2- 9 <i>Zone</i> 1 | 3- 11 <i>Zone</i> 1 | 4- 13 <i>Zone</i> 2 | 4- 16 <i>Zone</i> 2 | 5- 19 <i>Zone</i> 2 | 6- 23 <i>Zone</i> 2 | 8- 27 <i>Zone</i> 2 | 10- 33 <i>Zone</i> 2 | 11- 39 <i>Zone</i> 2 | 3 | 25% |
| 30 | | | | | | | | | | | | | |
| 31 | | | | | | | | | | | | | |
| 32 | | | | | | | | | | | | | |
| 33 | II | 0- | 1- | 2- | 2- | 3- | 3- | 4- | 5- | 6- | 8- | 2 | 25% |

| | | | | | | | | | | | | | |
|---|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|---|-----|
| 1 | | 3 | 6 | 7 | 8 | 11 | 12 | 14 | 17 | 21 | 28 | | |
| 2 | | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | | |
| 3 | | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 2 | 2 | 2 | | |
| 4 | I | 0- | 0- | 1- | 1- | 2- | 2- | 3- | 3- | 4- | 5- | 1 | 25% |
| 5 | | 2 | 3 | 5 | 6 | 7 | 8 | 10 | 12 | 14 | 18 | | |
| 6 | | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | <i>Zone</i> | | |
| 7 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 2 | | |

8 (1) Numbers on the vertical axis of the grid under the column
9 titled "SERIOUSNESS LEVEL" represent the seriousness level of the
10 offense, according to section 2 of this act. Numbers on the
11 horizontal axis of the grid under the column titled "OFFENDER SCORE"
12 represent the offender score as determined by RCW 9.94A.525.

13 (2) The following rules apply to the rows extending from the
14 vertical axis of the sentencing grid:

15 (a) The row representing seriousness level 18 is reserved for the
16 crime of aggravated murder in the first degree.

17 (b) No offense except for a class A felony may be sentenced
18 according to the rows representing seriousness levels 10 and higher.

19 (c) No offense except for a class A or class B felony may be
20 sentenced according to the rows representing seriousness levels six
21 through nine.

22 (3) Numbers in the cells occupying the rows of each seriousness
23 level category represent the minimum and maximum number of months of
24 the standard range sentence for each offender score. The values in
25 each cell are calculated using the following formulas:

26 (a) For the row representing seriousness level 17: The minimum
27 standard range sentence for an offender score of zero is 240 months.
28 The minimum standard range sentence is 75 percent of the maximum
29 standard range sentence for each cell. The maximum standard range
30 sentence increases by 104 percent for each additional criminal
31 history score point.

32 (b) For the rows representing seriousness levels 14 through 16:

33 (i) The maximum standard range sentence for a seriousness level
34 16 offense at an offender score of nine or more is 340 months. For
35 each seriousness level from 14 through 16, the maximum standard range
36 sentence for an offender score of nine or more is 40 months higher
37 than the maximum standard range sentence for an offender score of
38 nine or more for each seriousness level directly below.

1 (ii) The maximum standard range sentence for an offender score of
2 zero is 45 percent of the maximum standard range sentence for an
3 offender score of nine or more. The maximum standard range sentence
4 increases by 110 percent for each additional criminal history score
5 point.

6 (iii) The minimum standard range sentence is 75 percent of the
7 maximum standard range sentence for each cell.

8 (c) For the rows representing seriousness levels 10 through 13:

9 (i) The maximum standard range sentence for a seriousness level
10 13 offense at an offender score of nine or more is 220 months. For
11 each seriousness level from 10 through 13, the maximum standard range
12 sentence for an offender score of nine or more is 25 months higher
13 than the maximum standard range sentence for an offender score of
14 nine or more for each seriousness level directly below.

15 (ii) The maximum standard range sentence for an offender score of
16 zero is 45 percent of the maximum standard range sentence for an
17 offender score of nine or more. The maximum standard sentence
18 increases by 110 percent for each additional criminal history score
19 point.

20 (iii) The minimum standard sentence is 60 percent of the maximum
21 standard sentence for each cell.

22 (d) For the rows representing seriousness levels six through
23 nine:

24 (i) The maximum standard range sentence for a seriousness level
25 nine offense at an offender score of nine or more is 120 months. For
26 each seriousness level from six through nine, the maximum standard
27 range sentence for an offender score of nine or more is 15 months
28 higher than the maximum standard range sentence for an offender score
29 of nine or more for each seriousness level directly below.

30 (ii) The maximum standard range sentence for an offender score of
31 zero is 27.5 percent of the maximum standard range sentence for an
32 offender score of nine or more. The maximum standard range sentence
33 increases by 115 percent for each additional criminal history score
34 point.

35 (iii) The minimum standard sentence is 60 percent of the maximum
36 standard sentence for each cell.

37 (e) For the rows representing seriousness levels one through
38 five:

39 (i) The maximum standard range sentence for a seriousness level
40 five offense at an offender score of nine or more is 60 months. For

1 each decrease in seriousness level from five to one, the maximum
2 standard sentence for an offender score of nine or more decreases by
3 10.5 months rounded down to the nearest whole number.

4 (ii) The maximum standard range sentence for an offender score of
5 zero is 20 percent of the maximum standard range sentence for an
6 offender score of nine or more. The maximum standard range sentence
7 increases by 120 percent for each additional criminal history score
8 point.

9 (iii) The minimum standard range sentence is 30 percent of the
10 maximum standard range sentence for each cell.

11 (4) The numbers in the column titled "AGGRAVATED DEPARTURE CAP"
12 represent the number of months equal to 10 percent of the maximum
13 standard range sentence in each seriousness level, rounded down to
14 the nearest whole number. Exceptional sentences that exceed the
15 maximum standard range sentence plus the number of months signified
16 in this column are presumed to be clearly excessive under RCW
17 9.94A.585.

18 (5) As depicted by the column titled "REPEAT SV/VIOLENT, SEX, OR
19 DV," the maximum standard range sentence for any person whose present
20 conviction is for a violent offense or serious violent offense and
21 who has one or more prior adult convictions for a violent offense or
22 serious violent offense conviction, whose present conviction is for a
23 sex offense and who has one or more prior adult convictions for a sex
24 offense, or whose present conviction is for an offense where domestic
25 violence as defined in RCW 9.94A.030 was pleaded and proven and who
26 has one or more prior adult convictions for an offense where domestic
27 violence as defined in RCW 9.94A.030 was pleaded and proven,
28 increases as follows:

29 (a) If the present conviction is for a seriousness level one
30 through five offense, the maximum standard range sentence is
31 increased by 25 percent or one month, whichever is greater;

32 (b) If the present conviction is for a seriousness level six
33 through 10 offense, the maximum standard range sentence is increased
34 by 20 percent or one month, whichever is greater; or

35 (c) If the present conviction is for a seriousness level 11
36 through 17 offense, the maximum standard range sentence is increased
37 by 15 percent or one month, whichever is greater.

38 (6) Each cell on the grid includes a zone number underneath the
39 minimum and maximum number of months of the standard range sentence.
40 The zone numbers, which include zone 1, zone 2, zone 3, and zone 4,

1 represent the following nonexhaustive list of available sentencing
2 options depending on the zone of the present conviction:

3 (a) If the present conviction is for a zone 1 offense, the
4 available sentencing options may include, but are not limited to:

5 (i) An intermediate sanctions sentencing alternative;

6 (ii) A residential substance use disorder treatment-based
7 alternative under RCW 9.94A.664, if applicable; or

8 (iii) Confinement in a county jail.

9 (b) If the present conviction is for a zone 2 offense, the
10 available sentencing options may include, but are not limited to:

11 (i) An intermediate sanctions sentencing alternative;

12 (ii) A residential substance use disorder treatment-based
13 alternative under RCW 9.94A.664, or a prison-based drug offender
14 sentencing alternative under RCW 9.94A.662, if applicable;

15 (iii) A parenting sentencing alternative under RCW 9.94A.655, if
16 applicable; or

17 (iv) Confinement in a county jail or state correctional facility,
18 depending on the length of the sentence.

19 (c) If the present conviction is for a zone 3 offense, the
20 available sentencing options may include but are not limited to:

21 (i) A prison-based drug offender sentencing alternative under RCW
22 9.94A.662, if applicable;

23 (ii) A parenting sentencing alternative under RCW 9.94A.655, if
24 applicable; or

25 (iii) Confinement in a state correctional facility.

26 (d) If the present conviction is for a zone 4 offense, the
27 available sentencing option is confinement in a state correctional
28 facility.

29 (7) The maximum term of confinement in a sentence range may not
30 exceed the statutory maximum for the crime as provided in RCW
31 9A.20.021.

32 (8) This section applies to offenses that were committed on or
33 after August 1, 2028, that are assigned a seriousness level under
34 section 2 of this act.

35 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A
36 RCW to read as follows:

37 TABLE 2

1 CRIMES INCLUDED WITHIN
2 EACH SERIOUSNESS LEVEL -
3 OFFENSES COMMITTED ON OR
4 AFTER AUGUST 1, 2028

- 5 XVIII Aggravated Murder 1 (RCW
6 10.95.020)
- 7 XVII Homicide by abuse (RCW 9A.32.055)
8 Murder 1 (RCW 9A.32.030)
- 9 XVI Murder 2 (RCW 9A.32.050)
- 10 XV Malicious explosion 1 (RCW
11 70.74.280(1))
12 Trafficking 1 (RCW 9A.40.100(1))
- 13 XIV Assault 1 (RCW 9A.36.011)
14 Assault of a Child 1 (RCW 9A.36.120)
15 Malicious placement of an explosive 1
16 (RCW 70.74.270(1))
17 Promoting Commercial Sexual Abuse
18 of a Minor (RCW 9.68A.101)
19 Rape 1 (RCW 9A.44.040)
20 Rape of a Child 1 (RCW 9A.44.073)
- 21 XIII Homicide by Watercraft, by being
22 under the influence of intoxicating
23 liquor or any drug (RCW
24 79A.60.050(1)(a))
25 Homicide by Watercraft, by the
26 operation of any vessel in a reckless
27 manner (RCW 79A.60.050(1)(b))
28 Manslaughter 1 (RCW 9A.32.060)
29 Rape 2 (RCW 9A.44.050)
30 Rape of a Child 2 (RCW 9A.44.076)
31 Trafficking 2 (RCW 9A.40.100(3))
32 Vehicular Homicide, by being under
33 the influence of intoxicating liquor or
34 any drug (RCW 46.61.520(1)(a))

1 Vehicular Homicide, by the operation
2 of any vehicle in a reckless manner
3 (RCW 46.61.520(1)(b))
4 XII Child Molestation 1 (RCW 9A.44.083)
5 Indecent Liberties (with forcible
6 compulsion) (RCW 9A.44.100(1)(a))
7 Kidnapping 1 (RCW 9A.40.020)
8 XI Leading Organized Crime (RCW
9 9A.82.060(1)(a))
10 X Sexual Exploitation (RCW 9.68A.040)
11 Sexually Violent Predator Escape
12 (RCW 9A.76.115)
13 IX Abandonment of Dependent Person 1
14 (RCW 9A.42.060)
15 Arson 1 (RCW 9A.48.020)
16 Assault of a Child 2 (RCW 9A.36.130)
17 Criminal Mistreatment 1 (RCW
18 9A.42.020)
19 Explosive devices prohibited (RCW
20 70.74.180)
21 Hit and Run—Death (RCW
22 46.52.020(4)(a))
23 Inciting Criminal Profiteering (RCW
24 9A.82.060(1)(b))
25 Malicious explosion 2 (RCW
26 70.74.280(2))
27 Malicious explosion 3 (RCW
28 70.74.280(3))
29 Malicious placement of an explosive 2
30 (RCW 70.74.270(2))
31 Malicious placement of an imitation
32 device 1 (RCW 70.74.272(1)(a))
33 Robbery 1 (RCW 9A.56.200)
34 VIII Child Molestation 2 (RCW 9A.44.086)

1 Commercial Sexual Abuse of a Minor
2 (RCW 9.68A.100)
3 Custodial Sexual Misconduct 1 (RCW
4 9A.44.160)
5 Manslaughter 2 (RCW 9A.32.070)
6 Promoting Prostitution 1 (RCW
7 9A.88.070)
8 VII Burglary 1 (RCW 9A.52.020)
9 Civil Disorder Training (RCW
10 9A.48.120)
11 Dealing in depictions of minor engaged
12 in sexually explicit conduct 1 (RCW
13 9.68A.050(1))
14 Drive-by Shooting (RCW 9A.36.045)
15 False Reporting 1 (RCW
16 9A.84.040(2)(a))
17 Homicide by Watercraft, by disregard
18 for the safety of others (RCW
19 79A.60.050(1)(c))
20 Indecent Liberties (without forcible
21 compulsion) (RCW 9A.44.100(1) (b)
22 and (c))
23 Intimidating a Judge (RCW 9A.72.160)
24 Intimidating a Juror/Witness (RCW
25 9A.72.110, 9A.72.130)
26 Introducing Contraband 1 (RCW
27 9A.76.140)
28 Malicious placement of an explosive 3
29 (RCW 70.74.270(3))
30 Negligently Causing Death By Use of a
31 Signal Preemption Device (RCW
32 46.37.675)
33 Unlawful Possession of a Firearm in
34 the first degree (RCW 9.41.040(1))

1 Use of a Machine Gun or Bump-fire
2 Stock in Commission of a Felony
3 (RCW 9A.41.225)
4 Vehicular Homicide, by disregard for
5 the safety of others (RCW 46.61.520)
6 VI Bail Jumping with Murder 1 (RCW
7 9A.76.170(3)(a))
8 Bribery (RCW 9A.68.010)
9 Driving While Under the Influence
10 (RCW 46.61.502(6))
11 Incest 1 (RCW 9A.64.020(1))
12 Physical Control of a Vehicle While
13 Under the Influence (RCW
14 46.61.504(6))
15 Possession of Depictions of a Minor
16 Engaged in Sexually Explicit Conduct
17 1 (RCW 9.68A.070(1))
18 Rendering Criminal Assistance 1
19 (RCW 9A.76.070)
20 Sending, Bringing into State
21 Depictions of Minor Engaged in
22 Sexually Explicit Conduct 2 (RCW
23 9.68A.060(2))
24 Theft from a Vulnerable Adult 1 (RCW
25 9A.56.400(1))
26 Theft of a Firearm (RCW 9A.56.300)
27 Theft of Ammonia (RCW 69.55.010)
28 V Abandonment of Dependent Person 2
29 (RCW 9A.42.070)
30 Advancing money or property for
31 extortionate extension of credit (RCW
32 9A.82.030)
33 Air bag diagnostic systems (causing
34 bodily injury or death) (RCW
35 46.37.660(2)(b))

1 Air bag replacement requirements
2 (causing bodily injury or death) (RCW
3 46.37.660(1)(b))
4 Arson 2 (RCW 9A.48.030)
5 Assault 2 (RCW 9A.36.021)
6 Assault 3 (of a Peace Officer with a
7 Projectile Stun Gun) (RCW
8 9A.36.031(1)(h))
9 Assault 4 (third domestic violence
10 offense) (RCW 9A.36.041(3))
11 Assault by Watercraft (RCW
12 79A.60.060)
13 Assault of a Child 3 (RCW 9A.36.140)
14 Bail Jumping with class A Felony
15 (RCW 9A.76.170(3)(b))
16 Coercion of Involuntary Servitude
17 (RCW 9A.40.110)
18 Criminal Mistreatment 2 (RCW
19 9A.42.030)
20 Custodial Sexual Misconduct 2 (RCW
21 9A.44.170)
22 Dealing in Depictions of Minor
23 Engaged in Sexually Explicit Conduct
24 2 (RCW 9.68A.050(2))
25 Domestic Violence Court Order
26 Violation (RCW 7.105.450, 10.99.040,
27 10.99.050, 26.09.300, 26.26B.050, or
28 26.52.070)
29 Escape 1 (RCW 9A.76.110)
30 Extortion 1 (RCW 9A.56.120)
31 Extortionate Extension of Credit (RCW
32 9A.82.020)
33 Extortionate Means to Collect
34 Extensions of Credit (RCW 9A.82.040)
35 Hate Crime (RCW 9A.36.080)

1 Hit and Run—Injury (RCW
2 46.52.020(4)(b))
3 Hit and Run with Vessel—Injury
4 Accident (RCW 79A.60.200(3))
5 Identity Theft 1 (RCW 9.35.020(2))
6 Incest 2 (RCW 9A.64.020(2))
7 Indecent Exposure to Person Under
8 Age 14 (subsequent sex offense) (RCW
9 9A.88.010)
10 Kidnapping 2 (RCW 9A.40.030)
11 Luring of a Child or Developmentally
12 Disabled Person (RCW 9A.40.090)
13 Malicious placement of an imitation
14 device 2 (RCW 70.74.272(1)(b))
15 Manufacture of Untraceable Firearm
16 with Intent to Sell (RCW 9.41.190)
17 Manufacture or import counterfeit,
18 nonfunctional, damaged, or previously
19 deployed air bag (causing bodily injury
20 or death) (RCW 46.37.650(1)(b))
21 Perjury 1 (RCW 9A.72.020)
22 Persistent prison misbehavior (RCW
23 9.94.070)
24 Possession of a Stolen Firearm (RCW
25 9A.56.310)
26 Rape 3 (RCW 9A.44.060)
27 Rape of a Child 3 (RCW 9A.44.079)
28 Residential Burglary (RCW
29 9A.52.025)
30 Robbery 2 (RCW 9A.56.210)
31 Sell, install, or reinstall counterfeit,
32 nonfunctional, damaged, or previously
33 deployed airbag (RCW
34 46.37.650(2)(b))

1 Sending, Bringing into State
2 Depictions of Minor Engaged in
3 Sexually 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 Threats to Bomb (RCW 9.61.160)
13 Unlawful Storage of Ammonia (RCW
14 69.55.020)
15 Vehicle Prowling 2 (third or
16 subsequent offense) (RCW
17 9A.52.100(3))
18 Vehicular Assault, by being under the
19 influence of intoxicating liquor or any
20 drug, or by the operation or driving of
21 a vehicle in a reckless manner (RCW
22 46.61.522(1)(a) and (b))
23 IV Air bag diagnostic systems (RCW
24 46.37.660(2)(c))
25 Air bag replacement requirements
26 (RCW 46.37.660(1)(c))
27 Assault 3 (Except Assault 3 of a Peace
28 Officer With a Projectile Stun Gun)
29 (RCW 9A.36.031 except subsection
30 (1)(h))
31 Bribing a Witness/Bribe Received by
32 Witness (RCW 9A.72.090, 9A.72.100)
33 Cheating 1 (RCW 9.46.1961)
34 Child Molestation 3 (RCW 9A.44.089)
35 Commercial Bribery (RCW
36 9A.68.060)

1 Counterfeiting (RCW 9.16.035(4))
2 Custodial Assault (RCW 9A.36.100)
3 Disarming a Law Enforcement or
4 Corrections Officer (RCW
5 9A.76.023(2)(a))
6 Disarming a Law Enforcement or
7 Corrections Officer (Firearm is
8 Discharged) (RCW 9A.76.023(2)(b))
9 Endangerment with a Controlled
10 Substance (RCW 9A.42.100)
11 False Reporting 2 (RCW
12 9A.84.040(2)(b))
13 Influencing Outcome of Sporting Event
14 (RCW 9A.82.070)
15 Manufacture or Assembly of an
16 Undetectable Firearm or Untraceable
17 Firearm (RCW 9.41.325)
18 Manufacture or import counterfeit,
19 nonfunctional, damaged, or previously
20 deployed air bag (RCW
21 46.37.650(1)(c))
22 Possession of Depictions of a Minor
23 Engaged in Sexually Explicit Conduct
24 2 (RCW 9.68A.070(2))
25 Possession of Machine Gun, Bump-
26 Fire Stock, Undetectable Firearm, or
27 Short-Barreled Shotgun or Rifle (RCW
28 9.41.190)
29 Promoting a Suicide Attempt (RCW
30 9A.36.060)
31 Promoting Prostitution 2 (RCW
32 9A.88.080)
33 Sell, install, or reinstall counterfeit,
34 nonfunctional, damaged, or previously
35 deployed airbag (RCW
36 46.37.650(2)(c))

1 Tampering with a Witness (RCW
2 9A.72.120)
3 Theft of Livestock 1 (RCW 9A.56.080)
4 Threats Against Governor or Family
5 (RCW 9A.36.090)
6 Unlawful factoring of a credit card or
7 payment card transaction (RCW
8 9A.56.290(4)(b))
9 Unlawful transaction of health
10 coverage as a health care service
11 contractor (RCW 48.44.016(3))
12 Unlawful transaction of health
13 coverage as a health maintenance
14 organization (RCW 48.46.033(3))
15 Unlawful transaction of insurance
16 business (RCW 48.15.023(3))
17 Unlicensed practice as an insurance
18 professional (RCW 48.17.063(2))
19 Use of Proceeds of Criminal
20 Profiteering (RCW 9A.82.080 (1) and
21 (2))
22 Vehicular Assault, by the operation or
23 driving of a vehicle with disregard for
24 the safety of others (RCW
25 46.61.522(1)(c))
26 Viewing of Depictions of a Minor
27 Engaged in Sexually Explicit Conduct
28 1 (RCW 9.68A.075(1))
29 III Animal Cruelty 1 (RCW 16.52.205)
30 Animal Fighting (RCW
31 16.52.117(2)(a))
32 Animal Fighting (Mutilation) (RCW
33 16.52.117(2)(b))
34 Bail Jumping with class B or C Felony
35 (RCW 9A.76.170(3)(c))
36 Burglary 2 (RCW 9A.52.030)

1 Control of Real Property Resulting
2 from Mortgage Fraud Activities (RCW
3 19.144.100(2))
4 Criminal Gang Intimidation (RCW
5 9A.46.120)
6 Cyber Harassment (RCW
7 9A.90.120(2)(b))
8 Escape 2 (RCW 9A.76.120)
9 Extortion 2 (RCW 9A.56.130)
10 Harassment (RCW 9A.46.020)
11 Hazing (RCW 28B.10.901(2)(b))
12 Identity Theft 2 (RCW 9.35.020(3))
13 Intimidating a Public Servant (RCW
14 9A.76.180)
15 Introducing Contraband 2 (RCW
16 9A.76.150)
17 Malicious Injury to Railroad Property
18 (RCW 81.60.070)
19 Mortgage Fraud (RCW 19.144.080)
20 Negligently Causing Substantial
21 Bodily Harm By Use of a Signal
22 Preemption Device (RCW 46.37.674)
23 Organized Retail Theft 1 (RCW
24 9A.56.350(2))
25 Perjury 2 (RCW 9A.72.030)
26 Possession of Incendiary Device (RCW
27 9.40.120)
28 Retail Theft with Special
29 Circumstances 1 (RCW 9A.56.360(2))
30 Securities Act violation (RCW
31 21.20.400)
32 Telephone Harassment (subsequent
33 conviction or threat of death) (RCW
34 9.61.230(2))
35 Theft of Livestock 2 (RCW 9A.56.083)

1 Theft with the Intent to Resell 1 (RCW
2 9A.56.340(2))
3 Trafficking in Stolen Property 1 (RCW
4 9A.82.050)
5 Trafficking in Stolen Property 2 (RCW
6 9A.82.055)
7 Unlawful factoring of a credit card or
8 payment card transaction (RCW
9 9A.56.290(4)(a))
10 Unlawful Hunting of Big Game 1
11 (RCW 77.15.410(3)(b))
12 Unlawful Imprisonment (RCW
13 9A.40.040)
14 Unlawful Misbranding of Fish or
15 Shellfish 1 (RCW 77.140.060(3))
16 Unlawful possession of firearm in the
17 second degree (RCW 9.41.040(2))
18 Unlawful Taking of Endangered Fish
19 or Wildlife 1 (RCW 77.15.120(3)(b))
20 Unlawful Trafficking in Fish, Shellfish,
21 or Wildlife 1 (RCW 77.15.260(3)(b))
22 Unlawful Use of a Nondesignated
23 Vessel (RCW 77.15.530(4))
24 Use or Investment of Proceeds from
25 Mortgage Fraud Activities (RCW
26 19.144.100(1))
27 II Attempting to Elude a Pursuing Police
28 Vehicle (RCW 46.61.024)
29 Commercial Fishing Without a License
30 1 (RCW 77.15.500(3)(b))
31 Communication with a Minor for
32 Immoral Purposes (RCW 9.68A.090)
33 Computer Trespass 1 (RCW
34 9A.90.040)
35 Counterfeiting (RCW 9.16.035(3))

1 Custodial Interference 1 (RCW
2 9A.40.060)
3 Electronic Data Service Interference
4 (RCW 9A.90.060)
5 Electronic Data Tampering 1 (RCW
6 9A.90.080)
7 Electronic Data Theft (RCW
8 9A.90.100)
9 Engaging in Fish Dealing Activity
10 Unlicensed 1 (RCW 77.15.620(3))
11 Equity Skimming (RCW 61.34.030)
12 Escape from Community Custody
13 (RCW 72.09.310)
14 False Verification for Welfare (RCW
15 74.08.055)
16 Health Care False Claims (RCW
17 48.80.030)
18 Improperly Obtaining Financial
19 Information (RCW 9.35.010)
20 Malicious Mischief 1 (RCW
21 9A.48.070)
22 Malicious Mischief 2 (RCW
23 9A.48.080)
24 Organized Retail Theft 2 (RCW
25 9A.56.350(3))
26 Possession of a Stolen Vehicle (RCW
27 9A.56.068)
28 Possession of Stolen Property 1 (RCW
29 9A.56.150)
30 Reckless Burning 1 (RCW 9A.48.040)
31 Retail Theft with Special
32 Circumstances 2 (RCW 9A.56.360(3))
33 Scrap Processing, Recycling, or
34 Supplying Without a License (second
35 or subsequent offense) (RCW
36 19.290.100)

1 Theft 1 (RCW 9A.56.030)
2 Theft from a Vulnerable Adult 2 (RCW
3 9A.56.400(2))
4 Theft of a Motor Vehicle (RCW
5 9A.56.065)
6 Theft of Rental, Leased, Lease-
7 purchased, or Loaned Property (valued
8 at \$5,000 or more) (RCW
9 9A.56.096(5)(a))
10 Theft with the Intent to Resell 2 (RCW
11 9A.56.340(3))
12 Trafficking in Insurance Claims (RCW
13 48.30A.015)
14 Unlawful Participation of Non-Indians
15 in Indian Fishery (RCW 77.15.570(2))
16 Unlawful Practice of Law (RCW
17 2.48.180)
18 Unlawful Purchase or Use of a License
19 (RCW 77.15.650(3)(b))
20 Unlawful Trafficking in Fish, Shellfish,
21 or Wildlife 2 (RCW 77.15.260(3)(a))
22 Unlicensed Practice of a Profession or
23 Business (RCW 18.130.190(7))
24 Vehicle Prowl 1 (RCW 9A.52.095)
25 Voyeurism 1 (RCW 9A.44.115)
26 I Forgery (RCW 9A.60.020)
27 Fraudulent Creation or Revocation of a
28 Mental Health Advance Directive
29 (RCW 9A.60.060)
30 Mineral Trespass (RCW 78.44.330)
31 Possession of Stolen Property 2 (RCW
32 9A.56.160)
33 Spotlighting Big Game 1 (RCW
34 77.15.450(3)(b))

1 Suspension of Department Privileges 1
2 (RCW 77.15.670(3)(b))
3 Taking Motor Vehicle Without
4 Permission 2 (RCW 9A.56.075)
5 Theft 2 (RCW 9A.56.040)
6 Theft of Rental, Leased, Lease-
7 purchased, or Loaned Property (valued
8 at \$750 or more but less than \$5,000)
9 (RCW 9A.56.096(5)(b))
10 Transaction of insurance business
11 beyond the scope of licensure (RCW
12 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 a Personal
18 Identification Device (RCW
19 9A.56.320)
20 Unlawful Possession of Fictitious
21 Identification (RCW 9A.56.320)
22 Unlawful Possession of Instruments of
23 Financial Fraud (RCW 9A.56.320)
24 Unlawful Possession of Payment
25 Instruments (RCW 9A.56.320)
26 Unlawful Production of Payment
27 Instruments (RCW 9A.56.320)
28 Unlawful Use of Food Stamps (RCW
29 9.91.144)
30 Unlawful Releasing, Planting,
31 Possessing, or Placing Deleterious
32 Exotic Wildlife (RCW
33 77.15.250(2)(b))
34 Unlawful Trafficking in Food Stamps
35 (RCW 9.91.142)

1 Unlawful Use of Net to Take Fish 1
2 (RCW 77.15.580(3)(b))
3 Violating Commercial Fishing Area or
4 Time 1 (RCW 77.15.550(3)(b))

5 **Sec. 3.** RCW 9.94A.518 and 2023 c 66 s 2 are each amended to read
6 as follows:

7 TABLE ((4)) 6

8 DRUG OFFENSES
9 INCLUDED WITHIN EACH
10 SERIOUSNESS LEVEL

- 11 III Any felony offense under chapter
12 69.50 RCW with a deadly weapon
13 special verdict under RCW
14 9.94A.825
- 15 Controlled Substance Homicide (RCW
16 69.50.415)
- 17 Delivery of imitation controlled
18 substance by person eighteen or
19 over to person under eighteen
20 (RCW 69.52.030(2))
- 21 Involving a minor in drug dealing
22 (RCW 69.50.4015)
- 23 Manufacture of methamphetamine
24 (RCW 69.50.401(2)(b))
- 25 Over 18 and deliver heroin,
26 methamphetamine, a narcotic from
27 Schedule I or II, or flunitrazepam
28 from Schedule IV to someone
29 under 18 (RCW 69.50.406)
- 30 Over 18 and deliver narcotic from
31 Schedule III, IV, or V or a
32 nonnarcotic, except flunitrazepam
33 or methamphetamine, from
34 Schedule I-V to someone under 18
35 and 3 years junior (RCW
36 69.50.406)

1 Possession of Ephedrine,
2 Pseudoephedrine, or Anhydrous
3 Ammonia with intent to
4 manufacture methamphetamine
5 (RCW 69.50.440)

6 Selling for profit (controlled or
7 counterfeit) any controlled
8 substance (RCW 69.50.410)

9 Unlawful selling of ephedrine,
10 pseudoephedrine, or
11 phenylpropanolamine by a
12 wholesaler (RCW 18.64.046(7))

13 II Create or deliver a counterfeit
14 controlled substance (RCW
15 69.50.4011(1)(a))

16 Deliver or possess with intent to
17 deliver methamphetamine (RCW
18 69.50.401(2)(b))

19 Delivery of a material in lieu of a
20 controlled substance (RCW
21 69.50.4012)

22 Maintaining a Dwelling or Place for
23 Controlled Substances (RCW
24 69.50.402(1)(f))

25 Manufacture, deliver, or possess with
26 intent to deliver amphetamine
27 (RCW 69.50.401(2)(b))

28 Manufacture, deliver, or possess with
29 intent to deliver narcotics from
30 Schedule I or II or flunitrazepam
31 from Schedule IV (RCW
32 69.50.401(2)(a))

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule III, IV, or V or
4 nonnarcotics from Schedule I-V
5 (except cannabis as defined in
6 RCW 69.50.101, amphetamine,
7 methamphetamines, or
8 flunitrazepam) (RCW
9 69.50.401(2) (c) through (e))
10 Manufacture, distribute, or possess
11 with intent to distribute an
12 imitation controlled substance
13 (RCW 69.52.030(1))
14 Possess, purchase, deliver, sell, or
15 possess with intent to sell a
16 tableting machine or encapsulating
17 machine (RCW 69.50.418)
18 I Forged Prescription (RCW 69.41.020)
19 Forged Prescription for a Controlled
20 Substance (RCW 69.50.403)
21 Manufacture, deliver, or possess with
22 intent to deliver cannabis as
23 defined in RCW 69.50.101 (RCW
24 69.50.401(2)(c))
25 Unlawful Use of Building for Drug
26 Purposes (RCW 69.53.010)

27 **Sec. 4.** RCW 9.94A.525 and 2023 c 415 s 2 are each amended to
28 read as follows:

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

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

33 (1) (a) A prior conviction is a conviction which exists before the
34 date of sentencing for the offense for which the offender score is
35 being computed. Convictions entered or sentenced on the same date as
36 the conviction for which the offender score is being computed shall

1 be deemed "other current offenses" within the meaning of RCW
2 9.94A.589.

3 (b) For the purposes of this section, adjudications of guilt
4 pursuant to Title 13 RCW which are not murder in the first or second
5 degree or class A felony sex offenses may not be included in the
6 offender score.

7 (2)(a) Class A and sex prior felony convictions shall always be
8 included in the offender score.

9 (b) Class B prior felony convictions other than sex offenses
10 shall not be included in the offender score, if since the last date
11 of release from confinement (including full-time residential
12 treatment) pursuant to a felony conviction, if any, or entry of
13 judgment and sentence, the offender had spent ten consecutive years
14 in the community without committing any crime that subsequently
15 results in a conviction. For sentencing pursuant to section 1 of this
16 act, confinement due to a violation of community custody conditions
17 does not qualify as confinement for purposes of calculating time
18 since the last date of release from confinement under this
19 subsection. For sentencing pursuant to section 1 of this act,
20 convictions for simple misdemeanor offenses do not qualify as crimes
21 subsequently resulting in a conviction for purposes of this
22 subsection, unless the offender has three or more simple misdemeanor
23 convictions during the 10-year period.

24 (c) Except as provided in (e) of this subsection, class C prior
25 felony convictions other than sex offenses shall not be included in
26 the offender score if, since the last date of release from
27 confinement (including full-time residential treatment) pursuant to a
28 felony conviction, if any, or entry of judgment and sentence, the
29 offender had spent five consecutive years in the community without
30 committing any crime that subsequently results in a conviction. For
31 sentencing pursuant to section 1 of this act, confinement due to a
32 violation of community custody conditions does not qualify as
33 confinement for purposes of calculating time since the last date of
34 release from confinement under this subsection. For sentencing
35 pursuant to section 1 of this act, convictions for simple misdemeanor
36 offenses do not qualify as crimes subsequently resulting in a
37 conviction for purposes of this subsection, unless the offender has
38 three or more simple misdemeanor convictions during the five-year
39 period.

1 (d) Except as provided in (e) of this subsection, serious traffic
2 convictions shall not be included in the offender score if, since the
3 last date of release from confinement (including full-time
4 residential treatment) pursuant to a conviction, if any, or entry of
5 judgment and sentence, the offender spent five years in the community
6 without committing any crime that subsequently results in a
7 conviction. For sentencing pursuant to section 1 of this act,
8 confinement due to a violation of community custody conditions does
9 not qualify as confinement for purposes of calculating time since the
10 last date of release from confinement under this subsection. For
11 sentencing pursuant to section 1 of this act, convictions for simple
12 misdemeanor offenses do not qualify as crimes subsequently resulting
13 in a conviction for purposes of this subsection, unless the offender
14 has three or more simple misdemeanor convictions during the five-year
15 period.

16 (e) If the present conviction is felony driving while under the
17 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
18 felony physical control of a vehicle while under the influence of
19 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate
20 crimes for the offense as defined by RCW 46.61.5055(14) shall be
21 included in the offender score except that any nonfelony predicate
22 crimes shall not be included for purposes of sentencing pursuant to
23 section 1 of this act, and prior convictions for felony driving while
24 under the influence of intoxicating liquor or any drug (RCW
25 46.61.502(6)) or felony physical control of a vehicle while under the
26 influence of intoxicating liquor or any drug (RCW 46.61.504(6)) shall
27 always be included in the offender score. All other convictions of
28 the defendant shall be scored according to this section.

29 (f) Prior convictions for a repetitive domestic violence offense,
30 as defined in RCW 9.94A.030, shall not be included in the offender
31 score if, since the last date of release from confinement or entry of
32 judgment and sentence, the offender had spent ten consecutive years
33 in the community without committing any crime that subsequently
34 results in a conviction. For sentencing pursuant to section 1 of this
35 act, confinement due to a violation of community custody conditions
36 does not qualify as confinement for purposes of calculating time
37 since the last date of release from confinement under this
38 subsection. For sentencing pursuant to section 1 of this act,
39 convictions for simple misdemeanor offenses do not qualify as crimes
40 subsequently resulting in a conviction for purposes of this

1 subsection, unless the offender has three or more simple misdemeanor
2 convictions during the 10-year period.

3 (g) This subsection applies to both prior adult convictions and
4 prior juvenile adjudications.

5 (3) Out-of-state convictions for offenses shall be classified
6 according to the comparable offense definitions and sentences
7 provided by Washington law. Federal convictions for offenses shall be
8 classified according to the comparable offense definitions and
9 sentences provided by Washington law. Neither out-of-state or federal
10 convictions which would have been presumptively adjudicated in
11 juvenile court under Washington law may be included in the offender
12 score unless they are comparable to murder in the first or second
13 degree or a class A felony sex offense. If there is no clearly
14 comparable offense under Washington law or the offense is one that is
15 usually considered subject to exclusive federal jurisdiction, the
16 offense shall be scored as a class C felony equivalent if it was a
17 felony under the relevant federal statute.

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

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

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

39 (ii) In the case of multiple prior convictions for offenses
40 committed before July 1, 1986, for the purpose of computing the

1 offender score, count all convictions or adjudications served
2 concurrently as one offense. Use the conviction for the offense that
3 yields the highest offender score.

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

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

15 (7) When calculating the offender score for offenses sentenced
16 according to section 1 of this act:

17 (a) Except as provided in (b) through (e) of this subsection,
18 count one point for each adult prior felony conviction and one point
19 for each juvenile prior violent felony conviction which is scorable
20 under subsection (1)(b) of this section.

21 (b) If the present conviction is for Escape from Community
22 Custody, RCW 72.09.310, count only adult prior escape convictions in
23 the offender score. Count prior escape convictions as one point.

24 (c) If the present conviction is for Escape 1, RCW 9A.76.110, or
25 Escape 2, RCW 9A.76.120, count adult prior convictions as one point
26 and juvenile prior convictions which are scorable under subsection
27 (1)(b) of this section as 1/2 point.

28 (d) If the present conviction is for a felony traffic offense
29 other than felony driving while under the influence of intoxicating
30 liquor or any drug, RCW 46.61.502(6), or felony physical control of a
31 vehicle while under the influence of intoxicating liquor or any drug,
32 RCW 46.61.504(6), count one point for each adult prior felony
33 conviction and 1/2 point for each juvenile prior violent felony
34 conviction which is scorable under subsection (1)(b) of this section;
35 for each serious traffic offense, other than those used for an
36 enhancement pursuant to RCW 46.61.520(2), count one point for each
37 adult prior conviction and 1/2 point for each juvenile prior
38 conviction which is scorable under subsection (1)(b) of this section.

39 (e) If the present conviction is for homicide by watercraft or
40 assault by watercraft count one point for each adult prior felony

1 conviction and 1/2 point for each juvenile prior violent felony
2 conviction which is scorable under subsection (1)(b) of this section;
3 count one point for each adult prior conviction for driving under the
4 influence of intoxicating liquor or any drug, actual physical control
5 of a motor vehicle while under the influence of intoxicating liquor
6 or any drug, or operation of a vessel while under the influence of
7 intoxicating liquor or any drug.

8 (8) When calculating the offender score for offenses sentenced
9 according to RCW 9.94A.510:

10 (a) If the present conviction is for a nonviolent offense and not
11 covered by (e), (f), or (g) of this subsection (~~((11), (12), or (13)~~
12 ~~of this section))~~, count one point for each adult prior felony
13 conviction and one point for each juvenile prior violent felony
14 conviction which is scorable under subsection (1)(b) of this section.

15 ~~((8))~~ (b) If the present conviction is for a violent offense
16 and not covered in (c), (d), (e), (f), or (g) of this subsection
17 (~~((9), (10), (11), (12), or (13) of this section))~~, count two points
18 for each prior adult violent felony conviction and juvenile violent
19 felony conviction which is scorable under subsection (1)(b) of this
20 section, and one point for each prior adult nonviolent felony
21 conviction.

22 ~~((9))~~ (c) If the present conviction is for a serious violent
23 offense, count three points for prior adult convictions and juvenile
24 convictions which are scorable under subsection (1)(b) of this
25 section for crimes in this category, two points for each prior adult
26 and scorable juvenile violent conviction (not already counted), and
27 one point for each prior adult nonviolent felony conviction.

28 ~~((10))~~ (d) If the present conviction is for Burglary 1, count
29 prior convictions as in (b) of this subsection (~~((8) of this~~
30 ~~section))~~; however count two points for each prior Burglary 2 or
31 residential burglary conviction.

32 ~~((11))~~ (e) If the present conviction is for a felony traffic
33 offense count two points for each prior conviction for Vehicular
34 Homicide or Vehicular Assault; for each felony offense count one
35 point for each adult prior conviction and 1/2 point for each juvenile
36 prior conviction which is scorable under subsection (1)(b) of this
37 section; for each serious traffic offense, other than those used for
38 an enhancement pursuant to RCW 46.61.520(2), count one point for each
39 adult prior conviction and 1/2 point for each juvenile prior
40 conviction which is scorable under subsection (1)(b) of this section;

1 count one point for each adult prior conviction for operation of a
2 vessel while under the influence of intoxicating liquor or any drug.

3 ~~((12))~~ (f) If the present conviction is for homicide by
4 watercraft or assault by watercraft count two points for each adult
5 prior conviction for homicide by watercraft or assault by watercraft;
6 for each felony offense count one point for each adult prior
7 conviction and 1/2 point for each juvenile prior conviction which
8 would be scorable under subsection (1)(b) of this section; count one
9 point for each adult prior conviction for driving under the influence
10 of intoxicating liquor or any drug, actual physical control of a
11 motor vehicle while under the influence of intoxicating liquor or any
12 drug, or operation of a vessel while under the influence of
13 intoxicating liquor or any drug.

14 ~~((13))~~ (g) If the present conviction is for manufacture of
15 methamphetamine count three points for each adult prior manufacture
16 of methamphetamine conviction. If the present conviction is for a
17 drug offense and the offender has a criminal history that includes a
18 sex offense or serious violent offense, count three points for each
19 adult prior felony drug offense conviction. All other felonies are
20 scored as in (b) of this subsection ~~((8) of this section)~~ if the
21 current drug offense is violent, or as in (a) of this subsection
22 ~~((7) of this section)~~ if the current drug offense is nonviolent.

23 ~~((14))~~ (h) If the present conviction is for Escape from
24 Community Custody, RCW 72.09.310, count only adult prior escape
25 convictions in the offender score. Count prior escape convictions as
26 one point.

27 ~~((15))~~ (i) If the present conviction is for Escape 1, RCW
28 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions
29 as one point and juvenile prior convictions which are scorable under
30 subsection (1)(b) of this section as 1/2 point.

31 ~~((16))~~ (j) If the present conviction is for Burglary 2 or
32 residential burglary, count priors as in (a) of this subsection ~~((7)~~
33 ~~of this section)~~; however, count two points for each prior Burglary
34 1 conviction, and two points for each prior Burglary 2 or residential
35 burglary conviction.

36 ~~((17))~~ (k) If the present conviction is for a sex offense,
37 count priors as in ~~((subsections (7))~~ (a) through ~~((11))~~ (e) and
38 ~~((13))~~ (g) through ~~((16))~~ (j) of this ~~((section))~~ subsection;
39 however count three points for each adult prior sex offense

1 conviction and juvenile prior class A felony sex offense
2 adjudication.

3 ~~((18))~~ (1) If the present conviction is for failure to register
4 as a sex offender under RCW 9A.44.130 or 9A.44.132, count priors as
5 in ~~((subsections—(7))~~ (a) through ~~((11))~~ (e) and ~~((13))~~ (g)
6 through ~~((16))~~ (j) of this ~~((section))~~ subsection; however count
7 three points for each adult prior sex offense conviction and juvenile
8 prior sex offense conviction which is scorable under subsection
9 (1)(b) of this section, excluding adult prior convictions for failure
10 to register as a sex offender under RCW 9A.44.130 or 9A.44.132, which
11 shall count as one point.

12 ~~((19))~~ (m) If the present conviction is for an offense
13 committed while the offender was under community custody, add one
14 point. For purposes of this subsection, community custody includes
15 community placement or postrelease supervision, as defined in chapter
16 9.94B RCW.

17 ~~((20))~~ (n) If the present conviction is for Theft of a Motor
18 Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle
19 Without Permission 1, or Taking a Motor Vehicle Without Permission 2,
20 count priors as in ~~((subsections—(7))~~ (a) through ~~((18))~~ (1) of
21 this ~~((section))~~ subsection; however count one point for prior
22 convictions of Vehicle Prowling 2, and three points for each adult
23 prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle),
24 Possession of Stolen Property 1 (of a motor vehicle), Possession of
25 Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle,
26 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without
27 Permission 1, or Taking a Motor Vehicle Without Permission 2
28 conviction.

29 ~~((21))~~ (o) If the present conviction is for a felony domestic
30 violence offense where domestic violence as defined in RCW 9.94A.030
31 was pleaded and proven, count priors as in ~~((subsections—(7))~~ (a)
32 through ~~((20))~~ (n) of this ~~((section))~~ subsection; however, count
33 points as follows:

34 ~~((a))~~ (i) Count two points for each adult prior conviction
35 where domestic violence as defined in RCW 9.94A.030 was pleaded and
36 proven after August 1, 2011, for any of the following offenses: A
37 felony violation of a no-contact or protection order (RCW 7.105.450
38 or former RCW 26.50.110), felony Harassment (RCW 9A.46.020(2)(b)),
39 felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020),
40 Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful

1 imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2
2 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW
3 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or
4 Arson 2 (RCW 9A.48.030);

5 ~~((b))~~ (ii) Count two points for each adult prior conviction
6 where domestic violence as defined in RCW 9.94A.030 was pleaded and
7 proven after July 23, 2017, for any of the following offenses:
8 Assault of a child in the first degree, RCW 9A.36.120; Assault of a
9 child in the second degree, RCW 9A.36.130; Assault of a child in the
10 third degree, RCW 9A.36.140; Criminal Mistreatment in the first
11 degree, RCW 9A.42.020; or Criminal Mistreatment in the second degree,
12 RCW 9A.42.030; and

13 ~~((e))~~ (iii) Count one point for each adult prior conviction for
14 a repetitive domestic violence offense as defined in RCW 9.94A.030,
15 where domestic violence as defined in RCW 9.94A.030, was pleaded and
16 proven after August 1, 2011.

17 ~~((22))~~ (p) The fact that a prior conviction was not included in
18 an offender's offender score or criminal history at a previous
19 sentencing shall have no bearing on whether it is included in the
20 criminal history or offender score for the current offense. Prior
21 convictions that were not counted in the offender score or included
22 in criminal history under repealed or previous versions of the
23 sentencing reform act shall be included in criminal history and shall
24 count in the offender score if the current version of the sentencing
25 reform act requires including or counting those convictions. Prior
26 convictions that were not included in criminal history or in the
27 offender score shall be included upon any resentencing to ensure
28 imposition of an accurate sentence.

29 **Sec. 5.** RCW 9.94A.533 and 2020 c 330 s 1 and 2020 c 141 s 1 are
30 each reenacted and amended to read as follows:

31 (1) The provisions of this section apply to the standard sentence
32 ranges determined by section 1 of this act, RCW 9.94A.510, or
33 9.94A.517.

34 (2) For persons convicted of the anticipatory offenses of
35 criminal attempt, solicitation, or conspiracy under chapter 9A.28
36 RCW, the standard sentence range is determined by locating the
37 sentencing grid sentence range defined by the appropriate offender
38 score and the seriousness level of the completed crime, and
39 multiplying the range by seventy-five percent.

1 (3)(a) For sentences pursuant to section 1 of this act, the
2 maximum standard range sentence is determined by locating the maximum
3 sentencing grid standard sentence as defined by the appropriate
4 offender score and the seriousness level of the completed crime and
5 multiplying that sentence by 125, 120, or 115 percent depending on
6 the seriousness level of the current offense as provided under
7 section 1(5) of this act, or adding one month to the sentence,
8 whichever results in the greater sentence, when the present
9 conviction is for any of the following qualifying offenses:

10 (i) A violent offense or serious violent offense, if the person
11 has one or more prior adult convictions for a violent offense or
12 serious violent offense;

13 (ii) A sex offense, if the person has one or more prior adult
14 convictions for a sex offense; or

15 (iii) A felony domestic violence offense where domestic violence
16 as defined in RCW 9.94A.030 was pleaded and proven, if the person has
17 one or more prior adult convictions for a felony domestic violence
18 offense where domestic violence as defined in RCW 9.94A.030 was
19 pleaded and proven.

20 (b) If the present conviction is for multiple qualifying
21 offenses, the increase described in (a) of this subsection is applied
22 to all the qualifying offenses.

23 (4) The following additional times shall be added to the standard
24 sentence range for felony crimes committed after July 23, 1995, if
25 the offender or an accomplice was armed with a firearm as defined in
26 RCW 9.41.010 and the offender is being sentenced for one of the
27 crimes listed in this subsection as eligible for any firearm
28 enhancements based on the classification of the completed felony
29 crime. If the offender is being sentenced for more than one offense,
30 the firearm enhancement or enhancements must be added to the total
31 period of confinement for all offenses, regardless of which
32 underlying offense is subject to a firearm enhancement. If the
33 offender or an accomplice was armed with a firearm as defined in RCW
34 9.41.010 and the offender is being sentenced for an anticipatory
35 offense under chapter 9A.28 RCW to commit one of the crimes listed in
36 this subsection as eligible for any firearm enhancements, the
37 following additional times shall be added to the standard sentence
38 range determined under subsection (2) of this section based on the
39 felony crime of conviction as classified under RCW 9A.28.020:

1 (a) Five years for any felony defined under any law as a class A
2 felony or with a statutory maximum sentence of at least twenty years,
3 or both, and not covered under (f) of this subsection;

4 (b) Three years for any felony defined under any law as a class B
5 felony or with a statutory maximum sentence of ten years, or both,
6 and not covered under (f) of this subsection;

7 (c) Eighteen months for any felony defined under any law as a
8 class C felony or with a statutory maximum sentence of five years, or
9 both, and not covered under (f) of this subsection;

10 (d) If the offender is being sentenced for any firearm
11 enhancements under (a), (b), and/or (c) of this subsection and the
12 offender has previously been sentenced for any deadly weapon
13 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
14 subsection or subsection ~~((4))~~ (5)(a), (b), and/or (c) of this
15 section, or both, all firearm enhancements under this subsection
16 shall be twice the amount of the enhancement listed;

17 (e) Notwithstanding any other provision of law, all firearm
18 enhancements under this section are mandatory, shall be served in
19 total confinement, and shall run consecutively to all other
20 sentencing provisions, including other firearm or deadly weapon
21 enhancements, for all offenses sentenced under this chapter. However,
22 whether or not a mandatory minimum term has expired, an offender
23 serving a sentence under this subsection may be:

24 (i) Granted an extraordinary medical placement when authorized
25 under RCW 9.94A.728(1)(c); or

26 (ii) Released under the provisions of RCW 9.94A.730;

27 (f) The firearm enhancements in this section shall apply to all
28 felony crimes except the following: Possession of a machine gun or
29 bump-fire stock, possessing a stolen firearm, drive-by shooting,
30 theft of a firearm, unlawful possession of a firearm in the first and
31 second degree, and use of a machine gun or bump-fire stock in a
32 felony;

33 (g) If the standard sentence range under this section exceeds the
34 statutory maximum sentence for the offense, the statutory maximum
35 sentence shall be the presumptive sentence unless the offender is a
36 persistent offender. If the addition of a firearm enhancement
37 increases the sentence so that it would exceed the statutory maximum
38 for the offense, the portion of the sentence representing the
39 enhancement may not be reduced.

1 (~~(4)~~) (5) The following additional times shall be added to the
2 standard sentence range for felony crimes committed after July 23,
3 1995, if the offender or an accomplice was armed with a deadly weapon
4 other than a firearm as defined in RCW 9.41.010 and the offender is
5 being sentenced for one of the crimes listed in this subsection as
6 eligible for any deadly weapon enhancements based on the
7 classification of the completed felony crime. If the offender is
8 being sentenced for more than one offense, the deadly weapon
9 enhancement or enhancements must be added to the total period of
10 confinement for all offenses, regardless of which underlying offense
11 is subject to a deadly weapon enhancement. If the offender or an
12 accomplice was armed with a deadly weapon other than a firearm as
13 defined in RCW 9.41.010 and the offender is being sentenced for an
14 anticipatory offense under chapter 9A.28 RCW to commit one of the
15 crimes listed in this subsection as eligible for any deadly weapon
16 enhancements, the following additional times shall be added to the
17 standard sentence range determined under subsection (2) of this
18 section based on the felony crime of conviction as classified under
19 RCW 9A.28.020:

20 (a) Two years for any felony defined under any law as a class A
21 felony or with a statutory maximum sentence of at least twenty years,
22 or both, and not covered under (f) of this subsection;

23 (b) One year for any felony defined under any law as a class B
24 felony or with a statutory maximum sentence of ten years, or both,
25 and not covered under (f) of this subsection;

26 (c) Six months for any felony defined under any law as a class C
27 felony or with a statutory maximum sentence of five years, or both,
28 and not covered under (f) of this subsection;

29 (d) If the offender is being sentenced under (a), (b), and/or (c)
30 of this subsection for any deadly weapon enhancements and the
31 offender has previously been sentenced for any deadly weapon
32 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
33 subsection or subsection (~~(3)~~) (4)(a), (b), and/or (c) of this
34 section, or both, all deadly weapon enhancements under this
35 subsection shall be twice the amount of the enhancement listed;

36 (e) Notwithstanding any other provision of law, all deadly weapon
37 enhancements under this section are mandatory, shall be served in
38 total confinement, and shall run consecutively to all other
39 sentencing provisions, including other firearm or deadly weapon
40 enhancements, for all offenses sentenced under this chapter. However,

1 whether or not a mandatory minimum term has expired, an offender
2 serving a sentence under this subsection may be:

3 (i) Granted an extraordinary medical placement when authorized
4 under RCW 9.94A.728(1)(c); or

5 (ii) Released under the provisions of RCW 9.94A.730;

6 (f) The deadly weapon enhancements in this section shall apply to
7 all felony crimes except the following: Possession of a machine gun
8 or bump-fire stock, possessing a stolen firearm, drive-by shooting,
9 theft of a firearm, unlawful possession of a firearm in the first and
10 second degree, and use of a machine gun or bump-fire stock in a
11 felony;

12 (g) If the standard sentence range under this section exceeds the
13 statutory maximum sentence for the offense, the statutory maximum
14 sentence shall be the presumptive sentence unless the offender is a
15 persistent offender. If the addition of a deadly weapon enhancement
16 increases the sentence so that it would exceed the statutory maximum
17 for the offense, the portion of the sentence representing the
18 enhancement may not be reduced.

19 ~~((+5))~~ (6) The following additional times shall be added to the
20 standard sentence range if the offender or an accomplice committed
21 the offense while in a county jail or state correctional facility and
22 the offender is being sentenced for one of the crimes listed in this
23 subsection. If the offender or an accomplice committed one of the
24 crimes listed in this subsection while in a county jail or state
25 correctional facility, and the offender is being sentenced for an
26 anticipatory offense under chapter 9A.28 RCW to commit one of the
27 crimes listed in this subsection, the following additional times
28 shall be added to the standard sentence range determined under
29 subsection (2) of this section:

30 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
31 (a) or (b) or 69.50.410;

32 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
33 (c), (d), or (e);

34 (c) Twelve months for offenses committed under RCW 69.50.4013.

35 For the purposes of this subsection, all of the real property of
36 a state correctional facility or county jail shall be deemed to be
37 part of that facility or county jail.

38 ~~((+6))~~ (7) An additional twenty-four months shall be added to
39 the standard sentence range for any ranked offense involving a
40 violation of chapter 69.50 RCW if the offense was also a violation of

1 RCW 69.50.435 or 9.94A.827. All enhancements under this subsection
2 shall run consecutively to all other sentencing provisions, for all
3 offenses sentenced under this chapter.

4 ~~((7))~~ (8) An additional two years shall be added to the
5 standard sentence range for vehicular homicide committed while under
6 the influence of intoxicating liquor or any drug as defined by RCW
7 46.61.502 for each prior offense as defined in RCW 46.61.5055.

8 Notwithstanding any other provision of law, all impaired driving
9 enhancements under this subsection are mandatory, shall be served in
10 total confinement, and shall run consecutively to all other
11 sentencing provisions, including other impaired driving enhancements,
12 for all offenses sentenced under this chapter.

13 An offender serving a sentence under this subsection may be
14 granted an extraordinary medical placement when authorized under RCW
15 9.94A.728(1)(c).

16 ~~((8))~~ (9)(a) The following additional times shall be added to
17 the standard sentence range for felony crimes committed on or after
18 July 1, 2006, if the offense was committed with sexual motivation, as
19 that term is defined in RCW 9.94A.030. If the offender is being
20 sentenced for more than one offense, the sexual motivation
21 enhancement must be added to the total period of total confinement
22 for all offenses, regardless of which underlying offense is subject
23 to a sexual motivation enhancement. If the offender committed the
24 offense with sexual motivation and the offender is being sentenced
25 for an anticipatory offense under chapter 9A.28 RCW, the following
26 additional times shall be added to the standard sentence range
27 determined under subsection (2) of this section based on the felony
28 crime of conviction as classified under RCW 9A.28.020:

29 (i) Two years for any felony defined under the law as a class A
30 felony or with a statutory maximum sentence of at least twenty years,
31 or both;

32 (ii) Eighteen months for any felony defined under any law as a
33 class B felony or with a statutory maximum sentence of ten years, or
34 both;

35 (iii) One year for any felony defined under any law as a class C
36 felony or with a statutory maximum sentence of five years, or both;

37 (iv) If the offender is being sentenced for any sexual motivation
38 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
39 the offender has previously been sentenced for any sexual motivation
40 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or

1 (iii) of this subsection, all sexual motivation enhancements under
2 this subsection shall be twice the amount of the enhancement listed;

3 (b) Notwithstanding any other provision of law, all sexual
4 motivation enhancements under this subsection are mandatory, shall be
5 served in total confinement, and shall run consecutively to all other
6 sentencing provisions, including other sexual motivation
7 enhancements, for all offenses sentenced under this chapter. However,
8 whether or not a mandatory minimum term has expired, an offender
9 serving a sentence under this subsection may be:

10 (i) Granted an extraordinary medical placement when authorized
11 under RCW 9.94A.728(1)(c); or

12 (ii) Released under the provisions of RCW 9.94A.730;

13 (c) The sexual motivation enhancements in this subsection apply
14 to all felony crimes;

15 (d) If the standard sentence range under this subsection exceeds
16 the statutory maximum sentence for the offense, the statutory maximum
17 sentence shall be the presumptive sentence unless the offender is a
18 persistent offender. If the addition of a sexual motivation
19 enhancement increases the sentence so that it would exceed the
20 statutory maximum for the offense, the portion of the sentence
21 representing the enhancement may not be reduced;

22 (e) The portion of the total confinement sentence which the
23 offender must serve under this subsection shall be calculated before
24 any earned early release time is credited to the offender;

25 (f) Nothing in this subsection prevents a sentencing court from
26 imposing a sentence outside the standard sentence range pursuant to
27 RCW 9.94A.535.

28 ~~((9))~~ (10) An additional one-year enhancement shall be added to
29 the standard sentence range for the felony crimes of RCW 9A.44.073,
30 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
31 or after July 22, 2007, if the offender engaged, agreed, or offered
32 to engage the victim in the sexual conduct in return for a fee. If
33 the offender is being sentenced for more than one offense, the
34 one-year enhancement must be added to the total period of total
35 confinement for all offenses, regardless of which underlying offense
36 is subject to the enhancement. If the offender is being sentenced for
37 an anticipatory offense for the felony crimes of RCW 9A.44.073,
38 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
39 offender attempted, solicited another, or conspired to engage, agree,
40 or offer to engage the victim in the sexual conduct in return for a

1 fee, an additional one-year enhancement shall be added to the
2 standard sentence range determined under subsection (2) of this
3 section. For purposes of this subsection, "sexual conduct" means
4 sexual intercourse or sexual contact, both as defined in chapter
5 9A.44 RCW.

6 ~~((10))~~ (11) (a) For a person age eighteen or older convicted of
7 any criminal street gang-related felony offense for which the person
8 compensated, threatened, or solicited a minor in order to involve the
9 minor in the commission of the felony offense, the standard sentence
10 range is determined by locating the sentencing grid sentence range
11 defined by the appropriate offender score and the seriousness level
12 of the completed crime, and multiplying the range by one hundred
13 twenty-five percent. If the standard sentence range under this
14 subsection exceeds the statutory maximum sentence for the offense,
15 the statutory maximum sentence is the presumptive sentence unless the
16 offender is a persistent offender.

17 (b) This subsection does not apply to any criminal street gang-
18 related felony offense for which involving a minor in the commission
19 of the felony offense is an element of the offense.

20 (c) The increased penalty specified in (a) of this subsection is
21 unavailable in the event that the prosecution gives notice that it
22 will seek an exceptional sentence based on an aggravating factor
23 under RCW 9.94A.535.

24 ~~((11))~~ (12) An additional twelve months and one day shall be
25 added to the standard sentence range for a conviction of attempting
26 to elude a police vehicle as defined by RCW 46.61.024, if the
27 conviction included a finding by special allegation of endangering
28 one or more persons under RCW 9.94A.834.

29 ~~((12))~~ (13) An additional twelve months shall be added to the
30 standard sentence range for an offense that is also a violation of
31 RCW 9.94A.831.

32 ~~((13))~~ (14) An additional twelve months shall be added to the
33 standard sentence range for vehicular homicide committed while under
34 the influence of intoxicating liquor or any drug as defined by RCW
35 46.61.520 or for vehicular assault committed while under the
36 influence of intoxicating liquor or any drug as defined by RCW
37 46.61.522, or for any felony driving under the influence (RCW
38 46.61.502(6)) or felony physical control under the influence (RCW
39 46.61.504(6)) for each child passenger under the age of sixteen who
40 is an occupant in the defendant's vehicle. These enhancements shall

1 be mandatory, shall be served in total confinement, and shall run
2 consecutively to all other sentencing provisions, including other
3 minor child enhancements, for all offenses sentenced under this
4 chapter. If the addition of a minor child enhancement increases the
5 sentence so that it would exceed the statutory maximum for the
6 offense, the portion of the sentence representing the enhancement
7 shall be mandatory, shall be served in total confinement, and shall
8 run consecutively to all other sentencing provisions.

9 ~~((14))~~ (15) An additional twelve months shall be added to the
10 standard sentence range for an offense that is also a violation of
11 RCW 9.94A.832.

12 ~~((15))~~ (16) Regardless of any provisions in this section, if a
13 person is being sentenced in adult court for a crime committed under
14 age eighteen, the court has full discretion to depart from mandatory
15 sentencing enhancements and to take the particular circumstances
16 surrounding the defendant's youth into account.

17 **Sec. 6.** RCW 9.94A.537 and 2007 c 205 s 2 are each amended to
18 read as follows:

19 (1) At any time prior to trial or entry of the guilty plea if
20 substantial rights of the defendant are not prejudiced, the state may
21 give notice that it is seeking a sentence above the standard
22 sentencing range. The notice shall state aggravating circumstances
23 upon which the requested sentence will be based.

24 (2) In any case where an exceptional sentence above the standard
25 range was imposed and where a new sentencing hearing is required, the
26 superior court may impanel a jury to consider any alleged aggravating
27 circumstances listed in RCW 9.94A.535(3), that were relied upon by
28 the superior court in imposing the previous sentence, at the new
29 sentencing hearing.

30 (3) The facts supporting aggravating circumstances shall be
31 proved to a jury beyond a reasonable doubt. The jury's verdict on the
32 aggravating factor must be unanimous, and by special interrogatory.
33 If a jury is waived, proof shall be to the court beyond a reasonable
34 doubt, unless the defendant stipulates to the aggravating facts.

35 (4) Evidence regarding any facts supporting aggravating
36 circumstances under RCW 9.94A.535(3) (a) through (y) shall be
37 presented to the jury during the trial of the alleged crime, unless
38 the jury has been impaneled solely for resentencing, or unless the
39 state alleges the aggravating circumstances listed in RCW

1 9.94A.535(3) (e)(iv), (h)(i), (o), or (t). If one of these
2 aggravating circumstances is alleged, the trial court may conduct a
3 separate proceeding if the evidence supporting the aggravating fact
4 is not part of the res geste of the charged crime, if the evidence is
5 not otherwise admissible in trial of the charged crime, and if the
6 court finds that the probative value of the evidence to the
7 aggravated fact is substantially outweighed by its prejudicial effect
8 on the jury's ability to determine guilt or innocence for the
9 underlying crime.

10 (5) If the superior court conducts a separate proceeding to
11 determine the existence of aggravating circumstances listed in RCW
12 9.94A.535(3) (e)(iv), (h)(i), (o), or (t), the proceeding shall
13 immediately follow the trial on the underlying conviction, if
14 possible. If any person who served on the jury is unable to continue,
15 the court shall substitute an alternate juror.

16 (6) If the jury finds, unanimously and beyond a reasonable doubt,
17 one or more of the facts alleged by the state in support of an
18 aggravated sentence, the court may sentence the offender pursuant to
19 RCW 9.94A.535 to a term of confinement up to the maximum allowed
20 under RCW 9A.20.021 for the underlying conviction if it finds,
21 considering the purposes of this chapter, that the facts found are
22 substantial and compelling reasons justifying an exceptional
23 sentence. In imposing a sentence above the standard sentence range
24 for an offense committed on or after August 1, 2028, the court shall
25 consider the threshold at which the sentence is presumed to be
26 clearly excessive as indicated by the standard range sentence plus
27 the maximum number of months in the column titled "aggravated
28 departure cap" in the sentencing grid under section 1 of this act and
29 under RCW 9.94A.585(4).

30 **Sec. 7.** RCW 9.94A.585 and 2002 c 290 s 19 are each amended to
31 read as follows:

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

38 (2) A sentence outside the standard sentence range for the
39 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. A sentence imposed for an offense committed on or after
13 August 1, 2028, that exceeds the standard range sentence plus the
14 maximum number of months in the column titled "aggravated departure
15 cap" on the sentencing grid under section 1 of this act is presumed
16 to be clearly excessive.

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

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

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

35 PART II: INTERMEDIATE SANCTIONS AND REHABILITATIVE AND REINTEGRATION
36 SERVICES

37 NEW SECTION. **Sec. 8.** A new section is added to chapter 9.94A
38 RCW to read as follows:

1 (1) The sentencing guidelines commission and the department of
2 commerce shall collaborate to develop a community-based intermediate
3 sanctions sentencing alternative option for persons convicted of
4 certain felony offenses. This alternative must be served at and
5 operated on the county level with state funding and in compliance
6 with state standards, and must include both intermediate sanctions as
7 well as access to rehabilitative and reintegration services and
8 programs. In developing the sentencing alternative, the sentencing
9 guidelines commission and the department of commerce must consult
10 with counties, the department of corrections, victim advocacy groups,
11 and other interested stakeholders.

12 (2) The sentencing guidelines commission and the department of
13 commerce must create a framework for the structure, implementation,
14 and operation of the intermediate sanctions sentencing alternative,
15 which must, at a minimum, include a description of all of the
16 following components:

17 (a) The operational structure of intermediate sanctions
18 sentencing alternative programs, with a requirement that programs
19 must be developed and operated at the county level;

20 (b) Which offenses qualify for an intermediate sanctions
21 sentencing alternative sentence including, but not necessarily
22 limited to, sentences occupying cells on the sentencing grid with
23 standard ranges that include both local and state confinement
24 sentences;

25 (c) The way in which this alternative would relate to other
26 options already in place, such as existing sentencing alternatives
27 and partial confinement programs;

28 (d) Parameters for sentence length and the extent of judicial
29 discretion in fashioning an intermediate sanctions alternative
30 sentence;

31 (e) Requirements regarding needs assessments and what entity
32 should complete the assessments;

33 (f) The type and severity of sanctions that may be included in
34 the intermediate sanctions sentencing alternative programs, and
35 whether certain sanctions should be reserved for certain
36 circumstances or offenses. Sanctions may include, for example:

37 (i) Intensive supervision probation;

38 (ii) Day reporting;

39 (iii) House arrest;

40 (iv) Electronic home monitoring;

1 (v) Community service;

2 (vi) Intermittent confinement;

3 (vii) Mandatory treatment for behavioral health conditions; and

4 (viii) Residential community corrections;

5 (g) The reintegration services that may be included in the

6 intermediate sanctions sentencing alternative programs, which may

7 include, for example:

8 (i) Education programs;

9 (ii) Employment or job training;

10 (iii) Assistance with housing and transportation;

11 (iv) Mentorship and credible messenger services; and

12 (v) Life skills classes and use of technology training;

13 (h) The rehabilitative services that may be included in

14 intermediate sanctions sentencing alternative programs, which may

15 include, for example:

16 (i) Substance use disorder treatment;

17 (ii) Mental health counseling;

18 (iii) Cognitive behavioral training; and

19 (iv) Other evidence-based programs;

20 (i) Reporting requirements to which the person undergoing an

21 intermediate sanctions sentencing alternative program must adhere,

22 with a foundational requirement that programs are consistent in

23 requiring reporting to just one jurisdiction, whether at the county

24 level or the department;

25 (j) The revocation process for the intermediate sanctions

26 sentencing alternative, including consistent standards for conduct

27 and circumstances that warrant revocation and return to

28 incarceration;

29 (k) Statewide standards for intermediate sanctions sentencing

30 alternative program operation;

31 (l) The method by which state funding is provided to the counties

32 to operate their intermediate sanctions sentencing alternative

33 programs, taking into consideration the juvenile block grant model;

34 (m) Requirements that must be met in order for counties'

35 intermediate sanctions sentencing alternative programs to be approved

36 for state funding, and a review process to ensure statewide standards

37 are adhered to over time;

38 (n) Requirements for regular data collection to ensure equitable

39 application of the program, utilizing a centralized database, if

1 possible, and regular evaluation of the data to ensure that state
2 funding is being appropriately used;

3 (o) Recommendations for mitigating concerns related to tort
4 liability for counties and the department;

5 (p) Recommendations for an implementation structure that most
6 equitably serves individuals who do not reside in their county of
7 conviction and court oversight;

8 (q) Recommendations for incorporating victim services and
9 programs, including services and programs that respond to the
10 emotional and physical needs of victims, such as: Support services
11 throughout the criminal legal process, counseling, crisis
12 intervention, shelter services, trauma and therapeutic services, and
13 restorative justice; and

14 (r) Any other requirement that the sentencing guidelines
15 commission and the department of commerce deem necessary for the
16 success of the intermediate sanctions sentencing alternative system
17 and programs.

18 (3) The sentencing guidelines commission and the department of
19 commerce must produce a report to the appropriate committees of the
20 legislature containing the framework for the intermediate sanctions
21 sentencing alternative as described in this section. The report is
22 due November 1, 2026.

23 (4) This section expires August 1, 2028.

24 **Sec. 9.** RCW 9.94A.030 and 2022 c 231 s 11 are each amended to
25 read as follows:

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

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

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

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

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

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

10 (6) "Community protection zone" means the area within 880 feet of
11 the facilities and grounds of a public or private school.

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

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

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

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

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

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

35 (b) A conviction may be removed from a defendant's criminal
36 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
37 9.95.240, or a similar out-of-state statute, or if the conviction has
38 been vacated pursuant to a governor's pardon. However, when a
39 defendant is charged with a recidivist offense, "criminal history"
40 includes a vacated prior conviction for the sole purpose of

1 establishing that such vacated prior conviction constitutes an
2 element of the present recidivist offense as provided in RCW
3 9.94A.640(4)(b) and 9.96.060(~~(7)~~) (8)(c).

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

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

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

23 (14) "Criminal street gang-related offense" means any felony or
24 misdemeanor offense, whether in this state or elsewhere, that is
25 committed for the benefit of, at the direction of, or in association
26 with any criminal street gang, or is committed with the intent to
27 promote, further, or assist in any criminal conduct by the gang, or
28 is committed for one or more of the following reasons:

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

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

32 (c) To exact revenge or retribution for the gang or any member of
33 the gang;

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

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

39 (f) To provide the gang with any advantage in, or any control or
40 dominance over any criminal market sector, including, but not limited

1 to, manufacturing, delivering, or selling any controlled substance
2 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
3 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
4 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
5 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
6 9.68 RCW).

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

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

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

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

25 (19) "Disposable earnings" means that part of the earnings of an
26 offender remaining after the deduction from those earnings of any
27 amount required by law to be withheld. For the purposes of this
28 definition, "earnings" means compensation paid or payable for
29 personal services, whether denominated as wages, salary, commission,
30 bonuses, or otherwise, and, notwithstanding any other provision of
31 law making the payments exempt from garnishment, attachment, or other
32 process to satisfy a court-ordered legal financial obligation,
33 specifically includes periodic payments pursuant to pension or
34 retirement programs, or insurance policies of any type, but does not
35 include payments made under Title 50 RCW, except as provided in RCW
36 50.40.020 and 50.40.050, or Title 74 RCW.

37 (20)(a) "Domestic violence" has the same meaning as defined in
38 RCW 10.99.020.

39 (b) "Domestic violence" also means: (i) Physical harm, bodily
40 injury, assault, or the infliction of fear of imminent physical harm,

1 bodily injury, or assault, sexual assault, or stalking, as defined in
2 RCW 9A.46.110, of one intimate partner by another intimate partner as
3 defined in RCW 10.99.020; or (ii) physical harm, bodily injury,
4 assault, or the infliction of fear of imminent physical harm, bodily
5 injury, or assault, sexual assault, or stalking, as defined in RCW
6 9A.46.110, of one family or household member by another family or
7 household member as defined in RCW 10.99.020.

8 (21) "Drug offender sentencing alternative" is a sentencing
9 option available to persons convicted of a felony offense who are
10 eligible for the option under RCW 9.94A.660.

11 (22) "Drug offense" means:

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

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

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

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

23 (24) "Electronic monitoring" means tracking the location of an
24 individual through the use of technology that is capable of
25 determining or identifying the monitored individual's presence or
26 absence at a particular location including, but not limited to:

27 (a) Radio frequency signaling technology, which detects if the
28 monitored individual is or is not at an approved location and
29 notifies the monitoring agency of the time that the monitored
30 individual either leaves the approved location or tampers with or
31 removes the monitoring device; or

32 (b) Active or passive global positioning system technology, which
33 detects the location of the monitored individual and notifies the
34 monitoring agency of the monitored individual's location and which
35 may also include electronic monitoring with victim notification
36 technology that is capable of notifying a victim or protected party,
37 either directly or through a monitoring agency, if the monitored
38 individual enters within the restricted distance of a victim or
39 protected party, or within the restricted distance of a designated
40 location.

1 (25) "Escape" means:

2 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
3 the first degree (RCW 9A.76.110), escape in the second degree (RCW
4 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
5 willful failure to return from work release (RCW 72.65.070), or
6 willful failure to be available for supervision by the department
7 while in community custody (RCW 72.09.310); or

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

11 (26) "Felony traffic offense" means:

12 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
13 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
14 run injury-accident (RCW 46.52.020(4)), felony driving while under
15 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
16 or felony physical control of a vehicle while under the influence of
17 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

27 (29) "Home detention" is a subset of electronic monitoring and
28 means a program of partial confinement available to offenders wherein
29 the offender is confined in a private residence 24 hours a day,
30 unless an absence from the residence is approved, authorized, or
31 otherwise permitted in the order by the court or other supervising
32 agency that ordered home detention, and the offender is subject to
33 electronic monitoring.

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

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

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

1 (c) A private residence where the individual stays as a transient
2 invitee.

3 (31) "Intermediate sanctions sentencing alternative" means the
4 sentencing alternative established under section 8 of this act, which
5 includes, but is not limited to, the following community-based
6 sentencing options for persons convicted of qualifying offenses:

7 (a) Intermediate sanctions, including:

8 (i) Intensive supervision probation;

9 (ii) Day reporting centers;

10 (iii) House arrest;

11 (iv) Electronic home monitoring;

12 (v) Community service;

13 (vi) Intermittent confinement;

14 (vii) Mandatory treatment for conditions; and

15 (viii) Residential community corrections;

16 (b) Reintegration services, including:

17 (i) Education programs;

18 (ii) Employment and job training;

19 (iii) Assistance with housing and transportation;

20 (iv) Mentorship and credible messenger services; and

21 (v) Life skills classes and training in the use of technology;

22 and

23 (c) Rehabilitative services, including:

24 (i) Substance use disorder treatment;

25 (ii) Mental health counseling;

26 (iii) Cognitive behavioral training; and

27 (iv) Other evidence-based programs.

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

1 the expense of an emergency response to the incident resulting in the
2 conviction, subject to RCW 38.52.430.

3 (~~(32)~~) (33) "Most serious offense" means any of the following
4 felonies or a felony attempt to commit any of the following felonies:

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

8 (b) Assault in the second degree;

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

10 (d) Child molestation in the second degree;

11 (e) Controlled substance homicide;

12 (f) Extortion in the first degree;

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

14 (h) Indecent liberties;

15 (i) Kidnapping in the second degree;

16 (j) Leading organized crime;

17 (k) Manslaughter in the first degree;

18 (l) Manslaughter in the second degree;

19 (m) Promoting prostitution in the first degree;

20 (n) Rape in the third degree;

21 (o) Sexual exploitation;

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

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

30 (r) Any other class B felony offense with a finding of sexual
31 motivation;

32 (s) Any other felony with a deadly weapon verdict under RCW
33 9.94A.825;

34 (t) Any felony offense in effect at any time prior to December 2,
35 1993, that is comparable to a most serious offense under this
36 subsection, or any federal or out-of-state conviction for an offense
37 that under the laws of this state would be a felony classified as a
38 most serious offense under this subsection;

39 (u) (i) A prior conviction for indecent liberties under RCW
40 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.

1 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
2 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
3 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
4 until July 1, 1988;

5 (ii) A prior conviction for indecent liberties under RCW
6 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
7 if: (A) The crime was committed against a child under the age of 14;
8 or (B) the relationship between the victim and perpetrator is
9 included in the definition of indecent liberties under RCW
10 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
11 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
12 1993, through July 27, 1997;

13 (v) Any out-of-state conviction for a felony offense with a
14 finding of sexual motivation if the minimum sentence imposed was 10
15 years or more; provided that the out-of-state felony offense must be
16 comparable to a felony offense under this title and Title 9A RCW and
17 the out-of-state definition of sexual motivation must be comparable
18 to the definition of sexual motivation contained in this section.

19 (~~(33)~~) (34) "Nonviolent offense" means an offense which is not
20 a violent offense.

21 (~~(34)~~) (35) "Offender" means a person who has committed a
22 felony established by state law and is 18 years of age or older or is
23 less than 18 years of age but whose case is under superior court
24 jurisdiction under RCW 13.04.030 or has been transferred by the
25 appropriate juvenile court to a criminal court pursuant to RCW
26 13.40.110. In addition, for the purpose of community custody
27 requirements under this chapter, "offender" also means a misdemeanor
28 or gross misdemeanor probationer ordered by a superior court to
29 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
30 supervised by the department pursuant to RCW 9.94A.501 and
31 9.94A.5011. Throughout this chapter, the terms "offender" and
32 "defendant" are used interchangeably.

33 (~~(35)~~) (36) "Partial confinement" means confinement for no more
34 than one year in a facility or institution operated or utilized under
35 contract by the state or any other unit of government, or, if home
36 detention, electronic monitoring, or work crew has been ordered by
37 the court or home detention has been ordered by the department as
38 part of the parenting program or the graduated reentry program, in an
39 approved residence, for a substantial portion of each day with the
40 balance of the day spent in the community. Partial confinement

1 includes work release, home detention, work crew, electronic
2 monitoring, and a combination of work crew, electronic monitoring,
3 and home detention.

4 (~~(36)~~) (37) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

19 (vii) Hate Crime (RCW 9A.36.080);

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

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

23 (x) Any felony conviction by a person 18 years of age or older
24 with a special finding of involving a juvenile in a felony offense
25 under RCW 9.94A.833;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (~~(37)~~) (38) "Persistent offender" is an offender who:

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

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

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

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

1 subsection only when the offender was 16 years of age or older when
2 the offender committed the offense. A conviction for rape of a child
3 in the second degree constitutes a conviction under (b)(i) of this
4 subsection only when the offender was 18 years of age or older when
5 the offender committed the offense.

6 ~~((38))~~ (39) "Predatory" means: (a) The perpetrator of the crime
7 was a stranger to the victim, as defined in this section; (b) the
8 perpetrator established or promoted a relationship with the victim
9 prior to the offense and the victimization of the victim was a
10 significant reason the perpetrator established or promoted the
11 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
12 volunteer, or other person in authority in any public or private
13 school and the victim was a student of the school under his or her
14 authority or supervision. For purposes of this subsection, "school"
15 does not include home-based instruction as defined in RCW
16 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
17 authority in any recreational activity and the victim was a
18 participant in the activity under his or her authority or
19 supervision; (iii) a pastor, elder, volunteer, or other person in
20 authority in any church or religious organization, and the victim was
21 a member or participant of the organization under his or her
22 authority; or (iv) a teacher, counselor, volunteer, or other person
23 in authority providing home-based instruction and the victim was a
24 student receiving home-based instruction while under his or her
25 authority or supervision. For purposes of this subsection: (A) "Home-
26 based instruction" has the same meaning as defined in RCW
27 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
28 in authority" does not include the parent or legal guardian of the
29 victim.

30 ~~((39))~~ (40) "Private school" means a school regulated under
31 chapter 28A.195 or 28A.205 RCW.

32 ~~((40))~~ (41) "Public school" has the same meaning as in RCW
33 28A.150.010.

34 ~~((41))~~ (42) "Recidivist offense" means a felony offense where a
35 prior conviction of the same offense or other specified offense is an
36 element of the crime including, but not limited to:

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

39 (b) Cyber harassment, RCW 9A.90.120(2)(b)(i);

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

1 (d) Indecent exposure, RCW 9A.88.010(2)(c);
2 (e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);
3 (f) Telephone harassment, RCW 9.61.230(2)(a); and
4 (g) Violation of a no-contact or protection order, RCW 7.105.450
5 or former RCW 26.50.110(5).

6 (~~(42)~~) (43) "Repetitive domestic violence offense" means any:

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

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

11 (iii) Domestic violence violation of a protection order under
12 chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or
13 violation of a domestic violence protection order under chapter 7.105
14 RCW, that is not a felony offense;

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

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

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

23 (~~(43)~~) (44) "Restitution" means a specific sum of money ordered
24 by the sentencing court to be paid by the offender to the court over
25 a specified period of time as payment of damages. The sum may include
26 both public and private costs.

27 (~~(44)~~) (45) "Risk assessment" means the application of the risk
28 instrument recommended to the department by the Washington state
29 institute for public policy as having the highest degree of
30 predictive accuracy for assessing an offender's risk of reoffense.

31 (~~(45)~~) (46) "Serious traffic offense" means:

32 (a) Nonfelony driving while under the influence of intoxicating
33 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
34 while under the influence of intoxicating liquor or any drug (RCW
35 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
36 attended vehicle (RCW 46.52.020(5)); or

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

1 (~~(46)~~) (47) "Serious violent offense" is a subcategory of
2 violent offense and means:

- 3 (a) (i) Murder in the first degree;
- 4 (ii) Homicide by abuse;
- 5 (iii) Murder in the second degree;
- 6 (iv) Manslaughter in the first degree;
- 7 (v) Assault in the first degree;
- 8 (vi) Kidnapping in the first degree;
- 9 (vii) Rape in the first degree;
- 10 (viii) Assault of a child in the first degree; or
- 11 (ix) An attempt, criminal solicitation, or criminal conspiracy to
- 12 commit one of these felonies; or

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

16 (~~(47)~~) (48) "Sex offense" means:

- 17 (a) (i) A felony that is a violation of chapter 9A.44 RCW other
- 18 than RCW 9A.44.132;
- 19 (ii) A violation of RCW 9A.64.020;
- 20 (iii) A felony that is a violation of chapter 9.68A RCW other
- 21 than RCW 9.68A.080;
- 22 (iv) A felony that is, under chapter 9A.28 RCW, a criminal
- 23 attempt, criminal solicitation, or criminal conspiracy to commit such
- 24 crimes; or
- 25 (v) A felony violation of RCW 9A.44.132(1) (failure to register
- 26 as a sex offender) if the person has been convicted of violating RCW
- 27 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
- 28 prior to June 10, 2010, on at least one prior occasion;

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

32 (c) A felony with a finding of sexual motivation under RCW
33 9.94A.835 or 13.40.135; or

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

37 (~~(48)~~) (49) "Sexual motivation" means that one of the purposes
38 for which the defendant committed the crime was for the purpose of
39 his or her sexual gratification.

1 (~~(49)~~) (50) "Standard sentence range" means the sentencing
2 court's discretionary range in imposing a nonappealable sentence.

3 (~~(50)~~) (51) "Statutory maximum sentence" means the maximum
4 length of time for which an offender may be confined as punishment
5 for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the
6 statute defining the crime, or other statute defining the maximum
7 penalty for a crime.

8 (~~(51)~~) (52) "Stranger" means that the victim did not know the
9 offender 24 hours before the offense.

10 (~~(52)~~) (53) "Total confinement" means confinement inside the
11 physical boundaries of a facility or institution operated or utilized
12 under contract by the state or any other unit of government for 24
13 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

14 (~~(53)~~) (54) "Transition training" means written and verbal
15 instructions and assistance provided by the department to the
16 offender during the two weeks prior to the offender's successful
17 completion of the work ethic camp program. The transition training
18 shall include instructions in the offender's requirements and
19 obligations during the offender's period of community custody.

20 (~~(54)~~) (55) "Victim" means any person who has sustained
21 emotional, psychological, physical, or financial injury to person or
22 property as a direct result of the crime charged.

23 (~~(55)~~) (56) "Victim of domestic violence" means an intimate
24 partner or household member who has been subjected to the infliction
25 of physical harm or sexual and psychological abuse by an intimate
26 partner or household member as part of a pattern of assaultive,
27 coercive, and controlling behaviors directed at achieving compliance
28 from or control over that intimate partner or household member.
29 Domestic violence includes, but is not limited to, the offenses
30 listed in RCW 10.99.020 and 26.50.010 committed by an intimate
31 partner or household member against a victim who is an intimate
32 partner or household member.

33 (~~(56)~~) (57) "Victim of sex trafficking, prostitution, or
34 commercial sexual abuse of a minor" means a person who has been
35 forced or coerced to perform a commercial sex act including, but not
36 limited to, being a victim of offenses defined in RCW 9A.40.100,
37 9A.88.070, 9.68A.101, and the trafficking victims protection act of
38 2000, 22 U.S.C. Sec. 7101 et seq.; or a person who was induced to
39 perform a commercial sex act when they were less than 18 years of age

1 including but not limited to the offenses defined in chapter 9.68A
2 RCW.

3 ~~((57))~~ (58) "Victim of sexual assault" means any person who is
4 a victim of a sexual assault offense, nonconsensual sexual conduct,
5 or nonconsensual sexual penetration and as a result suffers physical,
6 emotional, financial, or psychological impacts. Sexual assault
7 offenses include, but are not limited to, the offenses defined in
8 chapter 9A.44 RCW.

9 ~~((58))~~ (59) "Violent offense" means:

10 (a) Any of the following felonies:

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

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

15 (iii) Manslaughter in the first degree;

16 (iv) Manslaughter in the second degree;

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

18 (vi) Kidnapping in the second degree;

19 (vii) Arson in the second degree;

20 (viii) Assault in the second degree;

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

22 (x) Extortion in the first degree;

23 (xi) Robbery in the second degree;

24 (xii) Drive-by shooting;

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

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

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

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

1 (~~(59)~~) (60) "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 (~~(60)~~) (61) "Work ethic camp" means an alternative
5 incarceration program as provided in RCW 9.94A.690 designed to reduce
6 recidivism and lower the cost of corrections by requiring offenders
7 to complete a comprehensive array of real-world job and vocational
8 experiences, character-building work ethics training, life management
9 skills development, substance abuse rehabilitation, counseling,
10 literacy training, and basic adult education.

11 (~~(61)~~) (62) "Work release" means a program of partial
12 confinement available to offenders who are employed or engaged as a
13 student in a regular course of study at school.

14 PART III: RECLASSIFICATION OF FELONY OFFENSES
15

16 **Sec. 10.** RCW 9.68A.040 and 1989 c 32 s 2 are each amended to
17 read as follows:

18 (1) A person is guilty of sexual exploitation of a minor if the
19 person:

20 (a) Compels a minor by threat or force to engage in sexually
21 explicit conduct, knowing that such conduct will be photographed or
22 part of a live performance;

23 (b) Aids, invites, employs, authorizes, or causes a minor to
24 engage in sexually explicit conduct, knowing that such conduct will
25 be photographed or part of a live performance; or

26 (c) Being a parent, legal guardian, or person having custody or
27 control of a minor, permits the minor to engage in sexually explicit
28 conduct, knowing that the conduct will be photographed or part of a
29 live performance.

30 (2) Sexual exploitation of a minor is a class ~~(B)~~ A felony
31 punishable under chapter 9A.20 RCW.

32 **Sec. 11.** RCW 46.61.504 and 2022 c 16 s 42 are each amended to
33 read as follows:

34 (1) A person is guilty of being in actual physical control of a
35 motor vehicle while under the influence of intoxicating liquor or any
36 drug if the person has actual physical control of a vehicle within
37 this state:

1 (a) And the person has, within two hours after being in actual
2 physical control of the vehicle, an alcohol concentration of 0.08 or
3 higher as shown by analysis of the person's breath or blood made
4 under RCW 46.61.506; or

5 (b) The person has, within two hours after being in actual
6 physical control of a vehicle, a THC concentration of 5.00 or higher
7 as shown by analysis of the person's blood made under RCW 46.61.506;
8 or

9 (c) While the person is under the influence of or affected by
10 intoxicating liquor or any drug; or

11 (d) While the person is under the combined influence of or
12 affected by intoxicating liquor and any drug.

13 (2) The fact that a person charged with a violation of this
14 section is or has been entitled to use a drug under the laws of this
15 state does not constitute a defense against any charge of violating
16 this section. No person may be convicted under this section and it is
17 an affirmative defense to any action pursuant to RCW 46.20.308 to
18 suspend, revoke, or deny the privilege to drive if, prior to being
19 pursued by a law enforcement officer, the person has moved the
20 vehicle safely off the roadway.

21 (3)(a) It is an affirmative defense to a violation of subsection
22 (1)(a) of this section which the defendant must prove by a
23 preponderance of the evidence that the defendant consumed a
24 sufficient quantity of alcohol after the time of being in actual
25 physical control of the vehicle and before the administration of an
26 analysis of the person's breath or blood to cause the defendant's
27 alcohol concentration to be 0.08 or more within two hours after being
28 in such control. The court shall not admit evidence of this defense
29 unless the defendant notifies the prosecution prior to the omnibus or
30 pretrial hearing in the case of the defendant's intent to assert the
31 affirmative defense.

32 (b) It is an affirmative defense to a violation of subsection
33 (1)(b) of this section, which the defendant must prove by a
34 preponderance of the evidence, that the defendant consumed a
35 sufficient quantity of cannabis after the time of being in actual
36 physical control of the vehicle and before the administration of an
37 analysis of the person's blood to cause the defendant's THC
38 concentration to be 5.00 or more within two hours after being in
39 control of the vehicle. The court shall not admit evidence of this
40 defense unless the defendant notifies the prosecution prior to the

1 omnibus or pretrial hearing in the case of the defendant's intent to
2 assert the affirmative defense.

3 (4) (a) Analyses of blood or breath samples obtained more than two
4 hours after the alleged being in actual physical control of a vehicle
5 may be used as evidence that within two hours of the alleged being in
6 such control, a person had an alcohol concentration of 0.08 or more
7 in violation of subsection (1)(a) of this section, and in any case in
8 which the analysis shows an alcohol concentration above 0.00 may be
9 used as evidence that a person was under the influence of or affected
10 by intoxicating liquor or any drug in violation of subsection (1)(c)
11 or (d) of this section.

12 (b) Analyses of blood samples obtained more than two hours after
13 the alleged being in actual physical control of a vehicle may be used
14 as evidence that within two hours of the alleged being in control of
15 the vehicle, a person had a THC concentration of 5.00 or more in
16 violation of subsection (1)(b) of this section, and in any case in
17 which the analysis shows a THC concentration above 0.00 may be used
18 as evidence that a person was under the influence of or affected by
19 cannabis in violation of subsection (1)(c) or (d) of this section.

20 (5) Except as provided in subsection (6) of this section, a
21 violation of this section is a gross misdemeanor.

22 (6) It is a class ((€)) B felony punishable under chapter 9.94A
23 RCW, or chapter 13.40 RCW if the person is a juvenile, if:

24 (a) The person has three or more prior offenses within ten years
25 as defined in RCW 46.61.5055; or

26 (b) The person has ever previously been convicted of:

27 (i) Vehicular homicide while under the influence of intoxicating
28 liquor or any drug, RCW 46.61.520(1)(a);

29 (ii) Vehicular assault while under the influence of intoxicating
30 liquor or any drug, RCW 46.61.522(1)(b);

31 (iii) An out-of-state offense comparable to the offense specified
32 in (b)(i) or (ii) of this subsection; or

33 (iv) A violation of this subsection (6) or RCW 46.61.502(6).

34 **Sec. 12.** RCW 69.55.010 and 2002 c 133 s 1 are each amended to
35 read as follows:

36 (1) A person who, with intent to deprive the owner or owner's
37 agent, wrongfully obtains pressurized ammonia gas or pressurized
38 ammonia gas solution, is guilty of theft of ammonia.

39 (2) Theft of ammonia is a class ((€)) B felony.

1 **Sec. 13.** RCW 18.64.046 and 2023 c 195 s 3 are each amended to
2 read as follows:

3 (1) Except as provided in subsection (6)(b) of this section, the
4 owner of each place of business which sells legend drugs and
5 nonprescription drugs, or nonprescription drugs at wholesale shall
6 pay a license fee to be determined by the secretary, and thereafter,
7 on or before a date to be determined by the secretary as provided in
8 RCW 43.70.250 and 43.70.280, a like fee to be determined by the
9 secretary, for which the owner shall receive a license of location
10 from the department, which shall entitle such owner to either sell
11 legend drugs and nonprescription drugs or nonprescription drugs at
12 wholesale at the location specified for the period ending on a date
13 to be determined by the secretary, and each such owner shall at the
14 time of payment of such fee file with the department, on a blank
15 therefor provided, a declaration of ownership and location, which
16 declaration of ownership and location so filed as aforesaid shall be
17 deemed presumptive evidence of the ownership of such place of
18 business mentioned therein. It shall be the duty of the owner to
19 notify immediately the department of any change of location and
20 ownership and to keep the license of location or the renewal thereof
21 properly exhibited in such place of business.

22 (2) Failure to conform with this section is a misdemeanor, and
23 each day that the failure continues is a separate offense.

24 (3) In event the license fee remains unpaid on the date due, no
25 renewal or new license shall be issued except upon compliance with
26 administrative procedures, administrative requirements, and fees
27 determined as provided in RCW 43.70.250 and 43.70.280.

28 (4) No wholesaler may sell any quantity of drug products
29 containing ephedrine, pseudoephedrine, phenylpropanolamine, or their
30 salts, isomers, or salts of isomers, if the total monthly sales of
31 these products to persons within the state of Washington exceed five
32 percent of the wholesaler's total prior monthly sales of
33 nonprescription drugs to persons within the state in March through
34 October. In November through February, no wholesaler may sell any
35 quantity of drug products containing ephedrine, pseudoephedrine, or
36 phenylpropanolamine, or their salts, isomers, or salts of isomers if
37 the total monthly sales of these products to persons within the state
38 of Washington exceed ten percent of the wholesaler's total prior
39 monthly sales of nonprescription drugs to persons within the state.
40 For purposes of this section, monthly sales means total dollars paid

1 by buyers. The commission may suspend or revoke the license of any
2 wholesaler that violates this section.

3 (5) The commission may exempt a wholesaler from the limitations
4 of subsection (4) of this section if it finds that the wholesaler
5 distributes nonprescription drugs only through transactions between
6 divisions, subsidiaries, or related companies when the wholesaler and
7 the retailer are related by common ownership, and that neither the
8 wholesaler nor the retailer has a history of suspicious transactions
9 in precursor drugs as defined in RCW 69.43.035.

10 (6) (a) The requirements for a license apply to all persons, in
11 Washington and outside of Washington, who sell both legend drugs and
12 nonprescription drugs and to those who sell only nonprescription
13 drugs, at wholesale to pharmacies, practitioners, and shopkeepers in
14 Washington.

15 (b) For purposes of the actions authorized by section 1, chapter
16 195, Laws of 2023, the department of corrections is exempt from
17 obtaining a wholesaler license as required by this section.

18 (7) (a) No wholesaler may sell any product containing any
19 detectable quantity of ephedrine, pseudoephedrine,
20 phenylpropanolamine, or their salts, isomers, or salts of isomers, to
21 any person in Washington other than a pharmacy licensed under this
22 chapter, a shopkeeper or itinerant vendor registered under this
23 chapter, a practitioner as defined in RCW 18.64.011, or a traditional
24 Chinese herbal practitioner as defined in RCW 69.43.105.

25 (b) A violation of this subsection is punishable as a class ((C))
26 B felony according to chapter 9A.20 RCW, and each sale in violation
27 of this subsection constitutes a separate offense.

28 PART IV: AMENDATORY PROVISIONS
29

30 **Sec. 14.** RCW 9.94A.470 and 2002 c 290 s 14 are each amended to
31 read as follows:

32 Notwithstanding the current placement or listing of crimes in
33 categories or classifications of prosecuting standards for deciding
34 to prosecute under RCW 9.94A.411(2), any and all felony crimes
35 involving any deadly weapon special verdict under RCW ((9.94A.602))
36 9.94A.825, any deadly weapon enhancements under RCW 9.94A.533 ((~~3~~)
37 ~~or~~) (4) or (5), or both, and any and all felony crimes as defined in
38 RCW 9.94A.533 ((~~3~~) (~~f~~) ~~or~~) (4) (f) or (5) (f), or both, which are

1 excluded from the deadly weapon enhancements shall all be treated as
2 crimes against a person and subject to the prosecuting standards for
3 deciding to prosecute under RCW 9.94A.411(2) as crimes against
4 persons.

5 **Sec. 15.** RCW 9.94A.475 and 2018 c 7 s 6 are each amended to read
6 as follows:

7 Any and all recommended sentencing agreements or plea agreements
8 and the sentences for any and all felony crimes shall be made and
9 retained as public records if the felony crime involves:

- 10 (1) Any violent offense as defined in this chapter;
11 (2) Any most serious offense as defined in this chapter;
12 (3) Any felony with a deadly weapon special verdict under RCW
13 9.94A.825;

14 (4) Any felony with any deadly weapon enhancements under RCW
15 9.94A.533 (~~((3) or (4))~~) (4) or (5), or both;

16 (5) The felony crimes of possession of a machine gun or bump-fire
17 stock, possessing a stolen firearm, drive-by shooting, theft of a
18 firearm, unlawful possession of a firearm in the first or second
19 degree, and/or use of a machine gun or bump-fire stock in a felony;
20 or

21 (6) The felony crime of driving a motor vehicle while under the
22 influence of intoxicating liquor or any drug as defined in RCW
23 46.61.502, and felony physical control of a motor vehicle while under
24 the influence of intoxicating liquor or any drug as defined in RCW
25 46.61.504.

26 **Sec. 16.** RCW 9.94A.505 and 2022 c 260 s 23 are each amended to
27 read as follows:

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

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

32 (i) Unless another term of confinement applies, a sentence within
33 the standard sentence range established in section 1 of this act, RCW
34 9.94A.510, or 9.94A.517;

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

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

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

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

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

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

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

7 (ix) RCW 9.94A.695, relating to the mental health sentencing
8 alternative;

9 (x) RCW 9.94A.507, relating to certain sex offenses;

10 (xi) RCW 9.94A.535, relating to exceptional sentences;

11 (xii) RCW 9.94A.589, relating to consecutive and concurrent
12 sentences;

13 (xiii) RCW 9.94A.603, relating to felony driving while under the
14 influence of intoxicating liquor or any drug and felony physical
15 control of a vehicle while under the influence of intoxicating liquor
16 or any drug;

17 (xiv) RCW 9.94A.711, relating to the theft or taking of a motor
18 vehicle.

19 (b) If a standard sentence range has not been established for the
20 offender's crime, the court shall impose a determinate sentence which
21 may include not more than one year of confinement; community
22 restitution work; a term of community custody under RCW 9.94A.702 not
23 to exceed one year; and/or other legal financial obligations. The
24 court may impose a sentence which provides more than one year of
25 confinement and a community custody term under RCW 9.94A.701 if the
26 court finds reasons justifying an exceptional sentence as provided in
27 RCW 9.94A.535.

28 (3) If the court imposes a sentence requiring confinement of 30
29 days or less, the court may, in its discretion, specify that the
30 sentence be served on consecutive or intermittent days. A sentence
31 requiring more than 30 days of confinement shall be served on
32 consecutive days. Local jail administrators may schedule court-
33 ordered intermittent sentences as space permits.

34 (4) If a sentence imposed includes payment of a legal financial
35 obligation, it shall be imposed as provided in RCW 9.94A.750,
36 9.94A.753, and 9.94A.760.

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

1 (6) The sentencing court shall give the offender credit for all
2 confinement time served before the sentencing if that confinement was
3 solely in regard to the offense for which the offender is being
4 sentenced.

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

- 9 (a) A violent offense;
- 10 (b) Any sex offense;
- 11 (c) Any drug offense;
- 12 (d) Reckless burning in the first or second degree as defined in
13 RCW 9A.48.040 or 9A.48.050;
- 14 (e) Assault in the third degree as defined in RCW 9A.36.031;
- 15 (f) Assault of a child in the third degree;
- 16 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or
- 17 (h) Harassment as defined in RCW 9A.46.020.

18 (8) The court shall order restitution as provided in RCW
19 9.94A.750 and 9.94A.753.

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

26 (10) In any sentence of partial confinement, the court may
27 require the offender to serve the partial confinement in work
28 release, in a program of home detention, on work crew, or in a
29 combined program of work crew and home detention.

30 **Sec. 17.** RCW 9.94A.510 and 2014 c 130 s 1 are each amended to
31 read as follows:

32 TABLE ((±)) 3
33 Sentencing Grid - Offenses Not Sentenced According To Section 1 Of
34 This Act

35 SERIOUSNESS

36 LEVEL

OFFENDER SCORE

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| | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 or more |
|------|--|-------|-------|-------|--------|-------|-------|--------|--------|-----------|
| XVI | Life sentence without parole/death penalty for offenders at or over the age of eighteen. For offenders under the age of eighteen, a term of twenty-five years to life. | | | | | | | | | |
| XV | 23y4m | 24y4m | 25y4m | 26y4m | 27y4m | 28y4m | 30y4m | 32y10m | 36y | 40y |
| | 240- | 250- | 261- | 271- | 281- | 291- | 312- | 338- | 370- | 411- |
| | 320 | 333 | 347 | 361 | 374 | 388 | 416 | 450 | 493 | 548 |
| XIV | 14y4m | 15y4m | 16y2m | 17y | 17y11m | 18y9m | 20y5m | 22y2m | 25y7m | 29y |
| | 123- | 134- | 144- | 154- | 165- | 175- | 195- | 216- | 257- | 298- |
| | 220 | 234 | 244 | 254 | 265 | 275 | 295 | 316 | 357 | 397 |
| XIII | 12y | 13y | 14y | 15y | 16y | 17y | 19y | 21y | 25y | 29y |
| | 123- | 134- | 144- | 154- | 165- | 175- | 195- | 216- | 257- | 298- |
| | 164 | 178 | 192 | 205 | 219 | 233 | 260 | 288 | 342 | 397 |
| XII | 9y | 9y11m | 10y9m | 11y8m | 12y6m | 13y5m | 15y9m | 17y3m | 20y3m | 23y3m |
| | 93- | 102- | 111- | 120- | 129- | 138- | 162- | 178- | 209- | 240- |
| | 123 | 136 | 147 | 160 | 171 | 184 | 216 | 236 | 277 | 318 |
| XI | 7y6m | 8y4m | 9y2m | 9y11m | 10y9m | 11y7m | 14y2m | 15y5m | 17y11m | 20y5m |
| | 78- | 86- | 95- | 102- | 111- | 120- | 146- | 159- | 185- | 210- |
| | 102 | 114 | 125 | 136 | 147 | 158 | 194 | 211 | 245 | 280 |
| X | 5y | 5y6m | 6y | 6y6m | 7y | 7y6m | 9y6m | 10y6m | 12y6m | 14y6m |
| | 51- | 57- | 62- | 67- | 72- | 77- | 98- | 108- | 129- | 149- |
| | 68 | 75 | 82 | 89 | 96 | 102 | 130 | 144 | 171 | 198 |
| IX | 3y | 3y6m | 4y | 4y6m | 5y | 5y6m | 7y6m | 8y6m | 10y6m | 12y6m |
| | 31- | 36- | 41- | 46- | 51- | 57- | 77- | 87- | 108- | 129- |
| | 41 | 48 | 54 | 61 | 68 | 75 | 102 | 116 | 144 | 171 |
| VIII | 2y | 2y6m | 3y | 3y6m | 4y | 4y6m | 6y6m | 7y6m | 8y6m | 10y6m |
| | 21- | 26- | 31- | 36- | 41- | 46- | 67- | 77- | 87- | 108- |
| | 27 | 34 | 41 | 48 | 54 | 61 | 89 | 102 | 116 | 144 |
| VII | 18m | 2y | 2y6m | 3y | 3y6m | 4y | 5y6m | 6y6m | 7y6m | 8y6m |
| | 15- | 21- | 26- | 31- | 36- | 41- | 57- | 67- | 77- | 87- |
| | 20 | 27 | 34 | 41 | 48 | 54 | 75 | 89 | 102 | 116 |
| VI | 13m | 18m | 2y | 2y6m | 3y | 3y6m | 4y6m | 5y6m | 6y6m | 7y6m |

| | | | | | | | | | | | |
|----|-----|------|------|------|-----|------|------|------|------|------|------|
| 1 | | 12+- | 15- | 21- | 26- | 31- | 36- | 46- | 57- | 67- | 77- |
| 2 | | 14 | 20 | 27 | 34 | 41 | 48 | 61 | 75 | 89 | 102 |
| 3 | V | 9m | 13m | 15m | 18m | 2y2m | 3y2m | 4y | 5y | 6y | 7y |
| 4 | | 6- | 12+- | 13- | 15- | 22- | 33- | 41- | 51- | 62- | 72- |
| 5 | | 12 | 14 | 17 | 20 | 29 | 43 | 54 | 68 | 82 | 96 |
| 6 | IV | 6m | 9m | 13m | 15m | 18m | 2y2m | 3y2m | 4y2m | 5y2m | 6y2m |
| 7 | | 3- | 6- | 12+- | 13- | 15- | 22- | 33- | 43- | 53- | 63- |
| 8 | | 9 | 12 | 14 | 17 | 20 | 29 | 43 | 57 | 70 | 84 |
| 9 | III | 2m | 5m | 8m | 11m | 14m | 20m | 2y2m | 3y2m | 4y2m | 5y |
| 10 | | 1- | 3- | 4- | 9- | 12+- | 17- | 22- | 33- | 43- | 51- |
| 11 | | 3 | 8 | 12 | 12 | 16 | 22 | 29 | 43 | 57 | 68 |
| 12 | II | | 4m | 6m | 8m | 13m | 16m | 20m | 2y2m | 3y2m | 4y2m |
| 13 | | 0-90 | 2- | 3- | 4- | 12+- | 14- | 17- | 22- | 33- | 43- |
| 14 | | Days | 6 | 9 | 12 | 14 | 18 | 22 | 29 | 43 | 57 |
| 15 | I | | | 3m | 4m | 5m | 8m | 13m | 16m | 20m | 2y2m |
| 16 | | 0-60 | 0-90 | 2- | 2- | 3- | 4- | 12+- | 14- | 17- | 22- |
| 17 | | Days | Days | 5 | 6 | 8 | 12 | 14 | 18 | 22 | 29 |

18 Numbers in the first horizontal row of each seriousness category
 19 represent sentencing midpoints in years(y) and months(m). Numbers in
 20 the second and third rows represent standard sentence ranges in
 21 months, or in days if so designated. 12+ equals one year and one day.

22 **Sec. 18.** RCW 9.94A.515 and 2023 c 196 s 3 and 2023 c 7 s 3 are
 23 each reenacted and amended to read as follows:

24 TABLE ((2)) 4

25 CRIMES INCLUDED WITHIN EACH

26 SERIOUSNESS LEVEL -

27 SENTENCED ACCORDING TO RCW

28 9.94A.510

29 XVI Aggravated Murder 1 (RCW 10.95.020)

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

31 Malicious explosion 1 (RCW

32 70.74.280(1))

33 Murder 1 (RCW 9A.32.030)

1 XIV Murder 2 (RCW 9A.32.050)
2 Trafficking 1 (RCW 9A.40.100(1))
3 XIII Malicious explosion 2 (RCW
4 70.74.280(2))
5 Malicious placement of an explosive 1
6 (RCW 70.74.270(1))
7 XII Assault 1 (RCW 9A.36.011)
8 Assault of a Child 1 (RCW 9A.36.120)
9 Malicious placement of an imitation
10 device 1 (RCW 70.74.272(1)(a))
11 Promoting Commercial Sexual Abuse of
12 a Minor (RCW 9.68A.101)
13 Rape 1 (RCW 9A.44.040)
14 Rape of a Child 1 (RCW 9A.44.073)
15 Trafficking 2 (RCW 9A.40.100(3))
16 XI Manslaughter 1 (RCW 9A.32.060)
17 Rape 2 (RCW 9A.44.050)
18 Rape of a Child 2 (RCW 9A.44.076)
19 Vehicular Homicide, by being under the
20 influence of intoxicating liquor or
21 any drug (RCW 46.61.520)
22 Vehicular Homicide, by the operation of
23 any vehicle in a reckless manner
24 (RCW 46.61.520)
25 X Child Molestation 1 (RCW 9A.44.083)
26 Criminal Mistreatment 1 (RCW
27 9A.42.020)
28 Indecent Liberties (with forcible
29 compulsion) (RCW
30 9A.44.100(1)(a))
31 Kidnapping 1 (RCW 9A.40.020)
32 Leading Organized Crime (RCW
33 9A.82.060(1)(a))
34 Malicious explosion 3 (RCW
35 70.74.280(3))

1 Sexually Violent Predator Escape (RCW
2 9A.76.115)

3 IX Abandonment of Dependent Person 1
4 (RCW 9A.42.060)

5 Assault of a Child 2 (RCW 9A.36.130)

6 Explosive devices prohibited (RCW
7 70.74.180)

8 Hit and Run—Death (RCW
9 46.52.020(4)(a))

10 Homicide by Watercraft, by being under
11 the influence of intoxicating liquor
12 or any drug (RCW 79A.60.050)

13 Inciting Criminal Profiteering (RCW
14 9A.82.060(1)(b))

15 Malicious placement of an explosive 2
16 (RCW 70.74.270(2))

17 Robbery 1 (RCW 9A.56.200)

18 Sexual Exploitation (RCW 9.68A.040)

19 VIII Arson 1 (RCW 9A.48.020)

20 Commercial Sexual Abuse of a Minor
21 (RCW 9.68A.100)

22 Homicide by Watercraft, by the
23 operation of any vessel in a reckless
24 manner (RCW 79A.60.050)

25 Manslaughter 2 (RCW 9A.32.070)

26 Promoting Prostitution 1 (RCW
27 9A.88.070)

28 Theft of Ammonia (RCW 69.55.010)

29 VII Air bag diagnostic systems (causing
30 bodily injury or death) (RCW
31 46.37.660(2)(b))

32 Air bag replacement requirements
33 (causing bodily injury or death)
34 (RCW 46.37.660(1)(b))

35 Burglary 1 (RCW 9A.52.020)

1 Child Molestation 2 (RCW 9A.44.086)
2 Civil Disorder Training (RCW
3 9A.48.120)
4 Custodial Sexual Misconduct 1 (RCW
5 9A.44.160)
6 Dealing in depictions of minor engaged
7 in sexually explicit conduct 1
8 (RCW 9.68A.050(1))
9 Drive-by Shooting (RCW 9A.36.045)
10 False Reporting 1 (RCW
11 9A.84.040(2)(a))
12 Homicide by Watercraft, by disregard
13 for the safety of others (RCW
14 79A.60.050)
15 Indecent Liberties (without forcible
16 compulsion) (RCW 9A.44.100(1)
17 (b) and (c))
18 Introducing Contraband 1 (RCW
19 9A.76.140)
20 Malicious placement of an explosive 3
21 (RCW 70.74.270(3))
22 Manufacture or import counterfeit,
23 nonfunctional, damaged, or
24 previously deployed air bag
25 (causing bodily injury or death)
26 (RCW 46.37.650(1)(b))
27 Negligently Causing Death By Use of a
28 Signal Preemption Device (RCW
29 46.37.675)
30 Sell, install, or reinstall counterfeit,
31 nonfunctional, damaged, or
32 previously deployed airbag (RCW
33 46.37.650(2)(b))
34 Sending, bringing into state depictions
35 of minor engaged in sexually
36 explicit conduct 1 (RCW
37 9.68A.060(1))

1 Unlawful Possession of a Firearm in the
2 first degree (RCW 9A.1.040(1))
3 Use of a Machine Gun or Bump-fire
4 Stock in Commission of a Felony
5 (RCW 9A.1.225)
6 Vehicular Homicide, by disregard for
7 the safety of others (RCW
8 46.61.520)
9 VI Bail Jumping with Murder 1 (RCW
10 9A.76.170(3)(a))
11 Bribery (RCW 9A.68.010)
12 Incest 1 (RCW 9A.64.020(1))
13 Intimidating a Judge (RCW 9A.72.160)
14 Intimidating a Juror/Witness (RCW
15 9A.72.110, 9A.72.130)
16 Malicious placement of an imitation
17 device 2 (RCW 70.74.272(1)(b))
18 Possession of Depictions of a Minor
19 Engaged in Sexually Explicit
20 Conduct 1 (RCW 9.68A.070(1))
21 Rape of a Child 3 (RCW 9A.44.079)
22 Theft of a Firearm (RCW 9A.56.300)
23 Theft from a Vulnerable Adult 1 (RCW
24 9A.56.400(1))
25 Unlawful Storage of Ammonia (RCW
26 69.55.020)
27 V Abandonment of Dependent Person 2
28 (RCW 9A.42.070)
29 Advancing money or property for
30 extortionate extension of credit
31 (RCW 9A.82.030)
32 Air bag diagnostic systems (RCW
33 46.37.660(2)(c))
34 Air bag replacement requirements
35 (RCW 46.37.660(1)(c))

1 Bail Jumping with class A Felony
2 (RCW 9A.76.170(3)(b))
3 Child Molestation 3 (RCW 9A.44.089)
4 Criminal Mistreatment 2 (RCW
5 9A.42.030)
6 Custodial Sexual Misconduct 2 (RCW
7 9A.44.170)
8 Dealing in Depictions of Minor
9 Engaged in Sexually Explicit
10 Conduct 2 (RCW 9.68A.050(2))
11 Domestic Violence Court Order
12 Violation (RCW 7.105.450,
13 10.99.040, 10.99.050, 26.09.300,
14 26.26B.050, or 26.52.070)
15 Extortion 1 (RCW 9A.56.120)
16 Extortionate Extension of Credit (RCW
17 9A.82.020)
18 Extortionate Means to Collect
19 Extensions of Credit (RCW
20 9A.82.040)
21 Incest 2 (RCW 9A.64.020(2))
22 Kidnapping 2 (RCW 9A.40.030)
23 Manufacture or import counterfeit,
24 nonfunctional, damaged, or
25 previously deployed air bag (RCW
26 46.37.650(1)(c))
27 Perjury 1 (RCW 9A.72.020)
28 Persistent prison misbehavior (RCW
29 9.94.070)
30 Possession of a Stolen Firearm (RCW
31 9A.56.310)
32 Rape 3 (RCW 9A.44.060)
33 Rendering Criminal Assistance 1 (RCW
34 9A.76.070)

1 Sell, install, or reinstall counterfeit,
2 nonfunctional, damaged, or
3 previously deployed airbag (RCW
4 46.37.650(2)(c))
5 Sending, Bringing into State Depictions
6 of Minor Engaged in Sexually
7 Explicit Conduct 2 (RCW
8 9.68A.060(2))
9 Sexual Misconduct with a Minor 1
10 (RCW 9A.44.093)
11 Sexually Violating Human Remains
12 (RCW 9A.44.105)
13 Stalking (RCW 9A.46.110)
14 Taking Motor Vehicle Without
15 Permission 1 (RCW 9A.56.070)
16 IV Arson 2 (RCW 9A.48.030)
17 Assault 2 (RCW 9A.36.021)
18 Assault 3 (of a Peace Officer with a
19 Projectile Stun Gun) (RCW
20 9A.36.031(1)(h))
21 Assault 4 (third domestic violence
22 offense) (RCW 9A.36.041(3))
23 Assault by Watercraft (RCW
24 79A.60.060)
25 Bribing a Witness/Bribe Received by
26 Witness (RCW 9A.72.090,
27 9A.72.100)
28 Cheating 1 (RCW 9.46.1961)
29 Commercial Bribery (RCW 9A.68.060)
30 Counterfeiting (RCW 9.16.035(4))
31 Driving While Under the Influence
32 (RCW 46.61.502(6))
33 Endangerment with a Controlled
34 Substance (RCW 9A.42.100)
35 Escape 1 (RCW 9A.76.110)

1 Hate Crime (RCW 9A.36.080)
2 Hit and Run—Injury (RCW
3 46.52.020(4)(b))
4 Hit and Run with Vessel—Injury
5 Accident (RCW 79A.60.200(3))
6 Identity Theft 1 (RCW 9.35.020(2))
7 Indecent Exposure to Person Under Age
8 14 (subsequent sex offense) (RCW
9 9A.88.010)
10 Influencing Outcome of Sporting Event
11 (RCW 9A.82.070)
12 Physical Control of a Vehicle While
13 Under the Influence (RCW
14 46.61.504(6))
15 Possession of Depictions of a Minor
16 Engaged in Sexually Explicit
17 Conduct 2 (RCW 9.68A.070(2))
18 Residential Burglary (RCW 9A.52.025)
19 Robbery 2 (RCW 9A.56.210)
20 Theft of Livestock 1 (RCW 9A.56.080)
21 Threats to Bomb (RCW 9.61.160)
22 Trafficking in Stolen Property 1 (RCW
23 9A.82.050)
24 Unlawful factoring of a credit card or
25 payment card transaction (RCW
26 9A.56.290(4)(b))
27 Unlawful transaction of health coverage
28 as a health care service contractor
29 (RCW 48.44.016(3))
30 Unlawful transaction of health coverage
31 as a health maintenance
32 organization (RCW 48.46.033(3))
33 Unlawful transaction of insurance
34 business (RCW 48.15.023(3))
35 Unlicensed practice as an insurance
36 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 III Animal Cruelty 1 (Sexual Conduct or
15 Contact) (RCW 16.52.205(3))
16 Assault 3 (Except Assault 3 of a Peace
17 Officer With a Projectile Stun Gun)
18 (RCW 9A.36.031 except subsection
19 (1)(h))
20 Assault of a Child 3 (RCW 9A.36.140)
21 Bail Jumping with class B or C Felony
22 (RCW 9A.76.170(3)(c))
23 Burglary 2 (RCW 9A.52.030)
24 Communication with a Minor for
25 Immoral Purposes (RCW
26 9.68A.090)
27 Criminal Gang Intimidation (RCW
28 9A.46.120)
29 Custodial Assault (RCW 9A.36.100)
30 Cyber Harassment (RCW
31 9A.90.120(2)(b))
32 Escape 2 (RCW 9A.76.120)
33 Extortion 2 (RCW 9A.56.130)
34 False Reporting 2 (RCW
35 9A.84.040(2)(b))
36 Harassment (RCW 9A.46.020)

1 Hazing (RCW 28B.10.901(2)(b))
2 Intimidating a Public Servant (RCW
3 9A.76.180)
4 Introducing Contraband 2 (RCW
5 9A.76.150)
6 Malicious Injury to Railroad Property
7 (RCW 81.60.070)
8 Manufacture of Untraceable Firearm
9 with Intent to Sell (RCW 9.41.190)
10 Manufacture or Assembly of an
11 Undetectable Firearm or
12 Untraceable Firearm (RCW
13 9.41.325)
14 Mortgage Fraud (RCW 19.144.080)
15 Negligently Causing Substantial Bodily
16 Harm By Use of a Signal
17 Preemption Device (RCW
18 46.37.674)
19 Organized Retail Theft 1 (RCW
20 9A.56.350(2))
21 Perjury 2 (RCW 9A.72.030)
22 Possession of Incendiary Device (RCW
23 9.40.120)
24 Possession of Machine Gun, Bump-Fire
25 Stock, Undetectable Firearm, or
26 Short-Barreled Shotgun or Rifle
27 (RCW 9.41.190)
28 Promoting Prostitution 2 (RCW
29 9A.88.080)
30 Retail Theft with Special Circumstances
31 1 (RCW 9A.56.360(2))
32 Securities Act violation (RCW
33 21.20.400)
34 Tampering with a Witness (RCW
35 9A.72.120)

1 Telephone Harassment (subsequent
2 conviction or threat of death) (RCW
3 9.61.230(2))
4 Theft of Livestock 2 (RCW 9A.56.083)
5 Theft with the Intent to Resell 1 (RCW
6 9A.56.340(2))
7 Trafficking in Stolen Property 2 (RCW
8 9A.82.055)
9 Unlawful Hunting of Big Game 1 (RCW
10 77.15.410(3)(b))
11 Unlawful Imprisonment (RCW
12 9A.40.040)
13 Unlawful Misbranding of Fish or
14 Shellfish 1 (RCW 77.140.060(3))
15 Unlawful possession of firearm in the
16 second degree (RCW 9.41.040(2))
17 Unlawful Taking of Endangered Fish or
18 Wildlife 1 (RCW 77.15.120(3)(b))
19 Unlawful Trafficking in Fish, Shellfish,
20 or Wildlife 1 (RCW
21 77.15.260(3)(b))
22 Unlawful Use of a Nondesignated
23 Vessel (RCW 77.15.530(4))
24 Vehicular Assault, by the operation or
25 driving of a vehicle with disregard
26 for the safety of others (RCW
27 46.61.522)
28 II Commercial Fishing Without a License
29 1 (RCW 77.15.500(3)(b))
30 Computer Trespass 1 (RCW 9A.90.040)
31 Counterfeiting (RCW 9.16.035(3))
32 Electronic Data Service Interference
33 (RCW 9A.90.060)
34 Electronic Data Tampering 1 (RCW
35 9A.90.080)
36 Electronic Data Theft (RCW 9A.90.100)

1 Engaging in Fish Dealing Activity
2 Unlicensed 1 (RCW 77.15.620(3))
3 Escape from Community Custody
4 (RCW 72.09.310)
5 Failure to Register as a Sex Offender
6 (second or subsequent offense)
7 (RCW 9A.44.130 prior to June 10,
8 2010, and RCW 9A.44.132)
9 Health Care False Claims (RCW
10 48.80.030)
11 Identity Theft 2 (RCW 9.35.020(3))
12 Improperly Obtaining Financial
13 Information (RCW 9.35.010)
14 Malicious Mischief 1 (RCW 9A.48.070)
15 Organized Retail Theft 2 (RCW
16 9A.56.350(3))
17 Possession of Stolen Property 1 (RCW
18 9A.56.150)
19 Possession of a Stolen Vehicle (RCW
20 9A.56.068)
21 Retail Theft with Special Circumstances
22 2 (RCW 9A.56.360(3))
23 Scrap Processing, Recycling, or
24 Supplying Without a License
25 (second or subsequent offense)
26 (RCW 19.290.100)
27 Theft 1 (RCW 9A.56.030)
28 Theft of a Motor Vehicle (RCW
29 9A.56.065)
30 Theft of Rental, Leased, Lease-
31 purchased, or Loaned Property
32 (valued at \$5,000 or more) (RCW
33 9A.56.096(5)(a))
34 Theft with the Intent to Resell 2 (RCW
35 9A.56.340(3))

1 Trafficking in Insurance Claims (RCW
2 48.30A.015)
3 Unlawful factoring of a credit card or
4 payment card transaction (RCW
5 9A.56.290(4)(a))
6 Unlawful Participation of Non-Indians
7 in Indian Fishery (RCW
8 77.15.570(2))
9 Unlawful Practice of Law (RCW
10 2.48.180)
11 Unlawful Purchase or Use of a License
12 (RCW 77.15.650(3)(b))
13 Unlawful Trafficking in Fish, Shellfish,
14 or Wildlife 2 (RCW
15 77.15.260(3)(a))
16 Unlicensed Practice of a Profession or
17 Business (RCW 18.130.190(7))
18 Voyeurism 1 (RCW 9A.44.115)
19 I Attempting to Elude a Pursuing Police
20 Vehicle (RCW 46.61.024)
21 False Verification for Welfare (RCW
22 74.08.055)
23 Forgery (RCW 9A.60.020)
24 Fraudulent Creation or Revocation of a
25 Mental Health Advance Directive
26 (RCW 9A.60.060)
27 Malicious Mischief 2 (RCW 9A.48.080)
28 Mineral Trespass (RCW 78.44.330)
29 Possession of Stolen Property 2 (RCW
30 9A.56.160)
31 Reckless Burning 1 (RCW 9A.48.040)
32 Spotlighting Big Game 1 (RCW
33 77.15.450(3)(b))
34 Suspension of Department Privileges 1
35 (RCW 77.15.670(3)(b))

1 Taking Motor Vehicle Without
2 Permission 2 (RCW 9A.56.075)
3 Theft 2 (RCW 9A.56.040)
4 Theft from a Vulnerable Adult 2 (RCW
5 9A.56.400(2))
6 Theft of Rental, Leased, Lease-
7 purchased, or Loaned Property
8 (valued at \$750 or more but less
9 than \$5,000) (RCW
10 9A.56.096(5)(b))
11 Transaction of insurance business
12 beyond the scope of licensure
13 (RCW 48.17.063)
14 Unlawful Fish and Shellfish Catch
15 Accounting (RCW 77.15.630(3)(b))
16 Unlawful Issuance of Checks or Drafts
17 (RCW 9A.56.060)
18 Unlawful Possession of Fictitious
19 Identification (RCW 9A.56.320)
20 Unlawful Possession of Instruments of
21 Financial Fraud (RCW 9A.56.320)
22 Unlawful Possession of Payment
23 Instruments (RCW 9A.56.320)
24 Unlawful Possession of a Personal
25 Identification Device (RCW
26 9A.56.320)
27 Unlawful Production of Payment
28 Instruments (RCW 9A.56.320)
29 Unlawful Releasing, Planting,
30 Possessing, or Placing Deleterious
31 Exotic Wildlife (RCW
32 77.15.250(2)(b))
33 Unlawful Trafficking in Food Stamps
34 (RCW 9.91.142)
35 Unlawful Use of Food Stamps (RCW
36 9.91.144)

1 Unlawful Use of Net to Take Fish 1

2 (RCW 77.15.580(3)(b))

3 Vehicle Prowl 1 (RCW 9A.52.095)

4 Violating Commercial Fishing Area or

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

6 **Sec. 19.** RCW 9.94A.517 and 2015 c 291 s 9 are each amended to
7 read as follows:

8 (1)

9 TABLE ((3)) 5

10 DRUG OFFENSE SENTENCING GRID

| 11 Seriousness | Offender Score | Offender Score | Offender Score |
|----------------|------------------|-------------------|--------------------|
| 12 Level | 0 to 2 | 3 to 5 | 6 to 9 or more |
| 13 III | 51 to 68 months | 68+ to 100 months | 100+ to 120 months |
| 14 II | 12+ to 20 months | 20+ to 60 months | 60+ to 120 months |
| 15 I | 0 to 6 months | 6+ to 18 months | 12+ to 24 months |

16 References to months represent the standard sentence ranges. 12+
17 equals one year and one day.

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

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

25 **Sec. 20.** RCW 9.94A.530 and 2023 c 102 s 15 are each amended to
26 read as follows:

27 (1) The intersection of the column defined by the offender score
28 and the row defined by the offense seriousness score determines the
29 standard sentence range (see ((RCW 9.94A.510)) section 1 of this act,
30 (Table 1), RCW 9.94A.510, (Table 3), and RCW 9.94A.517, (Table ((3))
31 5)). The additional time for deadly weapon findings or for other
32 adjustments as specified in RCW 9.94A.533 shall be added to the
33 entire standard sentence range. The court may impose any sentence

1 within the range that it deems appropriate. All standard sentence
2 ranges are expressed in terms of total confinement.

3 (2) In determining any sentence other than a sentence above the
4 standard range, the trial court may rely on no more information than
5 is admitted by the plea agreement, or admitted, acknowledged, or
6 proved in a trial or at the time of sentencing, or proven pursuant to
7 RCW 9.94A.537. Where the defendant disputes material facts, the court
8 must either not consider the fact or grant an evidentiary hearing on
9 the point. The facts shall be deemed proved at the hearing by a
10 preponderance of the evidence, except as otherwise specified in RCW
11 9.94A.537. On remand for resentencing following appeal or collateral
12 attack, the parties shall have the opportunity to present and the
13 court to consider all relevant evidence regarding criminal history,
14 including criminal history not previously presented.

15 (3) In determining any sentence above the standard sentence
16 range, the court shall follow the procedures set forth in RCW
17 9.94A.537. Facts that establish the elements of a more serious crime
18 or additional crimes may not be used to go outside the standard
19 sentence range except upon stipulation or when specifically provided
20 for in RCW 9.94A.535(3)(d), (e), (g), and (h).

21 **Sec. 21.** RCW 9.94A.660 and 2021 c 215 s 102 are each amended to
22 read as follows:

23 (1) An offender is eligible for the special drug offender
24 sentencing alternative if:

25 (a) The offender is convicted of a felony that is not a violent
26 offense and the violation does not involve a sentence enhancement
27 under RCW 9.94A.533 (~~((3) or (4))~~) (4) or (5);

28 (b) The offender is convicted of a felony that is not a felony
29 driving while under the influence of intoxicating liquor or any drug
30 under RCW 46.61.502(6) or felony physical control of a vehicle while
31 under the influence of intoxicating liquor or any drug under RCW
32 46.61.504(6);

33 (c) The offender has no current or prior convictions for a sex
34 offense for which the offender is currently or may be required to
35 register pursuant to RCW 9A.44.130;

36 (d) The offender has no prior convictions in this state, and no
37 prior convictions for an equivalent out-of-state or federal offense,
38 for the following offenses during the following time frames:

1 (i) Robbery in the second degree that did not involve the use of
2 a firearm and was not reduced from robbery in the first degree within
3 seven years before conviction of the current offense; or

4 (ii) Any other violent offense within ten years before conviction
5 of the current offense;

6 (e) For a violation of the uniform controlled substances act
7 under chapter 69.50 RCW or a criminal solicitation to commit such a
8 violation under chapter 9A.28 RCW, the offense involved only a small
9 quantity of the particular controlled substance as determined by the
10 judge upon consideration of such factors as the weight, purity,
11 packaging, sale price, and street value of the controlled substance;

12 (f) The offender has not been found by the United States attorney
13 general to be subject to a deportation detainer or order and does not
14 become subject to a deportation order during the period of the
15 sentence; and

16 (g) The offender has not received a drug offender sentencing
17 alternative more than once in the prior ten years before the current
18 offense.

19 (2) A motion for a special drug offender sentencing alternative
20 may be made by the court, the offender, or the state.

21 (3) If the sentencing court determines that the offender is
22 eligible for an alternative sentence under this section and that the
23 alternative sentence is appropriate, the court shall waive imposition
24 of a sentence within the standard sentence range and impose a
25 sentence consisting of either a prison-based alternative under RCW
26 9.94A.662 or a residential substance use disorder treatment-based
27 alternative under RCW 9.94A.664. The residential substance use
28 disorder treatment-based alternative is only available if the
29 midpoint of the standard range is twenty-six months or less.

30 (4) (a) To assist the court in making its determination, the court
31 may order the department to complete either or both a risk assessment
32 report and a substance use disorder screening report as provided in
33 RCW 9.94A.500.

34 (b) To assist the court in making its determination in domestic
35 violence cases, the court shall order the department to complete a
36 presentence investigation and a chemical dependency screening report
37 as provided in RCW 9.94A.500, unless otherwise specifically waived by
38 the court.

39 (5) If the court is considering imposing a sentence under the
40 residential substance use disorder treatment-based alternative, the

1 court may order an examination of the offender by the department. The
2 examination must be performed by an agency certified by the
3 department of health to provide substance use disorder services. The
4 examination shall, at a minimum, address the following issues:

5 (a) Whether the offender suffers from a substance use disorder;

6 (b) Whether the substance use disorder is such that there is a
7 probability that criminal behavior will occur in the future;

8 (c) Whether effective treatment for the offender's substance use
9 disorder is available from a provider that has been licensed or
10 certified by the department of health, and where applicable, whether
11 effective domestic violence perpetrator treatment is available from a
12 state-certified domestic violence treatment provider pursuant to RCW
13 43.20A.735; and

14 (d) Whether the offender and the community will benefit from the
15 use of the alternative.

16 (6) When a court imposes a sentence of community custody under
17 this section:

18 (a) The court may impose conditions as provided in RCW 9.94A.703
19 and may impose other affirmative conditions as the court considers
20 appropriate. In addition, an offender may be required to pay thirty
21 dollars per month while on community custody to offset the cost of
22 monitoring for alcohol or controlled substances, or in cases of
23 domestic violence for monitoring with global positioning system
24 technology for compliance with a no-contact order.

25 (b) The department may impose conditions and sanctions as
26 authorized in RCW 9.94A.704 and 9.94A.737.

27 (7)(a) The court may bring any offender sentenced under this
28 section back into court at any time on its own initiative to evaluate
29 the offender's progress in treatment or to determine if any
30 violations of the conditions of the sentence have occurred.

31 (b) If the offender is brought back to court, the court may
32 modify the conditions of the community custody or impose sanctions
33 under (c) of this subsection.

34 (c) The court may order the offender to serve a term of total
35 confinement within the standard range of the offender's current
36 offense at any time during the period of community custody if the
37 offender violates the conditions or requirements of the sentence or
38 if the offender is failing to make satisfactory progress in
39 treatment.

1 (d) An offender ordered to serve a term of total confinement
2 under (c) of this subsection shall receive credit for time previously
3 served in total or partial confinement and inpatient treatment under
4 this section, and shall receive fifty percent credit for time
5 previously served in community custody under this section.

6 (8) In serving a term of community custody imposed upon failure
7 to complete, or administrative termination from, the special drug
8 offender sentencing alternative program, the offender shall receive
9 no credit for time served in community custody prior to termination
10 of the offender's participation in the program.

11 (9) An offender sentenced under this section shall be subject to
12 all rules relating to earned release time with respect to any period
13 served in total confinement.

14 (10) The Washington state institute for public policy shall
15 submit a report to the governor and the appropriate committees of the
16 legislature by November 1, 2022, analyzing the effectiveness of the
17 drug offender sentencing alternative in reducing recidivism among
18 various offender populations. An additional report is due November 1,
19 2028, and every five years thereafter. The Washington state institute
20 for public policy may coordinate with the department and the caseload
21 forecast council in tracking data and preparing the report.

22 **Sec. 22.** RCW 9.94A.729 and 2022 c 29 s 1 are each amended to
23 read as follows:

24 (1)(a) The term of the sentence of an offender committed to a
25 correctional facility operated by the department may be reduced by
26 earned release time in accordance with procedures that shall be
27 developed and adopted by the correctional agency having jurisdiction
28 in which the offender is confined. The earned release time shall be
29 for good behavior and good performance, as determined by the
30 correctional agency having jurisdiction. The correctional agency
31 shall not credit the offender with earned release credits in advance
32 of the offender actually earning the credits.

33 (b) Any program established pursuant to this section shall allow
34 an offender to earn early release credits for presentence
35 incarceration. If an offender is transferred from a county jail to
36 the department, the administrator of a county jail facility shall
37 certify to the department the amount of time spent in custody at the
38 facility and the number of days of early release credits lost or not
39 earned. The department may approve a jail certification from a

1 correctional agency that calculates early release time based on the
2 actual amount of confinement time served by the offender before
3 sentencing when an erroneous calculation of confinement time served
4 by the offender before sentencing appears on the judgment and
5 sentence. The department must adjust an offender's rate of early
6 release listed on the jail certification to be consistent with the
7 rate applicable to offenders in the department's facilities. However,
8 the department is not authorized to adjust the number of presentence
9 early release days that the jail has certified as lost or not earned.

10 (2) (a) An offender who has been convicted of a felony committed
11 after July 23, 1995, that involves any applicable deadly weapon
12 enhancements under RCW 9.94A.533 (~~((3) or (4))~~) (4) or (5), or both,
13 shall not receive any good time credits or earned release time for
14 that portion of his or her sentence that results from any deadly
15 weapon enhancements.

16 (b) An offender whose sentence includes any impaired driving
17 enhancements under RCW 9.94A.533 (~~((7))~~) (8), minor child enhancements
18 under RCW 9.94A.533 (~~((13))~~) (14), or both, shall not receive any good
19 time credits or earned release time for any portion of his or her
20 sentence that results from those enhancements.

21 (3) An offender may earn early release time as follows:

22 (a) In the case of an offender sentenced pursuant to RCW
23 10.95.030 (~~((3))~~) (2) or 10.95.035, the offender may not receive any
24 earned early release time during the minimum term of confinement
25 imposed by the court; for any remaining portion of the sentence
26 served by the offender, the aggregate earned release time may not
27 exceed 10 percent of the sentence.

28 (b) In the case of an offender convicted of a serious violent
29 offense, or a sex offense that is a class A felony, committed on or
30 after July 1, 1990, and before July 1, 2003, the aggregate earned
31 release time may not exceed 15 percent of the sentence.

32 (c) In the case of an offender convicted of a serious violent
33 offense, or a sex offense that is a class A felony, committed on or
34 after July 1, 2003, the aggregate earned release time may not exceed
35 10 percent of the sentence.

36 (d) An offender is qualified to earn up to 50 percent of
37 aggregate earned release time if he or she:

38 (i) Is not classified as an offender who is at a high risk to
39 reoffend as provided in subsection (4) of this section;

40 (ii) Is not confined pursuant to a sentence for:

1 (A) A sex offense;

2 (B) A violent offense;

3 (C) A crime against persons as defined in RCW 9.94A.411;

4 (D) A felony that is domestic violence as defined in RCW
5 10.99.020;

6 (E) A violation of RCW 9A.52.025 (residential burglary);

7 (F) A violation of, or an attempt, solicitation, or conspiracy to
8 violate, RCW 69.50.401 by manufacture or delivery or possession with
9 intent to deliver methamphetamine; or

10 (G) A violation of, or an attempt, solicitation, or conspiracy to
11 violate, RCW 69.50.406 (delivery of a controlled substance to a
12 minor);

13 (iii) Has no prior conviction for the offenses listed in (d)(ii)
14 of this subsection;

15 (iv) Participates in programming or activities as directed by the
16 offender's individual reentry plan as provided under RCW 72.09.270 to
17 the extent that such programming or activities are made available by
18 the department; and

19 (v) Has not committed a new felony after July 22, 2007, while
20 under community custody.

21 (e) In no other case shall the aggregate earned release time
22 exceed one-third of the total sentence.

23 (4) The department shall perform a risk assessment of each
24 offender who may qualify for earned early release under subsection
25 (3)(d) of this section utilizing the risk assessment tool recommended
26 by the Washington state institute for public policy. Subsection
27 (3)(d) of this section does not apply to offenders convicted after
28 July 1, 2010.

29 (5)(a) A person who is eligible for earned early release as
30 provided in this section and who will be supervised by the department
31 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
32 community custody in lieu of earned release time;

33 (b) The department shall, as a part of its program for release to
34 the community in lieu of earned release, require the offender to
35 propose a release plan that includes an approved residence and living
36 arrangement. All offenders with community custody terms eligible for
37 release to community custody in lieu of earned release shall provide
38 an approved residence and living arrangement prior to release to the
39 community;

1 (c) The department may deny transfer to community custody in lieu
2 of earned release time if the department determines an offender's
3 release plan, including proposed residence location and living
4 arrangements, may violate the conditions of the sentence or
5 conditions of supervision, place the offender at risk to violate the
6 conditions of the sentence, place the offender at risk to reoffend,
7 or present a risk to victim safety or community safety. The
8 department's authority under this section is independent of any
9 court-ordered condition of sentence or statutory provision regarding
10 conditions for community custody;

11 (d) If the department is unable to approve the offender's release
12 plan, the department may do one or more of the following:

13 (i) Transfer an offender to partial confinement in lieu of earned
14 early release for a period not to exceed three months. The three
15 months in partial confinement is in addition to that portion of the
16 offender's term of confinement that may be served in partial
17 confinement as provided in RCW 9.94A.728(1)(e);

18 (ii) Provide rental vouchers to the offender for a period not to
19 exceed six months if rental assistance will result in an approved
20 release plan.

21 A voucher must be provided in conjunction with additional
22 transition support programming or services that enable an offender to
23 participate in services including, but not limited to, substance
24 abuse treatment, mental health treatment, sex offender treatment,
25 educational programming, or employment programming;

26 (e) The department shall maintain a list of housing providers
27 that meets the requirements of RCW 72.09.285. If more than two
28 voucher recipients will be residing per dwelling unit, as defined in
29 RCW 59.18.030, rental vouchers for those recipients may only be paid
30 to a housing provider on the department's list;

31 (f) For each offender who is the recipient of a rental voucher,
32 the department shall gather data as recommended by the Washington
33 state institute for public policy in order to best demonstrate
34 whether rental vouchers are effective in reducing recidivism.

35 (6) An offender serving a term of confinement imposed under RCW
36 9.94A.670(5)(a) is not eligible for earned release credits under this
37 section.

38 **Sec. 23.** RCW 9.94A.833 and 2008 c 276 s 302 are each amended to
39 read as follows:

1 (1) In a prosecution of a criminal street gang-related felony
2 offense, the prosecution may file a special allegation that the
3 felony offense involved the compensation, threatening, or
4 solicitation of a minor in order to involve that minor in the
5 commission of the felony offense, as described under RCW
6 9.94A.533(~~(+10)~~) (11)(a).

7 (2) The state has the burden of proving a special allegation made
8 under this section beyond a reasonable doubt. If a jury is had, the
9 jury shall, if it finds the defendant guilty, also find a special
10 verdict as to whether the criminal street gang-related felony offense
11 involved the compensation, threatening, or solicitation of a minor in
12 order to involve that minor in the commission of the felony offense.
13 If no jury is had, the court shall make a finding of fact as to
14 whether the criminal street gang-related felony offense involved the
15 compensation, threatening, or solicitation of a minor in order to
16 involve that minor in the commission of the felony offense.

17 **Sec. 24.** RCW 10.01.210 and 2002 c 290 s 23 are each amended to
18 read as follows:

19 Any and all law enforcement agencies and personnel, criminal
20 justice attorneys, sentencing judges, and state and local
21 correctional facilities and personnel may, but are not required to,
22 give any and all offenders either written or oral notice, or both, of
23 the sanctions imposed and criminal justice changes regarding armed
24 offenders, including but not limited to the subjects of:

25 (1) Felony crimes involving any deadly weapon special verdict
26 under RCW (~~(9.94A.602)~~) 9.94A.825;

27 (2) Any and all deadly weapon enhancements under RCW 9.94A.533
28 (~~(+3) or~~) (4) or (5), or both, as well as any federal firearm,
29 ammunition, or other deadly weapon enhancements;

30 (3) Any and all felony crimes requiring the possession, display,
31 or use of any deadly weapon as well as the many increased penalties
32 for these crimes including the creation of theft of a firearm and
33 possessing a stolen firearm;

34 (4) New prosecuting standards established for filing charges for
35 all crimes involving any deadly weapons;

36 (5) Removal of good time for any and all deadly weapon
37 enhancements; and

38 (6) Providing the death penalty for those who commit first degree
39 murder: (a) To join, maintain, or advance membership in an

1 identifiable group; (b) as part of a drive-by shooting; or (c) to
2 avoid prosecution as a persistent offender as defined in RCW
3 9.94A.030.

4 PART V: MISCELLANEOUS PROVISIONS

5 NEW SECTION. **Sec. 25.** If any amendments to any sections enacted
6 or affected by this act are enacted in a 2024 legislative session
7 that do not take cognizance of this act, the code reviser shall
8 prepare a bill for introduction in the 2025 legislative session that
9 incorporates any such amendments into the sections adopted by this
10 act and corrects any incorrect cross-references.

11 NEW SECTION. **Sec. 26.** RCW 9.94A.506 (Standard sentence ranges—
12 Limitations) and 2011 1st sp.s. c 40 s 26 are each repealed.

13 NEW SECTION. **Sec. 27.** Except for section 8 of this act, this
14 act takes effect August 1, 2028.

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