

SSB 6160 - H AMD 990
By Representative Pearson

WITHDRAWN 04/26/2009

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

3 "Sec. 1. RCW 9.94A.510 and 2002 c 290 s 10 are each amended to
4 read as follows:

5 ((TABLE 1

6 Sentencing Grid

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

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

TABLE 1

Sentencing Grid

SERIOUSNESS

LEVEL

OFFENDER SCORE

10 or

	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10 or more</u>
<u>XVI</u> Life Sentence without Parole/Death Penalty											
<u>XV</u>	<u>240-</u>	<u>250-</u>	<u>261-</u>	<u>271-</u>	<u>281-</u>	<u>291-</u>	<u>312-</u>	<u>338-</u>	<u>370-</u>	<u>411-</u>	<u>411-</u>
	<u>352</u>	<u>367</u>	<u>383</u>	<u>402</u>	<u>417</u>	<u>437</u>	<u>458</u>	<u>496</u>	<u>543</u>	<u>603</u>	<u>862</u>
<u>XIV</u>	<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>	<u>298-</u>
	<u>220</u>	<u>234</u>	<u>244</u>	<u>254</u>	<u>265</u>	<u>275</u>	<u>295</u>	<u>316</u>	<u>357</u>	<u>397</u>	<u>595</u>
<u>XIII</u>	<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>	<u>298-</u>
	<u>180</u>	<u>196</u>	<u>212</u>	<u>226</u>	<u>241</u>	<u>257</u>	<u>286</u>	<u>316</u>	<u>376</u>	<u>437</u>	<u>624</u>
<u>XII</u>	<u>93-</u>	<u>102-</u>	<u>111-</u>	<u>120-</u>	<u>129-</u>	<u>138-</u>	<u>162-</u>	<u>178-</u>	<u>209-</u>	<u>240-</u>	<u>240-</u>
	<u>137</u>	<u>150</u>	<u>163</u>	<u>176</u>	<u>189</u>	<u>204</u>	<u>238</u>	<u>260</u>	<u>306</u>	<u>351</u>	<u>500</u>

1	XI	<u>78-</u>	<u>86-</u>	<u>95-</u>	<u>102-</u>	<u>111-</u>	<u>120-</u>	<u>146-</u>	<u>159-</u>	<u>185-</u>	<u>210-</u>	<u>210-</u>
2		<u>113</u>	<u>126</u>	<u>139</u>	<u>150</u>	<u>161</u>	<u>176</u>	<u>214</u>	<u>233</u>	<u>270</u>	<u>309</u>	<u>442</u>
3	X	<u>51-</u>	<u>57-</u>	<u>62-</u>	<u>67-</u>	<u>72-</u>	<u>77-</u>	<u>98-</u>	<u>108-</u>	<u>129-</u>	<u>149-</u>	<u>149-</u>
4		<u>79</u>	<u>89</u>	<u>96</u>	<u>104</u>	<u>111</u>	<u>120</u>	<u>151</u>	<u>168</u>	<u>201</u>	<u>230</u>	<u>312</u>
5	IX	<u>31-</u>	<u>36-</u>	<u>41-</u>	<u>46-</u>	<u>51-</u>	<u>57-</u>	<u>77-</u>	<u>87-</u>	<u>108-</u>	<u>129-</u>	<u>129-</u>
6		<u>48</u>	<u>57</u>	<u>64</u>	<u>72</u>	<u>79</u>	<u>89</u>	<u>120</u>	<u>135</u>	<u>168</u>	<u>201</u>	<u>270</u>
7	VIII	<u>21-</u>	<u>26-</u>	<u>31-</u>	<u>36-</u>	<u>41-</u>	<u>46-</u>	<u>67-</u>	<u>77-</u>	<u>87-</u>	<u>108-</u>	<u>108-</u>
8		<u>32</u>	<u>41</u>	<u>48</u>	<u>56</u>	<u>64</u>	<u>72</u>	<u>104</u>	<u>120</u>	<u>135</u>	<u>168</u>	<u>225</u>
9	VII	<u>15-</u>	<u>21-</u>	<u>26-</u>	<u>31-</u>	<u>36-</u>	<u>41-</u>	<u>57-</u>	<u>67-</u>	<u>77-</u>	<u>87-</u>	<u>87-</u>
10		<u>22</u>	<u>32</u>	<u>41</u>	<u>48</u>	<u>56</u>	<u>64</u>	<u>89</u>	<u>105</u>	<u>120</u>	<u>135</u>	<u>180</u>
11	VI	<u>12+-</u>	<u>15-</u>	<u>21-</u>	<u>26-</u>	<u>31-</u>	<u>36-</u>	<u>46-</u>	<u>57-</u>	<u>67-</u>	<u>77-</u>	<u>77-</u>
12		<u>19</u>	<u>22</u>	<u>32</u>	<u>41</u>	<u>48</u>	<u>56</u>	<u>72</u>	<u>89</u>	<u>105</u>	<u>120</u>	<u>157</u>
13	V	<u>6-</u>	<u>12+-</u>	<u>13-</u>	<u>15-</u>	<u>22-</u>	<u>33-</u>	<u>41-</u>	<u>51-</u>	<u>62-</u>	<u>72-</u>	<u>72-</u>
14		<u>12</u>	<u>19</u>	<u>19</u>	<u>22</u>	<u>35</u>	<u>51</u>	<u>64</u>	<u>79</u>	<u>96</u>	<u>111</u>	<u>120</u>
15	IV	<u>3-</u>	<u>6-</u>	<u>12+-</u>	<u>13-</u>	<u>15-</u>	<u>22-</u>	<u>33-</u>	<u>43-</u>	<u>53-</u>	<u>63-</u>	<u>63-</u>
16		<u>9</u>	<u>12</u>	<u>19</u>	<u>19</u>	<u>22</u>	<u>35</u>	<u>51</u>	<u>66</u>	<u>83</u>	<u>97</u>	<u>120</u>
17	III	<u>1-</u>	<u>3-</u>	<u>4-</u>	<u>9-</u>	<u>12+-</u>	<u>17-</u>	<u>22-</u>	<u>33-</u>	<u>43-</u>	<u>51-</u>	<u>51-</u>
18		<u>3</u>	<u>8</u>	<u>12</u>	<u>12</u>	<u>19</u>	<u>24</u>	<u>35</u>	<u>51</u>	<u>67</u>	<u>79</u>	<u>120</u>
19	II	<u>0-90</u>	<u>2-</u>	<u>3-</u>	<u>4-</u>	<u>12+-</u>	<u>14-</u>	<u>17-</u>	<u>22-</u>	<u>33-</u>	<u>43-</u>	<u>43-</u>
20		<u>Days</u>	<u>6</u>	<u>9</u>	<u>12</u>	<u>19</u>	<u>20</u>	<u>24</u>	<u>35</u>	<u>51</u>	<u>67</u>	<u>120</u>
21	I	<u>0-60</u>	<u>0-90</u>	<u>2-</u>	<u>2-</u>	<u>3-</u>	<u>4-</u>	<u>12+-</u>	<u>14-</u>	<u>17-</u>	<u>22-</u>	<u>22-</u>
22		<u>Days</u>	<u>Days</u>	<u>5</u>	<u>6</u>	<u>8</u>	<u>12</u>	<u>19</u>	<u>20</u>	<u>24</u>	<u>35</u>	<u>60</u>

23 Numbers in the first and second horizontal rows of each seriousness
24 category (~~((represent sentencing midpoints in years(y) and months(m).~~
25 ~~Numbers in the second and third rows))~~ represent standard sentence
26 ranges in months, or in days if so designated. 12+ equals one year and
27 one day.

28 **Sec. 2.** RCW 9.94A.535 and 2008 c 276 s 303 and 2008 c 233 s 9 are
29 each reenacted and amended to read as follows:

30 The court may impose a sentence outside the standard sentence range
31 for an offense if it finds, considering the purpose of this chapter,
32 that there are substantial and compelling reasons justifying an
33 exceptional sentence. Facts supporting aggravated sentences, other
34 than the fact of a prior conviction, shall be determined pursuant to
35 the provisions of RCW 9.94A.537.

1 Whenever a sentence outside the standard sentence range is imposed,
2 the court shall set forth the reasons for its decision in written
3 findings of fact and conclusions of law. A sentence outside the
4 standard sentence range shall be a determinate sentence.

5 If the sentencing court finds that an exceptional sentence outside
6 the standard sentence range should be imposed, the sentence is subject
7 to review only as provided for in RCW 9.94A.585(4).

8 A departure from the standards in RCW 9.94A.589 (1) and (2)
9 governing whether sentences are to be served consecutively or
10 concurrently is an exceptional sentence subject to the limitations in
11 this section, and may be appealed by the offender or the state as set
12 forth in RCW 9.94A.585 (2) through (6).

13 (1) Mitigating Circumstances - Court to Consider

14 The court may impose an exceptional sentence below the standard
15 range if it finds that mitigating circumstances are established by a
16 preponderance of the evidence. The following are illustrative only and
17 are not intended to be exclusive reasons for exceptional sentences.

18 (a) To a significant degree, the victim was an initiator, willing
19 participant, aggressor, or provoker of the incident.

20 (b) Before detection, the defendant compensated, or made a good
21 faith effort to compensate, the victim of the criminal conduct for any
22 damage or injury sustained.

23 (c) The defendant committed the crime under duress, coercion,
24 threat, or compulsion insufficient to constitute a complete defense but
25 which significantly affected his or her conduct.

26 (d) The defendant, with no apparent predisposition to do so, was
27 induced by others to participate in the crime.

28 (e) The defendant's capacity to appreciate the wrongfulness of his
29 or her conduct, or to conform his or her conduct to the requirements of
30 the law, was significantly impaired. Voluntary use of drugs or alcohol
31 is excluded.

32 (f) The offense was principally accomplished by another person and
33 the defendant manifested extreme caution or sincere concern for the
34 safety or well-being of the victim.

35 (g) The operation of the multiple offense policy of RCW 9.94A.589
36 results in a presumptive sentence that is clearly excessive in light of
37 the purpose of this chapter, as expressed in RCW 9.94A.010.

1 (h) The defendant or the defendant's children suffered a continuing
2 pattern of physical or sexual abuse by the victim of the offense and
3 the offense is a response to that abuse.

4 (i) The offender score due to other current offenses, as opposed to
5 prior offenses, results in a presumptive sentence that is clearly
6 excessive.

7 (2) Aggravating Circumstances - Considered and Imposed by the Court
8 The trial court may impose an aggravated exceptional sentence
9 without a finding of fact by a jury under the following circumstances:

10 (a) The defendant and the state both stipulate that justice is best
11 served by the imposition of an exceptional sentence outside the
12 standard range, and the court finds the exceptional sentence to be
13 consistent with and in furtherance of the interests of justice and the
14 purposes of the sentencing reform act.

15 ~~(b) ((The defendant's prior unscored misdemeanor or prior unscored~~
16 ~~foreign criminal history results in a presumptive sentence that is~~
17 ~~clearly too lenient in light of the purpose of this chapter, as~~
18 ~~expressed in RCW 9.94A.010.~~

19 ~~(e))~~ The defendant has committed multiple current offenses and the
20 defendant's high offender score results in some of the current offenses
21 going unpunished.

22 ~~((d) The failure to consider the defendant's prior criminal~~
23 ~~history which was omitted from the offender score calculation pursuant~~
24 ~~to RCW 9.94A.525 results in a presumptive sentence that is clearly too~~
25 ~~lenient.))~~

26 (3) Aggravating Circumstances - Considered by a Jury -Imposed by
27 the Court

28 Except for circumstances listed in subsection (2) of this section,
29 the following circumstances are an exclusive list of factors that can
30 support a sentence above the standard range. Such facts should be
31 determined by procedures specified in RCW 9.94A.537.

32 (a) The defendant's conduct during the commission of the current
33 offense manifested deliberate cruelty to the victim.

34 (b) The defendant knew or should have known that the victim of the
35 current offense was particularly vulnerable or incapable of resistance.

36 (c) The current offense was a violent offense, and the defendant
37 knew that the victim of the current offense was pregnant.

1 (d) The current offense was a major economic offense or series of
2 offenses, so identified by a consideration of any of the following
3 factors:

4 (i) The current offense involved multiple victims or multiple
5 incidents per victim;

6 (ii) The current offense involved attempted or actual monetary loss
7 substantially greater than typical for the offense;

8 (iii) The current offense involved a high degree of sophistication
9 or planning or occurred over a lengthy period of time; or

10 (iv) The defendant used his or her position of trust, confidence,
11 or fiduciary responsibility to facilitate the commission of the current
12 offense.

13 (e) The current offense was a major violation of the Uniform
14 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
15 trafficking in controlled substances, which was more onerous than the
16 typical offense of its statutory definition: The presence of ANY of
17 the following may identify a current offense as a major VUCSA:

18 (i) The current offense involved at least three separate
19 transactions in which controlled substances were sold, transferred, or
20 possessed with intent to do so;

21 (ii) The current offense involved an attempted or actual sale or
22 transfer of controlled substances in quantities substantially larger
23 than for personal use;

24 (iii) The current offense involved the manufacture of controlled
25 substances for use by other parties;

26 (iv) The circumstances of the current offense reveal the offender
27 to have occupied a high position in the drug distribution hierarchy;

28 (v) The current offense involved a high degree of sophistication or
29 planning, occurred over a lengthy period of time, or involved a broad
30 geographic area of disbursement; or

31 (vi) The offender used his or her position or status to facilitate
32 the commission of the current offense, including positions of trust,
33 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
34 other medical professional).

35 (f) The current offense included a finding of sexual motivation
36 pursuant to RCW 9.94A.835.

37 (g) The offense was part of an ongoing pattern of sexual abuse of

1 the same victim under the age of eighteen years manifested by multiple
2 incidents over a prolonged period of time.

3 (h) The current offense involved domestic violence, as defined in
4 RCW 10.99.020, and one or more of the following was present:

5 (i) The offense was part of an ongoing pattern of psychological,
6 physical, or sexual abuse of the victim manifested by multiple
7 incidents over a prolonged period of time;

8 (ii) The offense occurred within sight or sound of the victim's or
9 the offender's minor children under the age of eighteen years; or

10 (iii) The offender's conduct during the commission of the current
11 offense manifested deliberate cruelty or intimidation of the victim.

12 (i) The offense resulted in the pregnancy of a child victim of
13 rape.

14 (j) The defendant knew that the victim of the current offense was
15 a youth who was not residing with a legal custodian and the defendant
16 established or promoted the relationship for the primary purpose of
17 victimization.

18 (k) The offense was committed with the intent to obstruct or impair
19 human or animal health care or agricultural or forestry research or
20 commercial production.

21 (l) The current offense is trafficking in the first degree or
22 trafficking in the second degree and any victim was a minor at the time
23 of the offense.

24 (m) The offense involved a high degree of sophistication or
25 planning.

26 (n) The defendant used his or her position of trust, confidence, or
27 fiduciary responsibility to facilitate the commission of the current
28 offense.

29 (o) The defendant committed a current sex offense, has a history of
30 sex offenses, and is not amenable to treatment.

31 (p) The offense involved an invasion of the victim's privacy.

32 (q) The defendant demonstrated or displayed an egregious lack of
33 remorse.

34 (r) The offense involved a destructive and foreseeable impact on
35 persons other than the victim.

36 (s) The defendant committed the offense to obtain or maintain his
37 or her membership or to advance his or her position in the hierarchy of
38 an organization, association, or identifiable group.

1 (t) The defendant committed the current offense shortly after being
2 released from incarceration.

3 (u) The current offense is a burglary and the victim of the
4 burglary was present in the building or residence when the crime was
5 committed.

6 (v) The offense was committed against a law enforcement officer who
7 was performing his or her official duties at the time of the offense,
8 the offender knew that the victim was a law enforcement officer, and
9 the victim's status as a law enforcement officer is not an element of
10 the offense.

11 (w) The defendant committed the offense against a victim who was
12 acting as a good samaritan.

13 (x) The defendant committed the offense against a public official
14 or officer of the court in retaliation of the public official's
15 performance of his or her duty to the criminal justice system.

16 (y) The victim's injuries substantially exceed the level of bodily
17 harm necessary to satisfy the elements of the offense. This aggravator
18 is not an exception to RCW 9.94A.530(2).

19 (z) The defendant's prior unscored misdemeanor or prior unscored
20 foreign criminal history results in a presumptive sentence that is
21 clearly too lenient in light of the purpose of this chapter, as
22 expressed in RCW 9.94A.010.

23 (aa) The failure to consider the defendant's prior criminal history
24 which was omitted from the offender score calculation pursuant to RCW
25 9.94A.525 results in a presumptive sentence that is clearly too
26 lenient.

27 (bb)(i)(A) The current offense is theft in the first degree, theft
28 in the second degree, possession of stolen property in the first
29 degree, or possession of stolen property in the second degree; (B) the
30 stolen property involved is metal property; and (C) the property damage
31 to the victim caused in the course of the theft of metal property is
32 more than three times the value of the stolen metal property, or the
33 theft of the metal property creates a public hazard.

34 (ii) For purposes of this subsection, "metal property" means
35 commercial metal property, private metal property, or nonferrous metal
36 property, as defined in RCW 19.290.010.

37 ~~((aa))~~ (cc) The defendant committed the offense with the intent

1 to directly or indirectly cause any benefit, aggrandizement, gain,
2 profit, or other advantage to or for a criminal street gang as defined
3 in RCW 9.94A.030, its reputation, influence, or membership.

4 **Sec. 3.** RCW 9.94A.850 and 2009 c 28 s 17 are each amended to read
5 as follows:

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

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

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

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

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

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

20 (b) Recommend to the legislature revisions or modifications to the
21 standard sentence ranges, state sentencing policy, prosecuting
22 standards, and other standards. If implementation of the revisions or
23 modifications would result in exceeding the capacity of correctional
24 facilities, then the commission shall accompany its recommendation with
25 an additional list of standard sentence ranges which are consistent
26 with correction capacity;

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

29 (d)(i) Serve as a clearinghouse and information center for the
30 collection, preparation, analysis, and dissemination of information on
31 state and local adult and juvenile sentencing practices; (ii) develop
32 and maintain a computerized adult and juvenile sentencing information
33 system by individual superior court judge consisting of offender,
34 offense, history, and sentence information entered from judgment and
35 sentence forms for all adult felons; and (iii) conduct ongoing research
36 regarding adult and juvenile sentencing guidelines, use of total

1 confinement and alternatives to total confinement, plea bargaining, and
2 other matters relating to the improvement of the adult criminal justice
3 system and the juvenile justice system;

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

6 (f) Evaluate the effectiveness of existing disposition standards
7 and related statutes in implementing policies set forth in RCW
8 13.40.010 generally, specifically review the guidelines relating to the
9 confinement of minor and first-time offenders as well as the use of
10 diversion, and review the application of current and proposed juvenile
11 sentencing standards and guidelines for potential adverse impacts on
12 the sentencing outcomes of racial and ethnic minority youth;

13 (g) Solicit the comments and suggestions of the juvenile justice
14 community concerning disposition standards, and make recommendations to
15 the legislature regarding revisions or modifications of the standards.
16 The evaluations shall be submitted to the legislature on December 1 of
17 each odd-numbered year. The department of social and health services
18 shall provide the commission with available data concerning the
19 implementation of the disposition standards and related statutes and
20 their effect on the performance of the department's responsibilities
21 relating to juvenile offenders, and with recommendations for
22 modification of the disposition standards. The administrative office
23 of the courts shall provide the commission with available data on
24 diversion, including the use of youth court programs, and dispositions
25 of juvenile offenders under chapter 13.40 RCW; and

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

29 (i) Racial disproportionality in juvenile and adult sentencing,
30 and, if available, the impact that diversions, such as youth courts,
31 have on racial disproportionality in juvenile prosecution,
32 adjudication, and sentencing;

33 (ii) The capacity of state and local juvenile and adult facilities
34 and resources; and

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

36 (3) Each of the commission's recommended standard sentence ranges
37 shall include one or more of the following: Total confinement, partial
38 confinement, community supervision, community restitution, and a fine.

1 (4) The standard sentence ranges of total and partial confinement
2 under this chapter, except as provided in RCW 9.94A.517, are subject to
3 the following limitations:

4 (a) If the maximum term in the range is one year or less, the
5 minimum term in the range shall be no less than one-third of the
6 maximum term in the range, except that if the maximum term in the range
7 is ninety days or less, the minimum term may be less than one-third of
8 the maximum;

9 (b) If the maximum term in the range is greater than one year, the
10 minimum term in the range shall be no less than (~~seventy-five~~) sixty
11 percent of the maximum term in the range, except that for murder in the
12 second degree in seriousness level XIV under RCW 9.94A.510, the minimum
13 term in the range shall be no less than fifty percent of the maximum
14 term in the range and except that for any offense with an offender
15 score of ten or more, the minimum term in the range shall be no less
16 than twenty-five percent of the maximum term in the range; and

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

19 (5)(a) Not later than December 31 of each year, the commission may
20 propose modifications to the community custody ranges to be included in
21 sentences under RCW 9.94A.701. The ranges shall be based on the
22 principles in RCW 9.94A.010, and shall take into account the funds
23 available to the department for community custody. The minimum term in
24 each range shall not be less than one-half of the maximum term.

25 (b) The legislature may, by enactment of a legislative bill, adopt
26 or modify the community custody ranges proposed by the commission. If
27 the legislature fails to adopt or modify the initial ranges in its next
28 regular session after they are proposed, the proposed ranges shall take
29 effect without legislative approval for crimes committed on or after
30 July 1, 2000.

31 (c) When the commission proposes modifications to ranges pursuant
32 to this subsection, the legislature may, by enactment of a bill, adopt
33 or modify the ranges proposed by the commission for crimes committed on
34 or after July 1 of the year after they were proposed. Unless the
35 legislature adopts or modifies the commission's proposal in its next
36 regular session, the proposed ranges shall not take effect.

37 (6) The commission shall exercise its duties under this section in
38 conformity with chapter 34.05 RCW.

1 NEW SECTION. **Sec. 4.** This act takes effect August 1, 2009."

2 Correct the title.

EFFECT: Increases minimum and maximum terms in the new grid. Minimum terms are increased to the same level as in the current law. For cells in which the minimum term was increased, maximum terms are also increased so the difference between the minimum and maximum terms are the same as in the underlying legislation.

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