

CERTIFICATION OF ENROLLMENT  
**SECOND SUBSTITUTE SENATE BILL 6172**

Chapter 139, Laws of 2006

59th Legislature  
2006 Regular Session

CHILD PORNOGRAPHY

EFFECTIVE DATE: 6/7/06 - Except section 5, which becomes effective 7/1/06.

Passed by the Senate March 6, 2006  
YEAS 46 NAYS 2

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Passed by the House March 3, 2006  
YEAS 96 NAYS 2

FRANK CHOPP

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**Speaker of the House of Representatives**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 6172** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

\_\_\_\_\_  
**Secretary**

Approved March 20, 2006.

FILED

March 20, 2006 - 11:45 a.m.

CHRISTINE GREGOIRE

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**Governor of the State of Washington**

**Secretary of State  
State of Washington**

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SECOND SUBSTITUTE SENATE BILL 6172

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AS AMENDED BY THE HOUSE

Passed Legislature - 2006 Regular Session

State of Washington                      59th Legislature                      2006 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators McAuliffe, Hargrove, Thibaudeau, Shin, Weinstein, Rockefeller, Keiser, Regala, Eide, Rasmussen and Benton)

READ FIRST TIME 02/7/06.

1            AN ACT Relating to increasing penalties for the crimes of  
2 possession of depictions of a minor engaged in sexually explicit  
3 conduct; voyeurism; and communication with a minor for an immoral  
4 purpose; amending RCW 9.68A.070, 9.94A.030, and 9.94A.030; reenacting  
5 and amending RCW 9.68A.090 and 9.94A.515; creating a new section;  
6 prescribing penalties; providing an effective date; and providing an  
7 expiration date.

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

9            **Sec. 1.** RCW 9.68A.090 and 2003 c 53 s 42 and 2003 c 26 s 1 are  
10 each reenacted and amended to read as follows:

11            (1) Except as provided in subsection (2) of this section, a person  
12 who communicates with a minor for immoral purposes, or a person who  
13 communicates with someone the person believes to be a minor for immoral  
14 purposes, is guilty of a gross misdemeanor.

15            (2) A person who communicates with a minor for immoral purposes is  
16 guilty of a class C felony punishable according to chapter 9A.20 RCW if  
17 the person has previously been convicted under this section or of a  
18 felony sexual offense under chapter 9.68A, 9A.44, or 9A.64 RCW or of  
19 any other felony sexual offense in this or any other state or if the

1 person communicates with a minor or with someone the person believes to  
2 be a minor for immoral purposes through the sending of an electronic  
3 communication.

4 **Sec. 2.** RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are  
5 each reenacted and amended to read as follows:

6 TABLE 2

7 CRIMES INCLUDED WITHIN  
8 EACH SERIOUSNESS LEVEL

- 9 XVI Aggravated Murder 1 (RCW  
10 10.95.020)
- 11 XV Homicide by abuse (RCW 9A.32.055)  
12 Malicious explosion 1 (RCW  
13 70.74.280(1))  
14 Murder 1 (RCW 9A.32.030)
- 15 XIV Murder 2 (RCW 9A.32.050)  
16 Trafficking 1 (RCW 9A.40.100(1))
- 17 XIII Malicious explosion 2 (RCW  
18 70.74.280(2))  
19 Malicious placement of an explosive 1  
20 (RCW 70.74.270(1))
- 21 XII Assault 1 (RCW 9A.36.011)  
22 Assault of a Child 1 (RCW 9A.36.120)  
23 Malicious placement of an imitation  
24 device 1 (RCW 70.74.272(1)(a))  
25 Rape 1 (RCW 9A.44.040)  
26 Rape of a Child 1 (RCW 9A.44.073)  
27 Trafficking 2 (RCW 9A.40.100(2))
- 28 XI Manslaughter 1 (RCW 9A.32.060)  
29 Rape 2 (RCW 9A.44.050)  
30 Rape of a Child 2 (RCW 9A.44.076)
- 31 X Child Molestation 1 (RCW 9A.44.083)  
32 Indecent Liberties (with forcible  
33 compulsion) (RCW  
34 9A.44.100(1)(a))  
35 Kidnapping 1 (RCW 9A.40.020)

1 Leading Organized Crime (RCW  
2 9A.82.060(1)(a))  
3 Malicious explosion 3 (RCW  
4 70.74.280(3))  
5 Sexually Violent Predator Escape  
6 (RCW 9A.76.115)  
7 IX Assault of a Child 2 (RCW 9A.36.130)  
8 Explosive devices prohibited (RCW  
9 70.74.180)  
10 Hit and Run--Death (RCW  
11 46.52.020(4)(a))  
12 Homicide by Watercraft, by being  
13 under the influence of intoxicating  
14 liquor or any drug (RCW  
15 79A.60.050)  
16 Inciting Criminal Profiteering (RCW  
17 9A.82.060(1)(b))  
18 Malicious placement of an explosive 2  
19 (RCW 70.74.270(2))  
20 Robbery 1 (RCW 9A.56.200)  
21 Sexual Exploitation (RCW 9.68A.040)  
22 Vehicular Homicide, by being under  
23 the influence of intoxicating liquor  
24 or any drug (RCW 46.61.520)  
25 VIII Arson 1 (RCW 9A.48.020)  
26 Homicide by Watercraft, by the  
27 operation of any vessel in a  
28 reckless manner (RCW  
29 79A.60.050)  
30 Manslaughter 2 (RCW 9A.32.070)  
31 Promoting Prostitution 1 (RCW  
32 9A.88.070)  
33 Theft of Ammonia (RCW 69.55.010)  
34 Vehicular Homicide, by the operation  
35 of any vehicle in a reckless  
36 manner (RCW 46.61.520)  
37 VII Burglary 1 (RCW 9A.52.020)

1 Child Molestation 2 (RCW 9A.44.086)  
2 Civil Disorder Training (RCW  
3 9A.48.120)  
4 Dealing in depictions of minor  
5 engaged in sexually explicit  
6 conduct (RCW 9.68A.050)  
7 Drive-by Shooting (RCW 9A.36.045)  
8 Homicide by Watercraft, by disregard  
9 for the safety of others (RCW  
10 79A.60.050)  
11 Indecent Liberties (without forcible  
12 compulsion) (RCW 9A.44.100(1)  
13 (b) and (c))  
14 Introducing Contraband 1 (RCW  
15 9A.76.140)  
16 Malicious placement of an explosive 3  
17 (RCW 70.74.270(3))  
18 Negligently Causing Death By Use of  
19 a Signal Preemption Device  
20 (RCW 46.37.675)  
21 Sending, bringing into state depictions  
22 of minor engaged in sexually  
23 explicit conduct (RCW  
24 9.68A.060)  
25 Unlawful Possession of a Firearm in  
26 the first degree (RCW  
27 9.41.040(1))  
28 Use of a Machine Gun in Commission  
29 of a Felony (RCW 9.41.225)  
30 Vehicular Homicide, by disregard for  
31 the safety of others (RCW  
32 46.61.520)  
33 VI Bail Jumping with Murder 1 (RCW  
34 9A.76.170(3)(a))  
35 Bribery (RCW 9A.68.010)  
36 Incest 1 (RCW 9A.64.020(1))

1 Intimidating a Judge (RCW  
2 9A.72.160)  
3 Intimidating a Juror/Witness (RCW  
4 9A.72.110, 9A.72.130)  
5 Malicious placement of an imitation  
6 device 2 (RCW 70.74.272(1)(b))  
7 Possession of Depictions of a Minor  
8 Engaged in Sexually Explicit  
9 Conduct (RCW 9.68A.070)  
10 Rape of a Child 3 (RCW 9A.44.079)  
11 Theft of a Firearm (RCW 9A.56.300)  
12 Unlawful Storage of Ammonia (RCW  
13 69.55.020)  
14 V Abandonment of dependent person 1  
15 (RCW 9A.42.060)  
16 Advancing money or property for  
17 extortionate extension of credit  
18 (RCW 9A.82.030)  
19 Bail Jumping with class A Felony  
20 (RCW 9A.76.170(3)(b))  
21 Child Molestation 3 (RCW 9A.44.089)  
22 Criminal Mistreatment 1 (RCW  
23 9A.42.020)  
24 Custodial Sexual Misconduct 1 (RCW  
25 9A.44.160)  
26 Domestic Violence Court Order  
27 Violation (RCW 10.99.040,  
28 10.99.050, 26.09.300, 26.10.220,  
29 26.26.138, 26.50.110, 26.52.070,  
30 or 74.34.145)  
31 Extortion 1 (RCW 9A.56.120)  
32 Extortionate Extension of Credit  
33 (RCW 9A.82.020)  
34 Extortionate Means to Collect  
35 Extensions of Credit (RCW  
36 9A.82.040)  
37 Incest 2 (RCW 9A.64.020(2))

1 Kidnapping 2 (RCW 9A.40.030)  
2 Perjury 1 (RCW 9A.72.020)  
3 Persistent prison misbehavior (RCW  
4 9.94.070)  
5 Possession of a Stolen Firearm (RCW  
6 9A.56.310)  
7 Rape 3 (RCW 9A.44.060)  
8 Rendering Criminal Assistance 1  
9 (RCW 9A.76.070)  
10 Sexual Misconduct with a Minor 1  
11 (RCW 9A.44.093)  
12 Sexually Violating Human Remains  
13 (RCW 9A.44.105)  
14 Stalking (RCW 9A.46.110)  
15 Taking Motor Vehicle Without  
16 Permission 1 (RCW 9A.56.070)  
17 IV Arson 2 (RCW 9A.48.030)  
18 Assault 2 (RCW 9A.36.021)  
19 Assault 3 (of a Peace Officer with a  
20 Projectile Stun Gun) (RCW  
21 9A.36.031(1)(h))  
22 Assault by Watercraft (RCW  
23 79A.60.060)  
24 Bribing a Witness/Bribe Received by  
25 Witness (RCW 9A.72.090,  
26 9A.72.100)  
27 Cheating 1 (RCW 9.46.1961)  
28 Commercial Bribery (RCW  
29 9A.68.060)  
30 Counterfeiting (RCW 9.16.035(4))  
31 Endangerment with a Controlled  
32 Substance (RCW 9A.42.100)  
33 Escape 1 (RCW 9A.76.110)  
34 Hit and Run--Injury (RCW  
35 46.52.020(4)(b))  
36 Hit and Run with Vessel--Injury  
37 Accident (RCW 79A.60.200(3))

1 Identity Theft 1 (RCW 9.35.020(2))  
2 Indecent Exposure to Person Under  
3 Age Fourteen (subsequent sex  
4 offense) (RCW 9A.88.010)  
5 Influencing Outcome of Sporting  
6 Event (RCW 9A.82.070)  
7 Malicious Harassment (RCW  
8 9A.36.080)  
9 Residential Burglary (RCW  
10 9A.52.025)  
11 Robbery 2 (RCW 9A.56.210)  
12 Theft of Livestock 1 (RCW 9A.56.080)  
13 Threats to Bomb (RCW 9.61.160)  
14 Trafficking in Stolen Property 1 (RCW  
15 9A.82.050)  
16 Unlawful factoring of a credit card or  
17 payment card transaction (RCW  
18 9A.56.290(4)(b))  
19 Unlawful transaction of health  
20 coverage as a health care service  
21 contractor (RCW 48.44.016(3))  
22 Unlawful transaction of health  
23 coverage as a health maintenance  
24 organization (RCW 48.46.033(3))  
25 Unlawful transaction of insurance  
26 business (RCW 48.15.023(3))  
27 Unlicensed practice as an insurance  
28 professional (RCW 48.17.063(3))  
29 Use of Proceeds of Criminal  
30 Profiteering (RCW 9A.82.080 (1)  
31 and (2))  
32 Vehicular Assault, by being under the  
33 influence of intoxicating liquor or  
34 any drug, or by the operation or  
35 driving of a vehicle in a reckless  
36 manner (RCW 46.61.522)



1 Willful Failure to Return from  
2 Furlough (RCW 72.66.060)  
3 III Abandonment of dependent person 2  
4 (RCW 9A.42.070)  
5 Assault 3 (Except Assault 3 of a Peace  
6 Officer With a Projectile Stun  
7 Gun) (RCW 9A.36.031 except  
8 subsection (1)(h))  
9 Assault of a Child 3 (RCW 9A.36.140)  
10 Bail Jumping with class B or C Felony  
11 (RCW 9A.76.170(3)(c))  
12 Burglary 2 (RCW 9A.52.030)  
13 Communication with a Minor for  
14 Immoral Purposes (RCW  
15 9.68A.090)  
16 Criminal Gang Intimidation (RCW  
17 9A.46.120)  
18 Criminal Mistreatment 2 (RCW  
19 9A.42.030)  
20 Custodial Assault (RCW 9A.36.100)  
21 Cyberstalking (subsequent conviction  
22 or threat of death) (RCW  
23 9.61.260(3))  
24 Escape 2 (RCW 9A.76.120)  
25 Extortion 2 (RCW 9A.56.130)  
26 Harassment (RCW 9A.46.020)  
27 Intimidating a Public Servant (RCW  
28 9A.76.180)  
29 Introducing Contraband 2 (RCW  
30 9A.76.150)  
31 Malicious Injury to Railroad Property  
32 (RCW 81.60.070)  
33 Negligently Causing Substantial Bodily  
34 Harm By Use of a Signal  
35 Preemption Device (RCW  
36 46.37.674)

1 Patronizing a Juvenile Prostitute  
2 (RCW 9.68A.100)  
3 Perjury 2 (RCW 9A.72.030)  
4 Possession of Incendiary Device (RCW  
5 9.40.120)  
6 Possession of Machine Gun or Short-  
7 Barreled Shotgun or Rifle (RCW  
8 9.41.190)  
9 Promoting Prostitution 2 (RCW  
10 9A.88.080)  
11 Securities Act violation (RCW  
12 21.20.400)  
13 Tampering with a Witness (RCW  
14 9A.72.120)  
15 Telephone Harassment (subsequent  
16 conviction or threat of death)  
17 (RCW 9.61.230(2))  
18 Theft of Livestock 2 (RCW 9A.56.083)  
19 Trafficking in Stolen Property 2 (RCW  
20 9A.82.055)  
21 Unlawful Imprisonment (RCW  
22 9A.40.040)  
23 Unlawful possession of firearm in the  
24 second degree (RCW 9.41.040(2))  
25 Vehicular Assault, by the operation or  
26 driving of a vehicle with disregard  
27 for the safety of others (RCW  
28 46.61.522)  
29 Willful Failure to Return from Work  
30 Release (RCW 72.65.070)  
31 II Computer Trespass 1 (RCW  
32 9A.52.110)  
33 Counterfeiting (RCW 9.16.035(3))  
34 Escape from Community Custody  
35 (RCW 72.09.310)  
36 Health Care False Claims (RCW  
37 48.80.030)

1 Identity Theft 2 (RCW 9.35.020(3))  
2 Improperly Obtaining Financial  
3 Information (RCW 9.35.010)  
4 Malicious Mischief 1 (RCW  
5 9A.48.070)  
6 Possession of Stolen Property 1 (RCW  
7 9A.56.150)  
8 Theft 1 (RCW 9A.56.030)  
9 Theft of Rental, Leased, or Lease-  
10 purchased Property (valued at one  
11 thousand five hundred dollars or  
12 more) (RCW 9A.56.096(5)(a))  
13 Trafficking in Insurance Claims (RCW  
14 48.30A.015)  
15 Unlawful factoring of a credit card or  
16 payment card transaction (RCW  
17 9A.56.290(4)(a))  
18 Unlawful Practice of Law (RCW  
19 2.48.180)  
20 Unlicensed Practice of a Profession or  
21 Business (RCW 18.130.190(7))  
22 Voyeurism (RCW 9A.44.115)  
23 I Attempting to Elude a Pursuing Police  
24 Vehicle (RCW 46.61.024)  
25 False Verification for Welfare (RCW  
26 74.08.055)  
27 Forgery (RCW 9A.60.020)  
28 Fraudulent Creation or Revocation of a  
29 Mental Health Advance Directive  
30 (RCW 9A.60.060)  
31 Malicious Mischief 2 (RCW  
32 9A.48.080)  
33 Mineral Trespass (RCW 78.44.330)  
34 Possession of Stolen Property 2 (RCW  
35 9A.56.160)  
36 Reckless Burning 1 (RCW 9A.48.040)

1 Taking Motor Vehicle Without  
2 Permission 2 (RCW 9A.56.075)  
3 Theft 2 (RCW 9A.56.040)  
4 Theft of Rental, Leased, or Lease-  
5 purchased Property (valued at two  
6 hundred fifty dollars or more but  
7 less than one thousand five  
8 hundred dollars) (RCW  
9 9A.56.096(5)(b))  
10 Transaction of insurance business  
11 beyond the scope of licensure  
12 (RCW 48.17.063(4))  
13 Unlawful Issuance of Checks or Drafts  
14 (RCW 9A.56.060)  
15 Unlawful Possession of Fictitious  
16 Identification (RCW 9A.56.320)  
17 Unlawful Possession of Instruments of  
18 Financial Fraud (RCW  
19 9A.56.320)  
20 Unlawful Possession of Payment  
21 Instruments (RCW 9A.56.320)  
22 Unlawful Possession of a Personal  
23 Identification Device (RCW  
24 9A.56.320)  
25 Unlawful Production of Payment  
26 Instruments (RCW 9A.56.320)  
27 Unlawful Trafficking in Food Stamps  
28 (RCW 9.91.142)  
29 Unlawful Use of Food Stamps (RCW  
30 9.91.144)  
31 Vehicle Prowl 1 (RCW 9A.52.095)

32 **Sec. 3.** RCW 9.68A.070 and 1990 c 155 s 1 are each amended to read  
33 as follows:

34 A person who knowingly possesses visual or printed matter depicting  
35 a minor engaged in sexually explicit conduct is guilty of a class ((C))  
36 B felony.

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

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

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

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

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

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

20       (5) "Community custody" means that portion of an offender's  
21 sentence of confinement in lieu of earned release time or imposed  
22 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,  
23 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the  
24 community subject to controls placed on the offender's movement and  
25 activities by the department. For offenders placed on community  
26 custody for crimes committed on or after July 1, 2000, the department  
27 shall assess the offender's risk of reoffense and may establish and  
28 modify conditions of community custody, in addition to those imposed by  
29 the court, based upon the risk to community safety.

30       (6) "Community custody range" means the minimum and maximum period  
31 of community custody included as part of a sentence under RCW  
32 9.94A.715, as established by the commission or the legislature under  
33 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

34       (7) "Community placement" means that period during which the  
35 offender is subject to the conditions of community custody and/or  
36 postrelease supervision, which begins either upon completion of the  
37 term of confinement (postrelease supervision) or at such time as the

1 offender is transferred to community custody in lieu of earned release.  
2 Community placement may consist of entirely community custody, entirely  
3 postrelease supervision, or a combination of the two.

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

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

10 (10) "Community supervision" means a period of time during which a  
11 convicted offender is subject to crime-related prohibitions and other  
12 sentence conditions imposed by a court pursuant to this chapter or RCW  
13 16.52.200(6) or 46.61.524. Where the court finds that any offender has  
14 a chemical dependency that has contributed to his or her offense, the  
15 conditions of supervision may, subject to available resources, include  
16 treatment. For purposes of the interstate compact for out-of-state  
17 supervision of parolees and probationers, RCW 9.95.270, community  
18 supervision is the functional equivalent of probation and should be  
19 considered the same as probation by other states.

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

21 (12) "Conviction" means an adjudication of guilt pursuant to Titles  
22 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
23 acceptance of a plea of guilty.

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

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

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

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

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

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

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

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

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

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

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

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

7 (21) "Drug offense" means:

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

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

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

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

19 (23) "Escape" means:

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

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

29 (24) "Felony traffic offense" means:

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

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

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



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

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

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

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

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

26 (b) Assault in the second degree;

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

28 (d) Child molestation in the second degree;

29 (e) Controlled substance homicide;

30 (f) Extortion in the first degree;

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

32 (h) Indecent liberties;

33 (i) Kidnapping in the second degree;

34 (j) Leading organized crime;

35 (k) Manslaughter in the first degree;

36 (l) Manslaughter in the second degree;

37 (m) Promoting prostitution in the first degree;

38 (n) Rape in the third degree;

- 1 (o) Robbery in the second degree;
- 2 (p) Sexual exploitation;
- 3 (q) Vehicular assault, when caused by the operation or driving of  
4 a vehicle by a person while under the influence of intoxicating liquor  
5 or any drug or by the operation or driving of a vehicle in a reckless  
6 manner;
- 7 (r) Vehicular homicide, when proximately caused by the driving of  
8 any vehicle by any person while under the influence of intoxicating  
9 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
10 any vehicle in a reckless manner;
- 11 (s) Any other class B felony offense with a finding of sexual  
12 motivation;
- 13 (t) Any other felony with a deadly weapon verdict under RCW  
14 9.94A.602;
- 15 (u) Any felony offense in effect at any time prior to December 2,  
16 1993, that is comparable to a most serious offense under this  
17 subsection, or any federal or out-of-state conviction for an offense  
18 that under the laws of this state would be a felony classified as a  
19 most serious offense under this subsection;
- 20 (v)(i) A prior conviction for indecent liberties under RCW  
21 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
22 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
23 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
24 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
- 25 (ii) A prior conviction for indecent liberties under RCW  
26 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
27 if: (A) The crime was committed against a child under the age of  
28 fourteen; or (B) the relationship between the victim and perpetrator is  
29 included in the definition of indecent liberties under RCW  
30 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
31 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
32 through July 27, 1997.
- 33 (30) "Nonviolent offense" means an offense which is not a violent  
34 offense.
- 35 (31) "Offender" means a person who has committed a felony  
36 established by state law and is eighteen years of age or older or is  
37 less than eighteen years of age but whose case is under superior court  
38 jurisdiction under RCW 13.04.030 or has been transferred by the

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

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

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

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

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

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

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

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

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

9 (35) "Private school" means a school regulated under chapter  
10 28A.195 or 28A.205 RCW.

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

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

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

24 (39) "Serious traffic offense" means:

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

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

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

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

36 (ii) Homicide by abuse;

37 (iii) Murder in the second degree;

38 (iv) Manslaughter in the first degree;

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

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

10 (41) "Sex offense" means:

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

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

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

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

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

21 (c) A felony with a finding of sexual motivation under RCW  
22 9.94A.835 or 13.40.135; or

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

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

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

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

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

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

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

10 (48) "Violent offense" means:

11 (a) Any of the following felonies:

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

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

16 (iii) Manslaughter in the first degree;

17 (iv) Manslaughter in the second degree;

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

19 (vi) Kidnapping in the second degree;

20 (vii) Arson in the second degree;

21 (viii) Assault in the second degree;

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

23 (x) Extortion in the first degree;

24 (xi) Robbery in the second degree;

25 (xii) Drive-by shooting;

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

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

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

37 (c) Any federal or out-of-state conviction for an offense that

1 under the laws of this state would be a felony classified as a violent  
2 offense under (a) or (b) of this subsection.

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

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

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

16 **Sec. 5.** RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read  
17 as follows:

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

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

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

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

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

35 (5) "Community custody" means that portion of an offender's  
36 sentence of confinement in lieu of earned release time or imposed  
37 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,

1 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the  
2 community subject to controls placed on the offender's movement and  
3 activities by the department. For offenders placed on community  
4 custody for crimes committed on or after July 1, 2000, the department  
5 shall assess the offender's risk of reoffense and may establish and  
6 modify conditions of community custody, in addition to those imposed by  
7 the court, based upon the risk to community safety.

8 (6) "Community custody range" means the minimum and maximum period  
9 of community custody included as part of a sentence under RCW  
10 9.94A.715, as established by the commission or the legislature under  
11 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

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

19 (8) "Community restitution" means compulsory service, without  
20 compensation, performed for the benefit of the community by the  
21 offender.

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

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

33 (11) "Conviction" means an adjudication of guilt pursuant to Titles  
34 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
35 acceptance of a plea of guilty.

36 (12) "Crime-related prohibition" means an order of a court  
37 prohibiting conduct that directly relates to the circumstances of the  
38 crime for which the offender has been convicted, and shall not be



1 construed to mean orders directing an offender affirmatively to  
2 participate in rehabilitative programs or to otherwise perform  
3 affirmative conduct. However, affirmative acts necessary to monitor  
4 compliance with the order of a court may be required by the department.

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

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

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

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

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

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

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

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

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

13 (19) "Drug offender sentencing alternative" is a sentencing option  
14 available to persons convicted of a felony offense other than a violent  
15 offense or a sex offense and who are eligible for the option under RCW  
16 9.94A.660.

17 (20) "Drug offense" means:

18 (a) Any felony violation of chapter 69.50 RCW except possession of  
19 a controlled substance (RCW 69.50.4013) or forged prescription for a  
20 controlled substance (RCW 69.50.403);

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

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

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

29 (22) "Escape" means:

30 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
31 first degree (RCW 9A.76.110), escape in the second degree (RCW  
32 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
33 willful failure to return from work release (RCW 72.65.070), or willful  
34 failure to be available for supervision by the department while in  
35 community custody (RCW 72.09.310); or

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

1 (23) "Felony traffic offense" means:

2 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
3 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
4 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

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

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

33 (a) Any felony defined under any law as a class A felony or  
34 criminal solicitation of or criminal conspiracy to commit a class A  
35 felony;

36 (b) Assault in the second degree;

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

38 (d) Child molestation in the second degree;

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

1 included in the definition of indecent liberties under RCW  
2 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
3 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
4 through July 27, 1997.

5 (29) "Nonviolent offense" means an offense which is not a violent  
6 offense.

7 (30) "Offender" means a person who has committed a felony  
8 established by state law and is eighteen years of age or older or is  
9 less than eighteen years of age but whose case is under superior court  
10 jurisdiction under RCW 13.04.030 or has been transferred by the  
11 appropriate juvenile court to a criminal court pursuant to RCW  
12 13.40.110. Throughout this chapter, the terms "offender" and  
13 "defendant" are used interchangeably.

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

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

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

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

33 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
34 of a child in the first degree, child molestation in the first degree,  
35 rape in the second degree, rape of a child in the second degree, or  
36 indecent liberties by forcible compulsion; (B) any of the following  
37 offenses with a finding of sexual motivation: Murder in the first  
38 degree, murder in the second degree, homicide by abuse, kidnapping in

1 the first degree, kidnapping in the second degree, assault in the first  
2 degree, assault in the second degree, assault of a child in the first  
3 degree, or burglary in the first degree; or (C) an attempt to commit  
4 any crime listed in this subsection (32)(b)(i); and

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

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

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

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

31 (36) "Serious traffic offense" means:

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

37 (b) Any federal, out-of-state, county, or municipal conviction for

1 an offense that under the laws of this state would be classified as a  
2 serious traffic offense under (a) of this subsection.

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

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

6 (ii) Homicide by abuse;

7 (iii) Murder in the second degree;

8 (iv) Manslaughter in the first degree;

9 (v) Assault in the first degree;

10 (vi) Kidnapping in the first degree;

11 (vii) Rape in the first degree;

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

13 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
14 commit one of these felonies; or

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

18 (38) "Sex offense" means:

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

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

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

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

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

29 (c) A felony with a finding of sexual motivation under RCW  
30 9.94A.835 or 13.40.135; or

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

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

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

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

5 (42) "Total confinement" means confinement inside the physical  
6 boundaries of a facility or institution operated or utilized under  
7 contract by the state or any other unit of government for twenty-four  
8 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

9 (43) "Transition training" means written and verbal instructions  
10 and assistance provided by the department to the offender during the  
11 two weeks prior to the offender's successful completion of the work  
12 ethic camp program. The transition training shall include instructions  
13 in the offender's requirements and obligations during the offender's  
14 period of community custody.

15 (44) "Victim" means any person who has sustained emotional,  
16 psychological, physical, or financial injury to person or property as  
17 a direct result of the crime charged.

18 (45) "Violent offense" means:

19 (a) Any of the following felonies:

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

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

24 (iii) Manslaughter in the first degree;

25 (iv) Manslaughter in the second degree;

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

27 (vi) Kidnapping in the second degree;

28 (vii) Arson in the second degree;

29 (viii) Assault in the second degree;

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

31 (x) Extortion in the first degree;

32 (xi) Robbery in the second degree;

33 (xii) Drive-by shooting;

34 (xiii) Vehicular assault, when caused by the operation or driving  
35 of a vehicle by a person while under the influence of intoxicating  
36 liquor or any drug or by the operation or driving of a vehicle in a  
37 reckless manner; and



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

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

8 (c) 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 violent  
10 offense under (a) or (b) of this subsection.

11 (46) "Work crew" means a program of partial confinement consisting  
12 of civic improvement tasks for the benefit of the community that  
13 complies with RCW 9.94A.725.

14 (47) "Work ethic camp" means an alternative incarceration program  
15 as provided in RCW 9.94A.690 designed to reduce recidivism and lower  
16 the cost of corrections by requiring offenders to complete a  
17 comprehensive array of real-world job and vocational experiences,  
18 character-building work ethics training, life management skills  
19 development, substance abuse rehabilitation, counseling, literacy  
20 training, and basic adult education.

21 (48) "Work release" means a program of partial confinement  
22 available to offenders who are employed or engaged as a student in a  
23 regular course of study at school.

24 NEW SECTION. **Sec. 6.** Section 4 of this act expires July 1, 2006.

25 NEW SECTION. **Sec. 7.** Section 5 of this act takes effect July 1,  
26 2006.

27 NEW SECTION. **Sec. 8.** If specific funding for the purposes of  
28 section 2 of this act, referencing section 2 of this act by bill or  
29 chapter number and section number, is not provided by June 30, 2006, in  
30 the omnibus appropriations act, section 2 of this act is null and void.

Passed by the Senate March 6, 2006.

Passed by the House March 3, 2006.

Approved by the Governor March 20, 2006.

Filed in Office of Secretary of State March 20, 2006.