
SUBSTITUTE SENATE BILL 5376

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Costa, McCaslin and Heavey)

Read first time 03/03/1999.

1 AN ACT Relating to sentencing of offenders; amending RCW 9.94A.030,
2 9.94A.360, and 9.94A.400; reenacting and amending RCW 9.94A.040,
3 9.94A.310, 9.94A.320, and 9A.44.130; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.94A.040 and 1997 c 365 s 2 and 1997 c 338 s 3 are
6 each reenacted and amended to read as follows:

7 (1) A sentencing guidelines commission is established as an agency
8 of state government.

9 (2) The legislature finds that the commission, having accomplished
10 its original statutory directive to implement this chapter, and having
11 expertise in sentencing practice and policies, shall:

12 (a) Evaluate state sentencing policy, to include whether the
13 sentencing ranges and standards are consistent with and further:

14 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

15 (ii) The intent of the legislature to emphasize confinement for the
16 violent offender and alternatives to confinement for the nonviolent
17 offender.

1 The commission shall provide the governor and the legislature with
2 its evaluation and recommendations under this subsection not later than
3 December 1, 1996, and every two years thereafter;

4 (b) Recommend to the legislature revisions or modifications to the
5 standard sentence ranges, state sentencing policy, prosecuting
6 standards, and other standards. If implementation of the revisions or
7 modifications would result in exceeding the capacity of correctional
8 facilities, then the commission shall accompany its recommendation with
9 an additional list of standard sentence ranges which are consistent
10 with correction capacity;

11 (c) Study the existing criminal code and from time to time make
12 recommendations to the legislature for modification;

13 (d)(i) Serve as a clearinghouse and information center for the
14 collection, preparation, analysis, and dissemination of information on
15 state and local adult and juvenile sentencing practices; (ii) develop
16 and maintain a computerized adult and juvenile sentencing information
17 system by individual superior court judge consisting of offender,
18 offense, history, and sentence information entered from judgment and
19 sentence forms for all adult felons; and (iii) conduct ongoing research
20 regarding adult and juvenile sentencing guidelines, use of total
21 confinement and alternatives to total confinement, plea bargaining, and
22 other matters relating to the improvement of the adult criminal justice
23 system and the juvenile justice system;

24 (e) Assume the powers and duties of the juvenile disposition
25 standards commission after June 30, 1996;

26 (f) Evaluate the effectiveness of existing disposition standards
27 and related statutes in implementing policies set forth in RCW
28 13.40.010 generally, specifically review the guidelines relating to the
29 confinement of minor and first offenders as well as the use of
30 diversion, and review the application of current and proposed juvenile
31 sentencing standards and guidelines for potential adverse impacts on
32 the sentencing outcomes of racial and ethnic minority youth;

33 (g) Solicit the comments and suggestions of the juvenile justice
34 community concerning disposition standards, and make recommendations to
35 the legislature regarding revisions or modifications of the standards.
36 The evaluations shall be submitted to the legislature on December 1 of
37 each odd-numbered year. The department of social and health services
38 shall provide the commission with available data concerning the
39 implementation of the disposition standards and related statutes and

1 their effect on the performance of the department's responsibilities
2 relating to juvenile offenders, and with recommendations for
3 modification of the disposition standards. The office of the
4 administrator for the courts shall provide the commission with
5 available data on diversion and dispositions of juvenile offenders
6 under chapter 13.40 RCW; and

7 (h) Not later than December 1, 1997, and at least every two years
8 thereafter, based on available information, report to the governor and
9 the legislature on:

10 (i) Racial disproportionality in juvenile and adult sentencing;

11 (ii) The capacity of state and local juvenile and adult facilities
12 and resources; and

13 (iii) Recidivism information on adult and juvenile offenders.

14 (3) Each of the commission's recommended standard sentence ranges
15 shall include one or more of the following: Total confinement, partial
16 confinement, community supervision, community service, and a fine.

17 (4) The standard sentence ranges of total and partial confinement
18 under this chapter are subject to the following limitations:

19 (a) If the maximum term in the range is one year or less, the
20 minimum term in the range shall be no less than one-third of the
21 maximum term in the range, except that if the maximum term in the range
22 is ninety days or less, the minimum term may be less than one-third of
23 the maximum;

24 (b) If the maximum term in the range is greater than one year, the
25 minimum term in the range shall be no less than seventy-five percent of
26 the maximum term in the range, except that for murder in the second
27 degree in seriousness (~~category XIII~~) level XIV under RCW 9.94A.310,
28 the minimum term in the range shall be no less than fifty percent of
29 the maximum term in the range; and

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

32 (5) The commission shall exercise its duties under this section in
33 conformity with chapter 34.05 RCW.

34 **Sec. 2.** RCW 9.94A.310 and 1998 c 235 s 1 and 1998 c 211 s 3 are
35 each reenacted and amended to read as follows:

1 (1)

TABLE 1

2 Sentencing Grid

3 SERIOUSNESS

4 ((SCORE))

5 LEVEL

OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9 or more
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9 ((XV))

10 XVI Life Sentence without Parole/Death Penalty

12 ((XIV))

13 <u>XV</u>	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
14	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
15	320	333	347	361	374	388	416	450	493	548

17 ((XIII))

18 <u>XIV</u>	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
19	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
20	220	234	244	254	265	275	295	316	357	397

22 <u>XIII</u>	<u>12y</u>	<u>13y</u>	<u>14y</u>	<u>15y</u>	<u>16y</u>	<u>17y</u>	<u>19y</u>	<u>21y</u>	<u>25y</u>	<u>29y</u>
23	<u>123-</u>	<u>134-</u>	<u>144-</u>	<u>154-</u>	<u>165-</u>	<u>175-</u>	<u>195-</u>	<u>216-</u>	<u>257-</u>	<u>298-</u>
24	<u>164</u>	<u>178</u>	<u>192</u>	<u>205</u>	<u>219</u>	<u>233</u>	<u>260</u>	<u>288</u>	<u>342</u>	<u>397</u>

26 <u>XII</u>	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
27	93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
28	123	136	147	160	171	184	216	236	277	318

30 <u>XI</u>	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
31	78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
32	102	114	125	136	147	158	194	211	245	280

34 <u>X</u>	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
35	51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
36	68	75	82	89	96	102	130	144	171	198

37

1	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
2		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
3		41	48	54	61	68	75	102	116	144	171
4											
5	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
6		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
7		27	34	41	48	54	61	89	102	116	144
8											
9	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
10		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
11		20	27	34	41	48	54	75	89	102	116
12											
13	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
14		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
15		14	20	27	34	41	48	61	75	89	102
16											
17	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
18		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
19		12	14	17	20	29	43	54	68	82	96
20											
21	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
22		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
23		9	12	14	17	20	29	43	57	70	84
24											
25	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
26		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
27		3	8	12	12	16	22	29	43	57	68
28											
29	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
30		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
31		Days	6	9	12	14	18	22	29	43	57
32											
33	I			3m	4m	5m	8m	13m	16m	20m	2y2m
34		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
35		Days	Days	5	6	8	12	14	18	22	29
36											

37 NOTE: Numbers in the first horizontal row of each seriousness category
38 represent sentencing midpoints in years(y) and months(m). Numbers in

1 the second and third rows represent presumptive sentencing ranges in
2 months, or in days if so designated. 12+ equals one year and one day.

3 (2) For persons convicted of the anticipatory offenses of criminal
4 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
5 presumptive sentence is determined by locating the sentencing grid
6 sentence range defined by the appropriate offender score and the
7 seriousness level of the completed crime, and multiplying the range by
8 75 percent.

9 (3) The following additional times shall be added to the
10 presumptive sentence for felony crimes committed after July 23, 1995,
11 if the offender or an accomplice was armed with a firearm as defined in
12 RCW 9.41.010 and the offender is being sentenced for one of the crimes
13 listed in this subsection as eligible for any firearm enhancements
14 based on the classification of the completed felony crime. If the
15 offender is being sentenced for more than one offense, the firearm
16 enhancement or enhancements must be added to the total period of
17 confinement for all offenses, regardless of which underlying offense is
18 subject to a firearm enhancement. If the offender or an accomplice was
19 armed with a firearm as defined in RCW 9.41.010 and the offender is
20 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
21 commit one of the crimes listed in this subsection as eligible for any
22 firearm enhancements, the following additional times shall be added to
23 the presumptive sentence determined under subsection (2) of this
24 section based on the felony crime of conviction as classified under RCW
25 9A.28.020:

26 (a) Five years for any felony defined under any law as a class A
27 felony or with a maximum sentence of at least twenty years, or both,
28 and not covered under (f) of this subsection.

29 (b) Three years for any felony defined under any law as a class B
30 felony or with a maximum sentence of ten years, or both, and not
31 covered under (f) of this subsection.

32 (c) Eighteen months for any felony defined under any law as a
33 class C felony or with a maximum sentence of five years, or both, and
34 not covered under (f) of this subsection.

35 (d) If the offender is being sentenced for any firearm
36 enhancements under (a), (b), and/or (c) of this subsection and the
37 offender has previously been sentenced for any deadly weapon
38 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
39 subsection or subsection (4)(a), (b), and/or (c) of this section, or

1 both, any and all firearm enhancements under this subsection shall be
2 twice the amount of the enhancement listed.

3 (e) Notwithstanding any other provision of law, any and all
4 firearm enhancements under this section are mandatory, shall be served
5 in total confinement, and shall run consecutively to all other
6 sentencing provisions, including other firearm or deadly weapon
7 enhancements, for all offenses sentenced under this chapter.

8 (f) The firearm enhancements in this section shall apply to all
9 felony crimes except the following: Possession of a machine gun,
10 possessing a stolen firearm, drive-by shooting, theft of a firearm,
11 unlawful possession of a firearm in the first and second degree, and
12 use of a machine gun in a felony.

13 (g) If the presumptive sentence under this section exceeds the
14 statutory maximum for the offense, the statutory maximum sentence shall
15 be the presumptive sentence unless the offender is a persistent
16 offender as defined in RCW 9.94A.030. If the addition of a firearm
17 enhancement increases the sentence so that it would exceed the
18 statutory maximum for the offense, the portion of the sentence
19 representing the enhancement may not be reduced.

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

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

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

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

10 (d) If the offender is being sentenced under (a), (b), and/or (c)
11 of this subsection for any deadly weapon enhancements and the offender
12 has previously been sentenced for any deadly weapon enhancements after
13 July 23, 1995, under (a), (b), and/or (c) of this subsection or
14 subsection (3)(a), (b), and/or (c) of this section, or both, any and
15 all deadly weapon enhancements under this subsection shall be twice the
16 amount of the enhancement listed.

17 (e) Notwithstanding any other provision of law, any and all deadly
18 weapon enhancements under this section are mandatory, shall be served
19 in 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.

22 (f) The deadly weapon enhancements in this section shall apply to
23 all felony crimes except the following: Possession of a machine gun,
24 possessing a stolen firearm, drive-by shooting, theft of a firearm,
25 unlawful possession of a firearm in the first and second degree, and
26 use of a machine gun in a felony.

27 (g) If the presumptive sentence under this section exceeds the
28 statutory maximum for the offense, the statutory maximum sentence shall
29 be the presumptive sentence unless the offender is a persistent
30 offender as defined in RCW 9.94A.030. If the addition of a deadly
31 weapon enhancement increases the sentence so that it would exceed the
32 statutory maximum for the offense, the portion of the sentence
33 representing the enhancement may not be reduced.

34 (5) The following additional times shall be added to the
35 presumptive sentence if the offender or an accomplice committed the
36 offense while in a county jail or state correctional facility as that
37 term is defined in this chapter and the offender is being sentenced for
38 one of the crimes listed in this subsection. If the offender or an
39 accomplice committed one of the crimes listed in this subsection while

1 in a county jail or state correctional facility as that term is defined
2 in this chapter, and the offender is being sentenced for an
3 anticipatory offense under chapter 9A.28 RCW to commit one of the
4 crimes listed in this subsection, the following additional times shall
5 be added to the presumptive sentence determined under subsection (2) of
6 this section:

7 (a) Eighteen months for offenses committed under RCW
8 69.50.401(a)(1) (i) or (ii) or 69.50.410;

9 (b) Fifteen months for offenses committed under RCW
10 69.50.401(a)(1) (iii), (iv), and (v);

11 (c) Twelve months for offenses committed under RCW 69.50.401(d).
12 For the purposes of this subsection, all of the real property of
13 a state correctional facility or county jail shall be deemed to be part
14 of that facility or county jail.

15 (6) An additional twenty-four months shall be added to the
16 presumptive sentence for any ranked offense involving a violation of
17 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

18 (7) An additional two years shall be added to the presumptive
19 sentence for vehicular homicide committed while under the influence of
20 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
21 prior offense as defined in RCW 46.61.5055.

22 **Sec. 3.** RCW 9.94A.320 and 1998 c 290 s 4, 1998 c 219 s 4, 1998 c
23 82 s 1, and 1998 c 78 s 1 are each reenacted and amended to read as
24 follows:

25 TABLE 2

26 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

27 ((XV))

28 XVI Aggravated Murder 1 (RCW 10.95.020)

29 ((XIV))

30 XV Murder 1 (RCW 9A.32.030)

31 Homicide by abuse (RCW 9A.32.055)

32 Malicious explosion 1 (RCW 70.74.280(1))

33 ((XIII))

34 XIV Murder 2 (RCW 9A.32.050)

35 XIII Malicious explosion 2 (RCW 70.74.280(2))

1 Malicious placement of an explosive 1 (RCW
2 70.74.270(1))

3 XII Assault 1 (RCW 9A.36.011)
4 Assault of a Child 1 (RCW 9A.36.120)
5 Rape 1 (RCW 9A.44.040)
6 Rape of a Child 1 (RCW 9A.44.073)
7 Malicious placement of an imitation device 1
8 (RCW 70.74.272(1)(a))

9 XI Rape 2 (RCW 9A.44.050)
10 Rape of a Child 2 (RCW 9A.44.076)
11 Manslaughter 1 (RCW 9A.32.060)

12 X Kidnapping 1 (RCW 9A.40.020)
13 Child Molestation 1 (RCW 9A.44.083)
14 Malicious explosion 3 (RCW 70.74.280(3))
15 Over 18 and deliver heroin, methamphetamine,
16 a narcotic from Schedule I or II, or
17 flunitrazepam from Schedule IV to
18 someone under 18 (RCW 69.50.406)
19 Leading Organized Crime (RCW 9A.82.060(1)(a))
20 Indecent Liberties (with forcible compulsion)
21 (RCW 9A.44.100(1)(a))
22 Manufacture of methamphetamine (RCW
23 69.50.401(a)(1)(ii))

24 IX Assault of a Child 2 (RCW 9A.36.130)
25 Robbery 1 (RCW 9A.56.200)
26 Explosive devices prohibited (RCW 70.74.180)
27 Malicious placement of an explosive 2 (RCW
28 70.74.270(2))
29 Over 18 and deliver narcotic from Schedule
30 III, IV, or V or a nonnarcotic, except
31 flunitrazepam or methamphetamine, from
32 Schedule I-V to someone under 18 and 3
33 years junior (RCW 69.50.406)
34 Controlled Substance Homicide (RCW 69.50.415)
35 Sexual Exploitation (RCW 9.68A.040)
36 Inciting Criminal Profiteering (RCW
37 9A.82.060(1)(b))

1 Vehicular Homicide, by being under the
2 influence of intoxicating liquor or any
3 drug (RCW 46.61.520)
4 Homicide by Watercraft, by being under the
5 influence of intoxicating liquor or any
6 drug (RCW 88.12.029)

7 VIII Arson 1 (RCW 9A.48.020)
8 Promoting Prostitution 1 (RCW 9A.88.070)
9 Selling for profit (controlled or
10 counterfeit) any controlled substance
11 (RCW 69.50.410)
12 Manufacture, deliver, or possess with intent
13 to deliver heroin or cocaine (RCW
14 69.50.401(a)(1)(i))
15 Deliver or possess with intent to deliver
16 methamphetamine (RCW
17 69.50.401(a)(1)(ii))
18 Manufacture, deliver, or possess with intent
19 to deliver amphetamine (RCW
20 69.50.401(a)(1)(ii))
21 Possession of ephedrine or pseudoephedrine
22 with intent to manufacture
23 methamphetamine (RCW 69.50.440)
24 Vehicular Homicide, by the operation of any
25 vehicle in a reckless manner (RCW
26 46.61.520)
27 Homicide by Watercraft, by the operation of
28 any vessel in a reckless manner (RCW
29 88.12.029)
30 Manslaughter 2 (RCW 9A.32.070)

31 VII Burglary 1 (RCW 9A.52.020)
32 Vehicular Homicide, by disregard for the
33 safety of others (RCW 46.61.520)
34 Homicide by Watercraft, by disregard for the
35 safety of others (RCW 88.12.029)
36 Introducing Contraband 1 (RCW 9A.76.140)

1 Indecent Liberties (without forcible
2 compulsion) (RCW 9A.44.100(1) (b) and
3 (c))
4 Child Molestation 2 (RCW 9A.44.086)
5 Dealing in depictions of minor engaged in
6 sexually explicit conduct (RCW
7 9.68A.050)
8 Sending, bringing into state depictions of
9 minor engaged in sexually explicit
10 conduct (RCW 9.68A.060)
11 Involving a minor in drug dealing (RCW
12 69.50.401(f))
13 Drive-by Shooting (RCW 9A.36.045)
14 Unlawful Possession of a Firearm in the first
15 degree (RCW 9.41.040(1)(a))
16 Malicious placement of an explosive 3 (RCW
17 70.74.270(3))
18 VI Bribery (RCW 9A.68.010)
19 Rape of a Child 3 (RCW 9A.44.079)
20 Intimidating a Juror/Witness (RCW 9A.72.110,
21 9A.72.130)
22 Malicious placement of an imitation device 2
23 (RCW 70.74.272(1)(b))
24 Incest 1 (RCW 9A.64.020(1))
25 Manufacture, deliver, or possess with intent
26 to deliver narcotics from Schedule I or
27 II (except heroin or cocaine) or
28 flunitrazepam from Schedule IV (RCW
29 69.50.401(a)(1)(i))
30 Intimidating a Judge (RCW 9A.72.160)
31 Bail Jumping with Murder 1 (RCW
32 9A.76.170(2)(a))
33 Theft of a Firearm (RCW 9A.56.300)

1 V Persistent prison misbehavior (RCW 9.94.070)
2 Criminal Mistreatment 1 (RCW 9A.42.020)
3 Abandonment of dependent person 1 (RCW
4 9A.42.060)
5 Rape 3 (RCW 9A.44.060)
6 Sexual Misconduct with a Minor 1 (RCW
7 9A.44.093)
8 Child Molestation 3 (RCW 9A.44.089)
9 Kidnapping 2 (RCW 9A.40.030)
10 Extortion 1 (RCW 9A.56.120)
11 Incest 2 (RCW 9A.64.020(2))
12 Perjury 1 (RCW 9A.72.020)
13 Extortionate Extension of Credit (RCW
14 9A.82.020)
15 Advancing money or property for extortionate
16 extension of credit (RCW 9A.82.030)
17 Extortionate Means to Collect Extensions of
18 Credit (RCW 9A.82.040)
19 Rendering Criminal Assistance 1 (RCW
20 9A.76.070)
21 Bail Jumping with class A Felony (RCW
22 9A.76.170(2)(b))
23 Sexually Violating Human Remains (RCW
24 9A.44.105)
25 Delivery of imitation controlled substance by
26 person eighteen or over to person under
27 eighteen (RCW 69.52.030(2))
28 Possession of a Stolen Firearm (RCW
29 9A.56.310)

30 IV Residential Burglary (RCW 9A.52.025)
31 Theft of Livestock 1 (RCW 9A.56.080)
32 Robbery 2 (RCW 9A.56.210)
33 Assault 2 (RCW 9A.36.021)
34 Escape 1 (RCW 9A.76.110)
35 Arson 2 (RCW 9A.48.030)
36 Commercial Bribery (RCW 9A.68.060)
37 Bribing a Witness/Bribe Received by Witness
38 (RCW 9A.72.090, 9A.72.100)
39 Malicious Harassment (RCW 9A.36.080)

1 Threats to Bomb (RCW 9.61.160)
2 Willful Failure to Return from Furlough (RCW
3 72.66.060)
4 Hit and Run--Injury Accident (RCW
5 46.52.020(4))
6 Hit and Run with Vessel--Injury Accident (RCW
7 88.12.155(3))
8 Vehicular Assault (RCW 46.61.522)
9 Assault by Watercraft (RCW 88.12.032)
10 Manufacture, deliver, or possess with intent
11 to deliver narcotics from Schedule III,
12 IV, or V or nonnarcotics from Schedule
13 I-V (except marijuana, amphetamine,
14 methamphetamines, or flunitrazepam) (RCW
15 69.50.401(a)(1) (iii) through (v))
16 Influencing Outcome of Sporting Event (RCW
17 9A.82.070)
18 Use of Proceeds of Criminal Profiteering (RCW
19 9A.82.080 (1) and (2))
20 Knowingly Trafficking in Stolen Property (RCW
21 9A.82.050(2))
22 III Criminal Gang Intimidation (RCW 9A.46.120)
23 Criminal Mistreatment 2 (RCW 9A.42.030)
24 Abandonment of dependent person 2 (RCW
25 9A.42.070)
26 Extortion 2 (RCW 9A.56.130)
27 Unlawful Imprisonment (RCW 9A.40.040)
28 Assault 3 (RCW 9A.36.031)
29 Assault of a Child 3 (RCW 9A.36.140)
30 Custodial Assault (RCW 9A.36.100)
31 Unlawful possession of firearm in the second
32 degree (RCW 9.41.040(1)(b))
33 Harassment (RCW 9A.46.020)
34 Promoting Prostitution 2 (RCW 9A.88.080)
35 Willful Failure to Return from Work Release
36 (RCW 72.65.070)
37 Burglary 2 (RCW 9A.52.030)
38 Introducing Contraband 2 (RCW 9A.76.150)

1 Communication with a Minor for Immoral
2 Purposes (RCW 9.68A.090)
3 Patronizing a Juvenile Prostitute (RCW
4 9.68A.100)
5 Escape 2 (RCW 9A.76.120)
6 Perjury 2 (RCW 9A.72.030)
7 Bail Jumping with class B or C Felony (RCW
8 9A.76.170(2)(c))
9 Intimidating a Public Servant (RCW 9A.76.180)
10 Tampering with a Witness (RCW 9A.72.120)
11 Manufacture, deliver, or possess with intent
12 to deliver marijuana (RCW
13 69.50.401(a)(1)(iii))
14 Delivery of a material in lieu of a
15 controlled substance (RCW 69.50.401(c))
16 Manufacture, distribute, or possess with
17 intent to distribute an imitation
18 controlled substance (RCW 69.52.030(1))
19 Recklessly Trafficking in Stolen Property
20 (RCW 9A.82.050(1))
21 Theft of livestock 2 (RCW 9A.56.080)
22 Securities Act violation (RCW 21.20.400)

23 II Unlawful Practice of Law (RCW 2.48.180)
24 Malicious Mischief 1 (RCW 9A.48.070)
25 Possession of Stolen Property 1 (RCW
26 9A.56.150)
27 Theft 1 (RCW 9A.56.030)
28 Class B Felony Theft of Rental, Leased, or
29 Lease-purchased Property (RCW
30 9A.56.096(4))
31 Trafficking in Insurance Claims (RCW
32 48.30A.015)
33 Unlicensed Practice of a Profession or
34 Business (RCW 18.130.190(7))
35 Health Care False Claims (RCW 48.80.030)
36 Possession of controlled substance that is
37 either heroin or narcotics from Schedule
38 I or II or flunitrazepam from Schedule
39 IV (RCW 69.50.401(d))

1 Possession of phencyclidine (PCP) (RCW
2 69.50.401(d))
3 Create, deliver, or possess a counterfeit
4 controlled substance (RCW 69.50.401(b))
5 Computer Trespass 1 (RCW 9A.52.110)
6 Escape from Community Custody (RCW 72.09.310)
7 I Theft 2 (RCW 9A.56.040)
8 Class C Felony Theft of Rental, Leased, or
9 Lease-purchased Property (RCW
10 9A.56.096(4))
11 Possession of Stolen Property 2 (RCW
12 9A.56.160)
13 Forgery (RCW 9A.60.020)
14 Taking Motor Vehicle Without Permission (RCW
15 9A.56.070)
16 Vehicle Prowl 1 (RCW 9A.52.095)
17 Attempting to Elude a Pursuing Police Vehicle
18 (RCW 46.61.024)
19 Malicious Mischief 2 (RCW 9A.48.080)
20 Reckless Burning 1 (RCW 9A.48.040)
21 Unlawful Issuance of Checks or Drafts (RCW
22 9A.56.060)
23 Unlawful Use of Food Stamps (RCW 9.91.140 (2)
24 and (3))
25 False Verification for Welfare (RCW
26 74.08.055)
27 Forged Prescription (RCW 69.41.020)
28 Forged Prescription for a Controlled
29 Substance (RCW 69.50.403)
30 Possess Controlled Substance that is a
31 Narcotic from Schedule III, IV, or V or
32 Non-narcotic from Schedule I-V (except
33 phencyclidine or flunitrazepam) (RCW
34 69.50.401(d))

35 **Sec. 4.** RCW 9.94A.030 and 1998 c 290 s 3 are each amended to read
36 as follows:

37 Unless the context clearly requires otherwise, the definitions in
38 this section apply throughout this chapter.

1 (1) "Collect," or any derivative thereof, "collect and remit," or
2 "collect and deliver," when used with reference to the department of
3 corrections, means that the department is responsible for monitoring
4 and enforcing the offender's sentence with regard to the legal
5 financial obligation, receiving payment thereof from the offender, and,
6 consistent with current law, delivering daily the entire payment to the
7 superior court clerk without depositing it in a departmental account.

8 (2) "Commission" means the sentencing guidelines commission.

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

13 (4) "Community custody" means that portion of an inmate's sentence
14 of confinement in lieu of earned early release time or imposed pursuant
15 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to
16 controls placed on the inmate's movement and activities by the
17 department of corrections.

18 (5) "Community placement" means that period during which the
19 offender is subject to the conditions of community custody and/or
20 postrelease supervision, which begins either upon completion of the
21 term of confinement (postrelease supervision) or at such time as the
22 offender is transferred to community custody in lieu of earned early
23 release. Community placement may consist of entirely community
24 custody, entirely postrelease supervision, or a combination of the two.

25 (6) "Community service" means compulsory service, without
26 compensation, performed for the benefit of the community by the
27 offender.

28 (7) "Community supervision" means a period of time during which a
29 convicted offender is subject to crime-related prohibitions and other
30 sentence conditions imposed by a court pursuant to this chapter or RCW
31 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
32 may include crime-related prohibitions and other conditions imposed
33 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
34 for out-of-state supervision of parolees and probationers, RCW
35 9.95.270, community supervision is the functional equivalent of
36 probation and should be considered the same as probation by other
37 states.

38 (8) "Confinement" means total or partial confinement as defined in
39 this section.

1 (9) "Conviction" means an adjudication of guilt pursuant to Titles
2 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
3 acceptance of a plea of guilty.

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

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

25 (12) "Criminal history" means the list of a defendant's prior
26 convictions and juvenile adjudications, whether in this state, in
27 federal court, or elsewhere. The history shall include, where known,
28 for each conviction (a) whether the defendant has been placed on
29 probation and the length and terms thereof; and (b) whether the
30 defendant has been incarcerated and the length of incarceration.

31 (13) "Day fine" means a fine imposed by the sentencing judge that
32 equals the difference between the offender's net daily income and the
33 reasonable obligations that the offender has for the support of the
34 offender and any dependents.

35 (14) "Day reporting" means a program of enhanced supervision
36 designed to monitor the defendant's daily activities and compliance
37 with sentence conditions, and in which the defendant is required to
38 report daily to a specific location designated by the department or the
39 sentencing judge.

1 (15) "Department" means the department of corrections.

2 (16) "Determinate sentence" means a sentence that states with
3 exactitude the number of actual years, months, or days of total
4 confinement, of partial confinement, of community supervision, the
5 number of actual hours or days of community service work, or dollars or
6 terms of a legal financial obligation. The fact that an offender
7 through "earned early release" can reduce the actual period of
8 confinement shall not affect the classification of the sentence as a
9 determinate sentence.

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

22 (18) "Drug offense" means:

23 (a) Any felony violation of chapter 69.50 RCW except possession of
24 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
25 controlled substance (RCW 69.50.403);

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

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

32 (19) "Escape" means:

33 (a) Escape in the first degree (RCW 9A.76.110), escape in the
34 second degree (RCW 9A.76.120), willful failure to return from furlough
35 (RCW 72.66.060), willful failure to return from work release (RCW
36 72.65.070), or willful failure to be available for supervision by the
37 department while in community custody (RCW 72.09.310); or

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

4 (20) "Felony traffic offense" means:

5 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
6 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
7 and-run injury-accident (RCW 46.52.020(4)); or

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

11 (21) "Fines" means the requirement that the offender pay a
12 specific sum of money over a specific period of time to the court.

13 (22) "First-time offender" means any person who is convicted of a
14 felony (a) not classified as a violent offense or a sex offense under
15 this chapter, or (b) that is not the manufacture, delivery, or
16 possession with intent to manufacture or deliver a controlled substance
17 classified in Schedule I or II that is a narcotic drug or flunitrazepam
18 classified in Schedule IV, nor the manufacture, delivery, or possession
19 with intent to deliver methamphetamine, its salts, isomers, and salts
20 of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for
21 profit of any controlled substance or counterfeit substance classified
22 in Schedule I, RCW 69.50.204, except leaves and flowering tops of
23 marihuana, who previously has never been convicted of a felony in this
24 state, federal court, or another state, and who has never participated
25 in a program of deferred prosecution for a felony offense.

26 (23) "Most serious offense" means any of the following felonies or
27 a felony attempt to commit any of the following felonies, as now
28 existing or hereafter amended:

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

32 (b) Assault in the second degree;

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

34 (d) Child molestation in the second degree;

35 (e) Controlled substance homicide;

36 (f) Extortion in the first degree;

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

38 (h) Indecent liberties;

39 (i) Kidnapping in the second degree;

1 (j) Leading organized crime;
2 (k) Manslaughter in the first degree;
3 (l) Manslaughter in the second degree;
4 (m) Promoting prostitution in the first degree;
5 (n) Rape in the third degree;
6 (o) Robbery in the second degree;
7 (p) Sexual exploitation;
8 (q) Vehicular assault;
9 (r) Vehicular homicide, when proximately caused by the driving of
10 any vehicle by any person while under the influence of intoxicating
11 liquor or any drug as defined by RCW 46.61.502, or by the operation of
12 any vehicle in a reckless manner;
13 (s) Any other class B felony offense with a finding of sexual
14 motivation, as "sexual motivation" is defined under this section;
15 (t) Any other felony with a deadly weapon verdict under RCW
16 9.94A.125;
17 (u) Any felony offense in effect at any time prior to December 2,
18 1993, that is comparable to a most serious offense under this
19 subsection, or any federal or out-of-state conviction for an offense
20 that under the laws of this state would be a felony classified as a
21 most serious offense under this subsection;
22 (v)(i) A prior conviction for indecent liberties under RCW
23 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
24 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
25 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
26 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
27 (ii) A prior conviction for indecent liberties under RCW
28 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
29 if: (A) The crime was committed against a child under the age of
30 fourteen; or (B) the relationship between the victim and perpetrator is
31 included in the definition of indecent liberties under RCW
32 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
33 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
34 through July 27, 1997.
35 (24) "Nonviolent offense" means an offense which is not a violent
36 offense.
37 (25) "Offender" means a person who has committed a felony
38 established by state law and is eighteen years of age or older or is
39 less than eighteen years of age but whose case is under superior court

1 jurisdiction under RCW 13.04.030 or has been transferred by the
2 appropriate juvenile court to a criminal court pursuant to RCW
3 13.40.110. Throughout this chapter, the terms "offender" and
4 "defendant" are used interchangeably.

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

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

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

16 (ii) Has, before the commission of the offense under (a) of this
17 subsection, been convicted as an offender on at least two separate
18 occasions, whether in this state or elsewhere, of felonies that under
19 the laws of this state would be considered most serious offenses and
20 would be included in the offender score under RCW 9.94A.360; provided
21 that of the two or more previous convictions, at least one conviction
22 must have occurred before the commission of any of the other most
23 serious offenses for which the offender was previously convicted; or

24 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
25 of a child in the first degree, child molestation in the first degree,
26 rape in the second degree, rape of a child in the second degree, or
27 indecent liberties by forcible compulsion; (B) murder in the first
28 degree, murder in the second degree, homicide by abuse, kidnapping in
29 the first degree, kidnapping in the second degree, assault in the first
30 degree, assault in the second degree, assault of a child in the first
31 degree, or burglary in the first degree, with a finding of sexual
32 motivation; or (C) an attempt to commit any crime listed in this
33 subsection (27)(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. A conviction for rape of a child in the
38 first degree constitutes a conviction under subsection (27)(b)(i) only
39 when the offender was sixteen years of age or older when the offender

1 committed the offense. A conviction for rape of a child in the second
2 degree constitutes a conviction under subsection (27)(b)(i) only when
3 the offender was eighteen years of age or older when the offender
4 committed the offense.

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

7 (29) "Restitution" means the requirement that the offender pay a
8 specific sum of money over a specific period of time to the court as
9 payment of damages. The sum may include both public and private costs.
10 The imposition of a restitution order does not preclude civil redress.

11 (30) "Serious traffic offense" means:

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

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

20 (31) "Serious violent offense" is a subcategory of violent offense
21 and means:

22 (a) Murder in the first degree, homicide by abuse, murder in the
23 second degree, manslaughter in the first degree, assault in the first
24 degree, kidnapping in the first degree, or rape in the first degree,
25 assault of a child in the first degree, or an attempt, criminal
26 solicitation, or criminal conspiracy to commit one of these felonies;
27 or

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

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

33 (33) "Sex offense" means:

34 (a) A felony that is a violation of chapter 9A.44 RCW, other than
35 RCW 9A.44.130(10), or RCW 9A.64.020 or 9.68A.090 or a felony that is,
36 under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
37 criminal conspiracy to commit such crimes;

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

4 (c) A felony with a finding of sexual motivation under RCW
5 9.94A.127 or 13.40.135; or

6 ((+e)) (d) Any federal or out-of-state conviction for an offense
7 that under the laws of this state would be a felony classified as a sex
8 offense under (a) of this subsection.

9 (34) "Sexual motivation" means that one of the purposes for which
10 the defendant committed the crime was for the purpose of his or her
11 sexual gratification.

12 (35) "Total confinement" means confinement inside the physical
13 boundaries of a facility or institution operated or utilized under
14 contract by the state or any other unit of government for twenty-four
15 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

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

22 (37) "Victim" means any person who has sustained emotional,
23 psychological, physical, or financial injury to person or property as
24 a direct result of the crime charged.

25 (38) "Violent offense" means:

26 (a) Any of the following felonies, as now existing or hereafter
27 amended: Any felony defined under any law as a class A felony or an
28 attempt to commit a class A felony, criminal solicitation of or
29 criminal conspiracy to commit a class A felony, manslaughter in the
30 first degree, manslaughter in the second degree, indecent liberties if
31 committed by forcible compulsion, kidnapping in the second degree,
32 arson in the second degree, assault in the second degree, assault of a
33 child in the second degree, extortion in the first degree, robbery in
34 the second degree, drive-by shooting, vehicular assault, and vehicular
35 homicide, when proximately caused by the driving of any vehicle by any
36 person while under the influence of intoxicating liquor or any drug as
37 defined by RCW 46.61.502, or by the operation of any vehicle in a
38 reckless manner;

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

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

7 (39) "Work crew" means a program of partial confinement consisting
8 of civic improvement tasks for the benefit of the community of not less
9 than thirty-five hours per week that complies with RCW 9.94A.135. The
10 civic improvement tasks shall have minimal negative impact on existing
11 private industries or the labor force in the county where the service
12 or labor is performed. The civic improvement tasks shall not affect
13 employment opportunities for people with developmental disabilities
14 contracted through sheltered workshops as defined in RCW 82.04.385.
15 Only those offenders sentenced to a facility operated or utilized under
16 contract by a county or the state are eligible to participate on a work
17 crew. Offenders sentenced for a sex offense as defined in subsection
18 (33) of this section are not eligible for the work crew program.

19 (40) "Work ethic camp" means an alternative incarceration program
20 designed to reduce recidivism and lower the cost of corrections by
21 requiring offenders to complete a comprehensive array of real-world job
22 and vocational experiences, character-building work ethics training,
23 life management skills development, substance abuse rehabilitation,
24 counseling, literacy training, and basic adult education.

25 (41) "Work release" means a program of partial confinement
26 available to offenders who are employed or engaged as a student in a
27 regular course of study at school. Participation in work release shall
28 be conditioned upon the offender attending work or school at regularly
29 defined hours and abiding by the rules of the work release facility.

30 (42) "Home detention" means a program of partial confinement
31 available to offenders wherein the offender is confined in a private
32 residence subject to electronic surveillance.

33 **Sec. 5.** RCW 9A.44.130 and 1998 c 220 s 1 and 1998 c 139 s 1 are
34 each reenacted and amended to read as follows:

35 (1) Any adult or juvenile residing, or who is a student, is
36 employed, or carries on a vocation in this state who has been found to
37 have committed or has been convicted of any sex offense or kidnapping
38 offense, or who has been found not guilty by reason of insanity under

1 chapter 10.77 RCW of committing any sex offense or kidnapping offense,
2 shall register with the county sheriff for the county of the person's
3 residence, or if the person is not a resident of Washington, the county
4 of the person's school, or place of employment or vocation. Where a
5 person required to register under this section is in custody of the
6 state department of corrections, the state department of social and
7 health services, a local division of youth services, or a local jail or
8 juvenile detention facility as a result of a sex offense or kidnapping
9 offense, the person shall also register at the time of release from
10 custody with an official designated by the agency that has jurisdiction
11 over the person. In addition, any such adult or juvenile who is
12 admitted to a public or private institution of higher education shall,
13 within ten days of enrolling or by the first business day after
14 arriving at the institution, whichever is earlier, notify the sheriff
15 for the county of the person's residence of the person's intent to
16 attend the institution. Persons required to register under this
17 section who are enrolled in a public or private institution of higher
18 education on June 11, 1998, must notify the county sheriff immediately.
19 The sheriff shall notify the institution's department of public safety
20 and shall provide that department with the same information provided to
21 a county sheriff under subsection (3) of this section.

22 (2) This section may not be construed to confer any powers
23 pursuant to RCW 4.24.500 upon the public safety department of any
24 public or private institution of higher education.

25 (3) The person shall provide the following information when
26 registering: (a) Name; (b) address; (c) date and place of birth; (d)
27 place of employment; (e) crime for which convicted; (f) date and place
28 of conviction; (g) aliases used; (h) social security number; (i)
29 photograph; and (j) fingerprints.

30 (4)(a) Offenders shall register with the county sheriff within the
31 following deadlines. For purposes of this section the term
32 "conviction" refers to adult convictions and juvenile adjudications for
33 sex offenses or kidnapping offenses:

34 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
35 offense on, before, or after February 28, 1990, and who, on or after
36 July 28, 1991, are in custody, as a result of that offense, of the
37 state department of corrections, the state department of social and
38 health services, a local division of youth services, or a local jail or
39 juvenile detention facility, and (B) kidnapping offenders who on or

1 after July 27, 1997, are in custody of the state department of
2 corrections, the state department of social and health services, a
3 local division of youth services, or a local jail or juvenile detention
4 facility, must register at the time of release from custody with an
5 official designated by the agency that has jurisdiction over the
6 offender. The agency shall within three days forward the registration
7 information to the county sheriff for the county of the offender's
8 anticipated residence. The offender must also register within twenty-
9 four hours from the time of release with the county sheriff for the
10 county of the person's residence, or if the person is not a resident of
11 Washington, the county of the person's school, or place of employment
12 or vocation. The agency that has jurisdiction over the offender shall
13 provide notice to the offender of the duty to register. Failure to
14 register at the time of release and within twenty-four hours of release
15 constitutes a violation of this section and is punishable as provided
16 in subsection (9) of this section.

17 When the agency with jurisdiction intends to release an offender
18 with a duty to register under this section, and the agency has
19 knowledge that the offender is eligible for developmental disability
20 services from the department of social and health services, the agency
21 shall notify the division of developmental disabilities of the release.
22 Notice shall occur not more than thirty days before the offender is to
23 be released. The agency and the division shall assist the offender in
24 meeting the initial registration requirement under this section.
25 Failure to provide such assistance shall not constitute a defense for
26 any violation of this section.

27 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
28 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
29 but are under the jurisdiction of the indeterminate sentence review
30 board or under the department of correction's active supervision, as
31 defined by the department of corrections, the state department of
32 social and health services, or a local division of youth services, for
33 sex offenses committed before, on, or after February 28, 1990, must
34 register within ten days of July 28, 1991. Kidnapping offenders who,
35 on July 27, 1997, are not in custody but are under the jurisdiction of
36 the indeterminate sentence review board or under the department of
37 correction's active supervision, as defined by the department of
38 corrections, the state department of social and health services, or a
39 local division of youth services, for kidnapping offenses committed

1 before, on, or after July 27, 1997, must register within ten days of
2 July 27, 1997. A change in supervision status of a sex offender who
3 was required to register under this subsection (4)(a)(ii) as of July
4 28, 1991, or a kidnapping offender required to register as of July 27,
5 1997, shall not relieve the offender of the duty to register or to
6 reregister following a change in residence. The obligation to register
7 shall only cease pursuant to RCW 9A.44.140.

8 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
9 or after July 23, 1995, and kidnapping offenders who, on or after July
10 27, 1997, as a result of that offense are in the custody of the United
11 States bureau of prisons or other federal or military correctional
12 agency for sex offenses committed before, on, or after February 28,
13 1990, or kidnapping offenses committed on, before, or after July 27,
14 1997, must register within twenty-four hours from the time of release
15 with the county sheriff for the county of the person's residence, or if
16 the person is not a resident of Washington, the county of the person's
17 school, or place of employment or vocation. Sex offenders who, on July
18 23, 1995, are not in custody but are under the jurisdiction of the
19 United States bureau of prisons, United States courts, United States
20 parole commission, or military parole board for sex offenses committed
21 before, on, or after February 28, 1990, must register within ten days
22 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
23 in custody but are under the jurisdiction of the United States bureau
24 of prisons, United States courts, United States parole commission, or
25 military parole board for kidnapping offenses committed before, on, or
26 after July 27, 1997, must register within ten days of July 27, 1997.
27 A change in supervision status of a sex offender who was required to
28 register under this subsection (4)(a)(iii) as of July 23, 1995, or a
29 kidnapping offender required to register as of July 27, 1997 shall not
30 relieve the offender of the duty to register or to reregister following
31 a change in residence, or if the person is not a resident of
32 Washington, the county of the person's school, or place of employment
33 or vocation. The obligation to register shall only cease pursuant to
34 RCW 9A.44.140.

35 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
36 who are convicted of a sex offense on or after July 28, 1991, for a sex
37 offense that was committed on or after February 28, 1990, and
38 kidnapping offenders who are convicted on or after July 27, 1997, for
39 a kidnapping offense that was committed on or after July 27, 1997, but

1 who are not sentenced to serve a term of confinement immediately upon
2 sentencing, shall report to the county sheriff to register immediately
3 upon completion of being sentenced.

4 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
5 RESIDENTS. Sex offenders and kidnapping offenders who move to
6 Washington state from another state or a foreign country that are not
7 under the jurisdiction of the state department of corrections, the
8 indeterminate sentence review board, or the state department of social
9 and health services at the time of moving to Washington, must register
10 within thirty days of establishing residence or reestablishing
11 residence if the person is a former Washington resident. The duty to
12 register under this subsection applies to sex offenders convicted under
13 the laws of another state or a foreign country, federal or military
14 statutes, or Washington state for offenses committed on or after
15 February 28, 1990, and to kidnapping offenders convicted under the laws
16 of another state or a foreign country, federal or military statutes, or
17 Washington state for offenses committed on or after July 27, 1997. Sex
18 offenders and kidnapping offenders from other states or a foreign
19 country who, when they move to Washington, are under the jurisdiction
20 of the department of corrections, the indeterminate sentence review
21 board, or the department of social and health services must register
22 within twenty-four hours of moving to Washington. The agency that has
23 jurisdiction over the offender shall notify the offender of the
24 registration requirements before the offender moves to Washington.

25 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
26 or juvenile who has been found not guilty by reason of insanity under
27 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
28 February 28, 1990, and who, on or after July 23, 1995, is in custody,
29 as a result of that finding, of the state department of social and
30 health services, or (B) committing a kidnapping offense on, before, or
31 after July 27, 1997, and who on or after July 27, 1997, is in custody,
32 as a result of that finding, of the state department of social and
33 health services, must register within twenty-four hours from the time
34 of release with the county sheriff for the county of the person's
35 residence. The state department of social and health services shall
36 provide notice to the adult or juvenile in its custody of the duty to
37 register. Any adult or juvenile who has been found not guilty by
38 reason of insanity of committing a sex offense on, before, or after
39 February 28, 1990, but who was released before July 23, 1995, or any

1 adult or juvenile who has been found not guilty by reason of insanity
2 of committing a kidnapping offense but who was released before July 27,
3 1997, shall be required to register within twenty-four hours of
4 receiving notice of this registration requirement. The state
5 department of social and health services shall make reasonable attempts
6 within available resources to notify sex offenders who were released
7 before July 23, 1995, and kidnapping offenders who were released before
8 July 27, 1997. Failure to register within twenty-four hours of
9 release, or of receiving notice, constitutes a violation of this
10 section and is punishable as provided in subsection (9) of this
11 section.

12 (b) Failure to register within the time required under this
13 section constitutes a per se violation of this section and is
14 punishable as provided in subsection (9) of this section. The county
15 sheriff shall not be required to determine whether the person is living
16 within the county.

17 (c) An arrest on charges of failure to register, service of an
18 information, or a complaint for a violation of this section, or
19 arraignment on charges for a violation of this section, constitutes
20 actual notice of the duty to register. Any person charged with the
21 crime of failure to register under this section who asserts as a
22 defense the lack of notice of the duty to register shall register
23 immediately following actual notice of the duty through arrest,
24 service, or arraignment. Failure to register as required under this
25 subsection (4)(c) constitutes grounds for filing another charge of
26 failing to register. Registering following arrest, service, or
27 arraignment on charges shall not relieve the offender from criminal
28 liability for failure to register prior to the filing of the original
29 charge.

30 (d) The deadlines for the duty to register under this section do
31 not relieve any sex offender of the duty to register under this section
32 as it existed prior to July 28, 1991.

33 (5)(a) If any person required to register pursuant to this section
34 changes his or her residence address within the same county, the person
35 must send written notice of the change of address to the county sheriff
36 within seventy-two hours of moving. If any person required to register
37 pursuant to this section moves to a new county, the person must send
38 written notice of the change of address at least fourteen days before
39 moving to the county sheriff in the new county of residence and must

1 register with that county sheriff within twenty-four hours of moving.
2 The person must also send written notice within ten days of the change
3 of address in the new county to the county sheriff with whom the person
4 last registered. The county sheriff with whom the person last
5 registered shall promptly forward the information concerning the change
6 of address to the county sheriff for the county of the person's new
7 residence. If any person required to register pursuant to this section
8 moves out of Washington state, the person must also send written notice
9 within ten days of moving to the new state or a foreign country to the
10 county sheriff with whom the person last registered in Washington
11 state. Upon receipt of notice of change of address to a new state, the
12 county sheriff shall promptly forward the information regarding the
13 change of address to the agency designated by the new state as the
14 state's offender registration agency.

15 (b) It is an affirmative defense to a charge that the person
16 failed to send a notice at least fourteen days in advance of moving as
17 required under (a) of this subsection that the person did not know the
18 location of his or her new residence at least fourteen days before
19 moving. The defendant must establish the defense by a preponderance of
20 the evidence and, to prevail on the defense, must also prove by a
21 preponderance that the defendant sent the required notice within
22 twenty-four hours of determining the new address.

23 (6) A sex offender subject to registration requirements under this
24 section who applies to change his or her name under RCW 4.24.130 or any
25 other law shall submit a copy of the application to the county sheriff
26 of the county of the person's residence and to the state patrol not
27 fewer than five days before the entry of an order granting the name
28 change. No sex offender under the requirement to register under this
29 section at the time of application shall be granted an order changing
30 his or her name if the court finds that doing so will interfere with
31 legitimate law enforcement interests, except that no order shall be
32 denied when the name change is requested for religious or legitimate
33 cultural reasons or in recognition of marriage or dissolution of
34 marriage. A sex offender under the requirement to register under this
35 section who receives an order changing his or her name shall submit a
36 copy of the order to the county sheriff of the county of the person's
37 residence and to the state patrol within five days of the entry of the
38 order.

1 (7) The county sheriff shall obtain a photograph of the individual
2 and shall obtain a copy of the individual's fingerprints.

3 (8) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
4 70.48.470, and 72.09.330:

5 (a) "Sex offense" means any offense defined as a sex offense by
6 RCW 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation
7 of a minor), 9.68A.050 (dealing in depictions of minor engaged in
8 sexually explicit conduct), 9.68A.060 (sending, bringing into state
9 depictions of minor engaged in sexually explicit conduct), 9.68A.090
10 (communication with minor for immoral purposes), 9.68A.100 (patronizing
11 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in
12 the second degree), as well as any gross misdemeanor that is, under
13 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
14 criminal conspiracy to commit an offense that is classified as a sex
15 offense under RCW 9.94A.030.

16 (b) "Kidnapping offense" means the crimes of kidnapping in the
17 first degree, kidnapping in the second degree, and unlawful
18 imprisonment as defined in chapter 9A.40 RCW, where the victim is a
19 minor and the offender is not the minor's parent.

20 (c) "Employed" or "carries on a vocation" means employment that is
21 full-time or part-time for a period of time exceeding fourteen days, or
22 for an aggregate period of time exceeding thirty days during any
23 calendar year. A person is employed or carries on a vocation whether
24 the person's employment is financially compensated, volunteered, or for
25 the purpose of government or educational benefit.

26 (d) "Student" means a person who is enrolled, on a full-time or
27 part-time basis, in any public or private educational institution. An
28 educational institution includes any secondary school, trade or
29 professional institution, or institution of higher education.

30 (9) A person who knowingly fails to register with the county
31 sheriff or notify the county sheriff, or who changes his or her name
32 without notifying the county sheriff and the state patrol, as required
33 by this section is guilty of a class C felony if the crime for which
34 the individual was convicted was a felony sex offense as defined in
35 subsection (8)(a) of this section or a federal or out-of-state
36 conviction for an offense that under the laws of this state would be a
37 felony sex offense as defined in subsection (8)(a) of this section. If
38 the crime was other than a felony or a federal or out-of-state

1 conviction for an offense that under the laws of this state would be
2 other than a felony, violation of this section is a gross misdemeanor.

3 (10) A person who knowingly fails to register or who moves without
4 notifying the county sheriff as required by this section is guilty of
5 a class C felony if the crime for which the individual was convicted
6 was a felony kidnapping offense as defined in subsection (8)(b) of this
7 section or a federal or out-of-state conviction for an offense that
8 under the laws of this state would be a felony kidnapping offense as
9 defined in subsection (8)(b) of this section. If the crime was other
10 than a felony or a federal or out-of-state conviction for an offense
11 that under the laws of this state would be other than a felony,
12 violation of this section is a gross misdemeanor.

13 **Sec. 6.** RCW 9.94A.360 and 1998 c 211 s 4 are each amended to read
14 as follows:

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

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

19 (1) A prior conviction is a conviction which exists before the
20 date of sentencing for the offense for which the offender score is
21 being computed. Convictions entered or sentenced on the same date as
22 the conviction for which the offender score is being computed shall be
23 deemed "other current offenses" within the meaning of RCW 9.94A.400.

24 (2) Class A and sex prior felony convictions shall always be
25 included in the offender score. Class B prior felony convictions other
26 than sex offenses shall not be included in the offender score, if since
27 the last date of release from confinement (including full-time
28 residential treatment) pursuant to a felony conviction, if any, or
29 entry of judgment and sentence, the offender had spent ten consecutive
30 years in the community without committing any crime that subsequently
31 results in a conviction. Class C prior felony convictions other than
32 sex offenses shall not be included in the offender score if, since the
33 last date of release from confinement (including full-time residential
34 treatment) pursuant to a felony conviction, if any, or entry of
35 judgment and sentence, the offender had spent five consecutive years in
36 the community without committing any crime that subsequently results in
37 a conviction. Serious traffic convictions shall not be included in the
38 offender score if, since the last date of release from confinement

1 (including full-time residential treatment) pursuant to a felony
2 conviction, if any, or entry of judgment and sentence, the offender
3 spent five years in the community without committing any crime that
4 subsequently results in a conviction. This subsection applies to both
5 adult and juvenile prior convictions.

6 (3) Out-of-state convictions for offenses shall be classified
7 according to the comparable offense definitions and sentences provided
8 by Washington law. Federal convictions for offenses shall be
9 classified according to the comparable offense definitions and
10 sentences provided by Washington law. If there is no clearly
11 comparable offense under Washington law or the offense is one that is
12 usually considered subject to exclusive federal jurisdiction, the
13 offense shall be scored as a class C felony equivalent if it was a
14 felony under the relevant federal statute.

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

18 (5)(a) In the case of multiple prior convictions, for the purpose
19 of computing the offender score, count all convictions separately,
20 except:

21 (i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to
22 encompass the same criminal conduct, shall be counted as one offense,
23 the offense that yields the highest offender score. The current
24 sentencing court shall determine with respect to other prior adult
25 offenses for which sentences were served concurrently or prior juvenile
26 offenses for which sentences were served consecutively, whether those
27 offenses shall be counted as one offense or as separate offenses using
28 the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and
29 if the court finds that they shall be counted as one offense, then the
30 offense that yields the highest offender score shall be used. The
31 current sentencing court may presume that such other prior offenses
32 were not the same criminal conduct from sentences imposed on separate
33 dates, or in separate counties or jurisdictions, or in separate
34 complaints, indictments, or informations;

35 (ii) In the case of multiple prior convictions for offenses
36 committed before July 1, 1986, for the purpose of computing the
37 offender score, count all adult convictions served concurrently as one
38 offense, and count all juvenile convictions entered on the same date as

1 one offense. Use the conviction for the offense that yields the
2 highest offender score.

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

9 (6) If the present conviction is one of the anticipatory offenses
10 of criminal attempt, solicitation, or conspiracy, count each prior
11 conviction as if the present conviction were for a completed offense.

12 (7) If the present conviction is for a nonviolent offense and not
13 covered by subsection (11) or (12) of this section, count one point for
14 each adult prior felony conviction and one point for each juvenile
15 prior violent felony conviction and 1/2 point for each juvenile prior
16 nonviolent felony conviction.

17 (8) If the present conviction is for a violent offense and not
18 covered in subsection (9), (10), (11), or (12) of this section, count
19 two points for each prior adult and juvenile violent felony conviction,
20 one point for each prior adult nonviolent felony conviction, and 1/2
21 point for each prior juvenile nonviolent felony conviction.

22 (9) If the present conviction is for (~~Murder 1 or 2, Assault 1,~~
23 ~~Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1~~) a
24 serious violent offense, count three points for prior adult and
25 juvenile convictions for crimes in (~~these categories~~) this category,
26 two points for each prior adult and juvenile violent conviction (not
27 already counted), one point for each prior adult nonviolent felony
28 conviction, and 1/2 point for each prior juvenile nonviolent felony
29 conviction.

30 (10) If the present conviction is for Burglary 1, count prior
31 convictions as in subsection (8) of this section; however count two
32 points for each prior adult Burglary 2 or residential burglary
33 conviction, and one point for each prior juvenile Burglary 2 or
34 residential burglary conviction.

35 (11) If the present conviction is for a felony traffic offense
36 count two points for each adult or juvenile prior conviction for
37 Vehicular Homicide or Vehicular Assault; for each felony offense (~~or~~
38 ~~serious traffic offense,~~) count one point for each adult and 1/2 point
39 for each juvenile prior conviction(~~. This subsection shall not apply~~

1 ~~when additional time is added to a sentence pursuant to RCW~~
2 ~~46.61.520(2))~~; for each serious traffic offense, other than those used
3 for an enhancement pursuant to RCW 46.61.520(2), count one point for
4 each adult and 1/2 point for each juvenile prior conviction.

5 (12) If the present conviction is for a drug offense count three
6 points for each adult prior felony drug offense conviction and two
7 points for each juvenile drug offense. All other adult and juvenile
8 felonies are scored as in subsection (8) of this section if the current
9 drug offense is violent, or as in subsection (7) of this section if the
10 current drug offense is nonviolent.

11 (13) If the present conviction is for Willful Failure to Return
12 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
13 Release, RCW 72.65.070, or Escape from Community Custody, RCW
14 72.09.310, count only prior escape convictions in the offender score.
15 Count adult prior escape convictions as one point and juvenile prior
16 escape convictions as 1/2 point.

17 (14) If the present conviction is for Escape 1, RCW 9A.76.110, or
18 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
19 juvenile prior convictions as 1/2 point.

20 (15) If the present conviction is for Burglary 2 or residential
21 burglary, count priors as in subsection (7) of this section; however,
22 count two points for each adult and juvenile prior Burglary 1
23 conviction, two points for each adult prior Burglary 2 or residential
24 burglary conviction, and one point for each juvenile prior Burglary 2
25 or residential burglary conviction.

26 (16) If the present conviction is for a sex offense, count priors
27 as in subsections (7) through (15) of this section; however count three
28 points for each adult and juvenile prior sex offense conviction.

29 (17) If the present conviction is for an offense committed while
30 the offender was under community placement, add one point.

31 **Sec. 7.** RCW 9.94A.400 and 1998 c 235 s 2 are each amended to read
32 as follows:

33 (1)(a) Except as provided in (b) or (c) of this subsection,
34 whenever a person is to be sentenced for two or more current offenses,
35 the sentence range for each current offense shall be determined by
36 using all other current and prior convictions as if they were prior
37 convictions for the purpose of the offender score: PROVIDED, That if
38 the court enters a finding that some or all of the current offenses

1 encompass the same criminal conduct then those current offenses shall
2 be counted as one crime. Sentences imposed under this subsection shall
3 be served concurrently. Consecutive sentences may only be imposed
4 under the exceptional sentence provisions of RCW 9.94A.120 and
5 9.94A.390(2)(g) or any other provision of RCW 9.94A.390. "Same
6 criminal conduct," as used in this subsection, means two or more crimes
7 that require the same criminal intent, are committed at the same time
8 and place, and involve the same victim. This definition applies in
9 cases involving vehicular assault or vehicular homicide even if the
10 victims occupied the same vehicle.

11 (b) Whenever a person is convicted of two or more serious violent
12 offenses, as defined in RCW 9.94A.030, arising from separate and
13 distinct criminal conduct, the sentence range for the offense with the
14 highest seriousness level under RCW 9.94A.320 shall be determined using
15 the offender's prior convictions and other current convictions that are
16 not serious violent offenses in the offender score and the sentence
17 range for other serious violent offenses shall be determined by using
18 an offender score of zero. The sentence range for any offenses that
19 are not serious violent offenses shall be determined according to (a)
20 of this subsection. All sentences imposed under (b) of this subsection
21 shall be served consecutively to each other and concurrently with
22 sentences imposed under (a) of this subsection.

23 (c) If an offender is convicted under RCW 9.41.040 for unlawful
24 possession of a firearm in the first or second degree and for the
25 felony crimes of theft of a firearm or possession of a stolen firearm,
26 or both, ~~((then))~~ the sentence range for each of these current offenses
27 shall be determined by using all other current and prior convictions,
28 except other current convictions for the felony crimes listed in this
29 subsection (1)(c), as if they were prior convictions. The offender
30 shall serve consecutive sentences for each conviction of the felony
31 crimes listed in this subsection (1)(c), and for each firearm
32 unlawfully possessed.

33 (2)(a) Except as provided in (b) of this subsection, whenever a
34 person while under sentence of felony commits another felony and is
35 sentenced to another term of confinement, the latter term shall not
36 begin until expiration of all prior terms.

37 (b) Whenever a second or later felony conviction results in
38 community supervision with conditions not currently in effect, under
39 the prior sentence or sentences of community supervision the court may

1 require that the conditions of community supervision contained in the
2 second or later sentence begin during the immediate term of community
3 supervision and continue throughout the duration of the consecutive
4 term of community supervision.

5 (3) Subject to subsections (1) and (2) of this section, whenever
6 a person is sentenced for a felony that was committed while the person
7 was not under sentence of a felony, the sentence shall run concurrently
8 with any felony sentence which has been imposed by any court in this or
9 another state or by a federal court subsequent to the commission of the
10 crime being sentenced unless the court pronouncing the current sentence
11 expressly orders that they be served consecutively.

12 (4) Whenever any person granted probation under RCW 9.95.210 or
13 9.92.060, or both, has the probationary sentence revoked and a prison
14 sentence imposed, that sentence shall run consecutively to any sentence
15 imposed pursuant to this chapter, unless the court pronouncing the
16 subsequent sentence expressly orders that they be served concurrently.

17 (5) However, in the case of consecutive sentences, all periods of
18 total confinement shall be served before any partial confinement,
19 community service, community supervision, or any other requirement or
20 conditions of any of the sentences. Except for exceptional sentences
21 as authorized under RCW 9.94A.120(2), if two or more sentences that run
22 consecutively include periods of community supervision, the aggregate
23 of the community supervision period shall not exceed twenty-four
24 months.

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