

SSB 5288 - S AMD 4

By Senators Hargrove, Brandland, Carrell, Kauffman, Stevens, Regala

ADOPTED 02/13/2009

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

3 "Sec. 1. RCW 9.94A.501 and 2005 c 362 s 1 are each amended to read
4 as follows:

5 (1) ~~((When the department performs a risk assessment pursuant to
6 RCW 9.94A.500, or to determine a person's conditions of supervision,
7 the risk assessment shall classify the offender or a probationer
8 sentenced in superior court into one of at least four risk categories.~~

9 ~~(2) The department shall supervise every offender sentenced to a
10 term of community custody, community placement, or community
11 supervision and every misdemeanor and gross misdemeanor probationer
12 ordered by a superior court to probation under the supervision of the
13 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:~~

14 ~~(a) Whose risk assessment places that offender or probationer in
15 one of the two highest risk categories; or~~

16 ~~(b) Regardless of the offender's or probationer's risk category if:~~

17 ~~(i) The offender's or probationer's current conviction is for:~~

18 ~~(A) A sex offense;~~

19 ~~(B) A violent offense;~~

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

21 ~~(D) A felony that is domestic violence as defined in RCW 10.99.020;~~

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

23 ~~(F) A violation of, or an attempt, solicitation, or conspiracy to
24 violate, RCW 69.50.401 by manufacture or delivery or possession with
25 intent to deliver methamphetamine; or~~

26 ~~(G) A violation of, or an attempt, solicitation, or conspiracy to
27 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~

28 ~~(ii) The offender or probationer has a prior conviction for:~~

29 ~~(A) A sex offense;~~

30 ~~(B) A violent offense;~~

1 ~~(C) A crime against persons as defined in RCW 9.94A.411;~~
2 ~~(D) A felony that is domestic violence as defined in RCW 10.99.020;~~
3 ~~(E) A violation of RCW 9A.52.025 (residential burglary);~~
4 ~~(F) A violation of, or an attempt, solicitation, or conspiracy to~~
5 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~
6 ~~intent to deliver methamphetamine; or~~
7 ~~(G) A violation of, or an attempt, solicitation, or conspiracy to~~
8 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~
9 ~~(iii) The conditions of the offender's community custody, community~~
10 ~~placement, or community supervision or the probationer's supervision~~
11 ~~include chemical dependency treatment;~~
12 ~~(iv) The offender)) The department shall supervise every offender~~
13 ~~sentenced to community custody:~~
14 ~~(a) Whose risk assessment, conducted pursuant to subsection (4) of~~
15 ~~this section, places the offender in one of the two highest risk~~
16 ~~categories; or~~
17 ~~(b)(i) Who is not classified in one of the two highest risk~~
18 ~~categories and:~~
19 ~~(A) Has a current felony conviction for a violent offense or a~~
20 ~~crime against persons as provided in RCW 9.94A.411; or~~
21 ~~(B) Is required to participate in chemical dependency treatment as~~
22 ~~a condition of community custody;~~
23 ~~(ii) The department shall terminate supervision for an offender~~
24 ~~supervised pursuant to this subsection (1)(b) six months after the date~~
25 ~~of release if the offender, after conducting a new risk assessment, is~~
26 ~~still not classified in one of the two highest risk categories.~~
27 ~~(2) Notwithstanding any other provision of this section, the~~
28 ~~department shall supervise an offender sentenced to community custody~~
29 ~~regardless of risk classification if the offender:~~
30 ~~(a) Has a current conviction for a sex offense that is not a~~
31 ~~failure to register;~~
32 ~~(b) Has been identified by the department as a dangerous mentally~~
33 ~~ill offender pursuant to RCW 72.09.370;~~
34 ~~(c) Has an indeterminate sentence and is subject to parole pursuant~~
35 ~~to RCW 9.95.017;~~
36 ~~(d) Was sentenced under RCW 9.94A.650, 9.94A.660, or 9.94A.670; or~~
37 ~~((v) The offender)) (e) Is subject to supervision pursuant to RCW~~
38 ~~9.94A.745.~~

1 (3) The department is not authorized to, and may not, supervise any
2 offender sentenced to a term of community custody, community placement,
3 or community supervision (~~((or any probationer))~~) unless the offender
4 (~~((or probationer))~~) is one for whom supervision is required under
5 (~~((subsection (2) of))~~) this section.

6 (4) (~~((This section expires July 1, 2010))~~) The department shall
7 conduct a risk assessment for every offender sentenced to a term of
8 community custody, community placement, or community supervision who
9 may be subject to supervision under this section.

10 **Sec. 2.** RCW 9.94A.501 and 2008 c 231 s 24 are each amended to read
11 as follows:

12 (1) (~~((When the department performs a risk assessment pursuant to~~
13 ~~RCW 9.94A.500, or to determine a person's conditions of supervision,~~
14 ~~the risk assessment shall classify the offender or a probationer~~
15 ~~sentenced in superior court into one of at least four risk categories.~~

16 (2) ~~The department shall supervise every offender sentenced to a~~
17 ~~term of community custody and every misdemeanor and gross misdemeanor~~
18 ~~probationer ordered by a superior court to probation under the~~
19 ~~supervision of the department pursuant to RCW 9.92.060, 9.95.204, or~~
20 ~~9.95.210;~~

21 (a) ~~Whose risk assessment places that offender or probationer in~~
22 ~~one of the two highest risk categories; or~~

23 (b) ~~Regardless of the offender's or probationer's risk category if:~~

24 (i) ~~The offender's or probationer's current conviction is for:~~

25 (A) ~~A sex offense;~~

26 (B) ~~A violent offense;~~

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

28 (D) ~~A felony that is domestic violence as defined in RCW 10.99.020;~~

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

30 (F) ~~A violation of, or an attempt, solicitation, or conspiracy to~~
31 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~
32 ~~intent to deliver methamphetamine; or~~

33 (G) ~~A violation of, or an attempt, solicitation, or conspiracy to~~
34 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~

35 (ii) ~~The offender or probationer has a prior conviction for:~~

36 (A) ~~A sex offense;~~

37 (B) ~~A violent offense;~~

1 ~~(C) A crime against persons as defined in RCW 9.94A.411;~~
2 ~~(D) A felony that is domestic violence as defined in RCW 10.99.020;~~
3 ~~(E) A violation of RCW 9A.52.025 (residential burglary);~~
4 ~~(F) A violation of, or an attempt, solicitation, or conspiracy to~~
5 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~
6 ~~intent to deliver methamphetamine; or~~
7 ~~(G) A violation of, or an attempt, solicitation, or conspiracy to~~
8 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~
9 ~~(iii) The conditions of the offender's community custody or the~~
10 ~~probationer's supervision include chemical dependency treatment;~~
11 ~~(iv) The offender))~~ The department shall supervise every offender
12 sentenced to community custody:
13 (a) Whose risk assessment, conducted pursuant to subsection (4) of
14 this section, classifies the offender as one who is at a high risk to
15 reoffend; or
16 (b)(i) Who is classified at a low or moderate risk to reoffend and:
17 (A) Has a current felony conviction for a violent offense or a
18 crime against persons as provided in RCW 9.94A.411; or
19 (B) Is required to participate in chemical dependency treatment as
20 a condition of community custody;
21 (ii) The department shall terminate supervision for an offender
22 supervised pursuant to this subsection (1)(b) six months after the date
23 of release if the offender, after conducting a new risk assessment,
24 remains at a low or moderate risk to reoffend.
25 (2) Notwithstanding any other provision of this section, the
26 department shall supervise an offender sentenced to community custody
27 regardless of risk classification if the offender:
28 (a) Has a current conviction for a sex offense that is not a
29 failure to register;
30 (b) Has been identified by the department as a dangerous mentally
31 ill offender pursuant to RCW 72.09.370;
32 (c) Has an indeterminate sentence and is subject to parole pursuant
33 to RCW 9.95.017;
34 (d) Was sentenced under RCW 9.94A.650, 9.94A.660, or 9.94A.670; or
35 ~~((v) The offender))~~ (e) Is subject to supervision pursuant to RCW
36 9.94A.745.
37 (3) The department is not authorized to, and may not, supervise any

1 offender sentenced to a term of community custody (~~or any~~
2 ~~probationer~~) unless the offender (~~or probationer~~) is one for whom
3 supervision is required under (~~subsection (2) of~~) this section.

4 (4) (~~This section expires July 1, 2010~~) The department shall
5 conduct a risk assessment for every offender sentenced to a term of
6 community custody who may be subject to supervision under this section.

7 **Sec. 3.** RCW 9.94A.030 and 2008 c 276 s 309, 2008 c 231 s 23, 2008
8 c 230 s 2, and 2008 c 7 s 1 are each reenacted and amended to read as
9 follows:

10 Unless the context clearly requires otherwise, the definitions in
11 this section apply throughout this chapter.

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

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

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

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

27 (5) "Community custody" means that portion of an offender's
28 sentence of confinement in lieu of earned release time or imposed as
29 part of a sentence and served in the community subject to controls
30 placed on the offender's movement and activities by the department.

31 (6) "Community custody range" means the minimum and maximum period
32 of community custody included as part of a sentence under RCW
33 (~~9.94A.715~~) 9.94A.701, as established by the commission or the
34 legislature under RCW 9.94A.850.

35 (7) "Community protection zone" means the area within eight hundred
36 eighty feet of the facilities and grounds of a public or private
37 school.

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

4 (9) "Confinement" means total or partial confinement.

5 (10) "Conviction" means an adjudication of guilt pursuant to
6 Title((§)) 10 or 13 RCW and includes a verdict of guilty, a finding of
7 guilty, and acceptance of a plea of guilty.

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

15 (12) "Criminal history" means the list of a defendant's prior
16 convictions and juvenile adjudications, whether in this state, in
17 federal court, or elsewhere.

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

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

26 (c) The determination of a defendant's criminal history is distinct
27 from the determination of an offender score. A prior conviction that
28 was not included in an offender score calculated pursuant to a former
29 version of the sentencing reform act remains part of the defendant's
30 criminal history.

31 (13) "Criminal street gang" means any ongoing organization,
32 association, or group of three or more persons, whether formal or
33 informal, having a common name or common identifying sign or symbol,
34 having as one of its primary activities the commission of criminal
35 acts, and whose members or associates individually or collectively
36 engage in or have engaged in a pattern of criminal street gang
37 activity. This definition does not apply to employees engaged in

1 concerted activities for their mutual aid and protection, or to the
2 activities of labor and bona fide nonprofit organizations or their
3 members or agents.

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

8 (15) "Criminal street gang-related offense" means any felony or
9 misdemeanor offense, whether in this state or elsewhere, that is
10 committed for the benefit of, at the direction of, or in association
11 with any criminal street gang, or is committed with the intent to
12 promote, further, or assist in any criminal conduct by the gang, or is
13 committed for one or more of the following reasons:

- 14 (a) To gain admission, prestige, or promotion within the gang;
- 15 (b) To increase or maintain the gang's size, membership, prestige,
16 dominance, or control in any geographical area;
- 17 (c) To exact revenge or retribution for the gang or any member of
18 the gang;
- 19 (d) To obstruct justice, or intimidate or eliminate any witness
20 against the gang or any member of the gang;
- 21 (e) To directly or indirectly cause any benefit, aggrandizement,
22 gain, profit, or other advantage for the gang, its reputation,
23 influence, or membership; or
- 24 (f) To provide the gang with any advantage in, or any control or
25 dominance over any criminal market sector, including, but not limited
26 to, manufacturing, delivering, or selling any controlled substance
27 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
28 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
29 RCW); human trafficking (RCW 9A.40.100); or promoting pornography
30 (chapter 9.68 RCW).

31 (16) "Day fine" means a fine imposed by the sentencing court 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 (17) "Day reporting" means a program of enhanced supervision
36 designed to monitor the offender's daily activities and compliance with
37 sentence conditions, and in which the offender is required to report

1 daily to a specific location designated by the department or the
2 sentencing court.

3 (18) "Department" means the department of corrections.

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

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

24 (21) "Drug offender sentencing alternative" is a sentencing option
25 available to persons convicted of a felony offense other than a violent
26 offense or a sex offense and who are eligible for the option under RCW
27 9.94A.660.

28 (22) "Drug offense" means:

29 (a) Any felony violation of chapter 69.50 RCW except possession of
30 a controlled substance (RCW 69.50.4013) or forged prescription for a
31 controlled substance (RCW 69.50.403);

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

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

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

3 (24) "Escape" means:

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

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

13 (25) "Felony traffic offense" means:

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

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

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

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

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

32 (29) "Legal financial obligation" means a sum of money that is
33 ordered by a superior court of the state of Washington for legal
34 financial obligations which may include restitution to the victim,
35 statutorily imposed crime victims' compensation fees as assessed
36 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
37 court-appointed attorneys' fees, and costs of defense, fines, and any
38 other financial obligation that is assessed to the offender as a result

1 of a felony conviction. Upon conviction for vehicular assault while
2 under the influence of intoxicating liquor or any drug, RCW
3 46.61.522(1)(b), or vehicular homicide while under the influence of
4 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
5 obligations may also include payment to a public agency of the expense
6 of an emergency response to the incident resulting in the conviction,
7 subject to RCW 38.52.430.

8 (30) "Most serious offense" means any of the following felonies or
9 a felony attempt to commit any of the following felonies:

10 (a) Any felony defined under any law as a class A felony or
11 criminal solicitation of or criminal conspiracy to commit a class A
12 felony;

13 (b) Assault in the second degree;

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

15 (d) Child molestation in the second degree;

16 (e) Controlled substance homicide;

17 (f) Extortion in the first degree;

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

19 (h) Indecent liberties;

20 (i) Kidnapping in the second degree;

21 (j) Leading organized crime;

22 (k) Manslaughter in the first degree;

23 (l) Manslaughter in the second degree;

24 (m) Promoting prostitution in the first degree;

25 (n) Rape in the third degree;

26 (o) Robbery in the second degree;

27 (p) Sexual exploitation;

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

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

36 (s) Any other class B felony offense with a finding of sexual
37 motivation;

1 (t) Any other felony with a deadly weapon verdict under RCW
2 9.94A.602;

3 (u) Any felony offense in effect at any time prior to December 2,
4 1993, that is comparable to a most serious offense under this
5 subsection, or any federal or out-of-state conviction for an offense
6 that under the laws of this state would be a felony classified as a
7 most serious offense under this subsection;

8 (v)(i) A prior conviction for indecent liberties under RCW
9 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
10 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
11 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
12 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

13 (ii) A prior conviction for indecent liberties under RCW
14 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
15 if: (A) The crime was committed against a child under the age of
16 fourteen; or (B) the relationship between the victim and perpetrator is
17 included in the definition of indecent liberties under RCW
18 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
19 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
20 through July 27, 1997;

21 (w) Any out-of-state conviction for a felony offense with a finding
22 of sexual motivation if the minimum sentence imposed was ten years or
23 more; provided that the out-of-state felony offense must be comparable
24 to a felony offense under Title 9 or 9A RCW and the out-of-state
25 definition of sexual motivation must be comparable to the definition of
26 sexual motivation contained in this section.

27 (31) "Nonviolent offense" means an offense which is not a violent
28 offense.

29 (32) "Offender" means a person who has committed a felony
30 established by state law and is eighteen years of age or older or is
31 less than eighteen years of age but whose case is under superior court
32 jurisdiction under RCW 13.04.030 or has been transferred by the
33 appropriate juvenile court to a criminal court pursuant to RCW
34 13.40.110. Throughout this chapter, the terms "offender" and
35 "defendant" are used interchangeably.

36 (33) "Partial confinement" means confinement for no more than one
37 year in a facility or institution operated or utilized under contract
38 by the state or any other unit of government, or, if home detention or

1 work crew has been ordered by the court, in an approved residence, for
2 a substantial portion of each day with the balance of the day spent in
3 the community. Partial confinement includes work release, home
4 detention, work crew, and a combination of work crew and home
5 detention.

6 (34) "Pattern of criminal street gang activity" means:

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

10 (i) Any "serious violent" felony offense as defined in RCW
11 9.94A.030, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of
12 a Child 1 (RCW 9A.36.120);

13 (ii) Any "violent" offense as defined by RCW 9.94A.030, excluding
14 Assault of a Child 2 (RCW 9A.36.130);

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

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

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

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

21 (vii) Malicious Harassment (RCW 9A.36.080);

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

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

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

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

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

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

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

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

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

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

35 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
36 9A.56.075);

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

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

1 (xxi) Intimidating a Witness (RCW 9A.72.110);
2 (xxii) Tampering with a Witness (RCW 9A.72.120);
3 (xxiii) Reckless Endangerment (RCW 9A.36.050);
4 (xxiv) Coercion (RCW 9A.36.070);
5 (xxv) Harassment (RCW 9A.46.020); or
6 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
7 (b) That at least one of the offenses listed in (a) of this
8 subsection shall have occurred after July 1, 2008;
9 (c) That the most recent committed offense listed in (a) of this
10 subsection occurred within three years of a prior offense listed in (a)
11 of this subsection; and
12 (d) Of the offenses that were committed in (a) of this subsection,
13 the offenses occurred on separate occasions or were committed by two or
14 more persons.
15 (35) "Persistent offender" is an offender who:
16 (a)(i) Has been convicted in this state of any felony considered a
17 most serious offense; and
18 (ii) Has, before the commission of the offense under (a) of this
19 subsection, been convicted as an offender on at least two separate
20 occasions, whether in this state or elsewhere, of felonies that under
21 the laws of this state would be considered most serious offenses and
22 would be included in the offender score under RCW 9.94A.525; provided
23 that of the two or more previous convictions, at least one conviction
24 must have occurred before the commission of any of the other most
25 serious offenses for which the offender was previously convicted; or
26 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
27 of a child in the first degree, child molestation in the first degree,
28 rape in the second degree, rape of a child in the second degree, or
29 indecent liberties by forcible compulsion; (B) any of the following
30 offenses with a finding of sexual motivation: Murder in the first
31 degree, murder in the second degree, homicide by abuse, kidnapping in
32 the first degree, kidnapping in the second degree, assault in the first
33 degree, assault in the second degree, assault of a child in the first
34 degree, assault of a child in the second degree, or burglary in the
35 first degree; or (C) an attempt to commit any crime listed in this
36 subsection (35)(b)(i); and
37 (ii) Has, before the commission of the offense under (b)(i) of this
38 subsection, been convicted as an offender on at least one occasion,

1 whether in this state or elsewhere, of an offense listed in (b)(i) of
2 this subsection or any federal or out-of-state offense or offense under
3 prior Washington law that is comparable to the offenses listed in
4 (b)(i) of this subsection. A conviction for rape of a child in the
5 first degree constitutes a conviction under (b)(i) of this subsection
6 only when the offender was sixteen years of age or older when the
7 offender committed the offense. A conviction for rape of a child in
8 the second degree constitutes a conviction under (b)(i) of this
9 subsection only when the offender was eighteen years of age or older
10 when the offender committed the offense.

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

27 (37) "Private school" means a school regulated under chapter
28 28A.195 or 28A.205 RCW.

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

30 (39) "Restitution" means a specific sum of money ordered by the
31 sentencing court to be paid by the offender to the court over a
32 specified period of time as payment of damages. The sum may include
33 both public and private costs.

34 (40) "Risk assessment" means the application of ~~((an objective))~~
35 the risk instrument ~~((supported by research and adopted by))~~
36 recommended to the department ~~((for the purpose of assessing an~~
37 ~~offender's risk of reoffense, taking into consideration the nature of~~
38 ~~the harm done by the offender, place and circumstances of the offender~~

1 ~~related to risk, the offender's relationship to any victim, and any~~
2 ~~information provided to the department by victims. The results of a~~
3 ~~risk assessment shall not be based on unconfirmed or unconfirmable~~
4 ~~allegations)) by the Washington state institute for public policy as~~
5 ~~having the highest degree of predictive accuracy for assessing an~~
6 ~~offender's risk of reoffense.~~

7 (41) "Serious traffic offense" means:

8 (a) Nonfelony driving while under the influence of intoxicating
9 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
10 while under the influence of intoxicating liquor or any drug (RCW
11 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
12 attended vehicle (RCW 46.52.020(5)); or

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

16 (42) "Serious violent offense" is a subcategory of violent offense
17 and means:

- 18 (a)(i) Murder in the first degree;
- 19 (ii) Homicide by abuse;
- 20 (iii) Murder in the second degree;
- 21 (iv) Manslaughter in the first degree;
- 22 (v) Assault in the first degree;
- 23 (vi) Kidnapping in the first degree;
- 24 (vii) Rape in the first degree;
- 25 (viii) Assault of a child in the first degree; or
- 26 (ix) An attempt, criminal solicitation, or criminal conspiracy to
27 commit one of these felonies; 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 (43) "Sex offense" means:

- 32 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
33 RCW 9A.44.130(12);
- 34 (ii) A violation of RCW 9A.64.020;
- 35 (iii) A felony that is a violation of chapter 9.68A RCW other than
36 RCW 9.68A.080; or
- 37 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
38 criminal solicitation, or criminal conspiracy to commit such crimes;

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

4 (c) A felony with a finding of sexual motivation under RCW
5 9.94A.835 or 13.40.135; or

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

9 (44) "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 (45) "Standard sentence range" means the sentencing court's
13 discretionary range in imposing a nonappealable sentence.

14 (46) "Statutory maximum sentence" means the maximum length of time
15 for which an offender may be confined as punishment for a crime as
16 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
17 crime, or other statute defining the maximum penalty for a crime.

18 (47) "Stranger" means that the victim did not know the offender
19 twenty-four hours before the offense.

20 (48) "Total confinement" means confinement inside the physical
21 boundaries of a facility or institution operated or utilized under
22 contract by the state or any other unit of government for twenty-four
23 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

24 (49) "Transition training" means written and verbal instructions
25 and assistance provided by the department to the offender during the
26 two weeks prior to the offender's successful completion of the work
27 ethic camp program. The transition training shall include instructions
28 in the offender's requirements and obligations during the offender's
29 period of community custody.

30 (50) "Victim" means any person who has sustained emotional,
31 psychological, physical, or financial injury to person or property as
32 a direct result of the crime charged.

33 (51) "Violent offense" means:

34 (a) Any of the following felonies:

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

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

1 (iii) Manslaughter in the first degree;
2 (iv) Manslaughter in the second degree;
3 (v) Indecent liberties if committed by forcible compulsion;
4 (vi) Kidnapping in the second degree;
5 (vii) Arson in the second degree;
6 (viii) Assault in the second degree;
7 (ix) Assault of a child in the second degree;
8 (x) Extortion in the first degree;
9 (xi) Robbery in the second degree;
10 (xii) Drive-by shooting;
11 (xiii) Vehicular assault, when caused by the operation or driving
12 of a vehicle by a person while under the influence of intoxicating
13 liquor or any drug or by the operation or driving of a vehicle in a
14 reckless manner; and
15 (xiv) Vehicular homicide, when proximately caused by the driving of
16 any vehicle by any person while under the influence of intoxicating
17 liquor or any drug as defined by RCW 46.61.502, or by the operation of
18 any vehicle in a reckless manner;
19 (b) Any conviction for a felony offense in effect at any time prior
20 to July 1, 1976, that is comparable to a felony classified as a violent
21 offense in (a) of this subsection; and
22 (c) Any federal or out-of-state conviction for an offense that
23 under the laws of this state would be a felony classified as a violent
24 offense under (a) or (b) of this subsection.
25 (52) "Work crew" means a program of partial confinement consisting
26 of civic improvement tasks for the benefit of the community that
27 complies with RCW 9.94A.725.
28 (53) "Work ethic camp" means an alternative incarceration program
29 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
30 the cost of corrections by requiring offenders to complete a
31 comprehensive array of real-world job and vocational experiences,
32 character-building work ethics training, life management skills
33 development, substance abuse rehabilitation, counseling, literacy
34 training, and basic adult education.
35 (54) "Work release" means a program of partial confinement
36 available to offenders who are employed or engaged as a student in a
37 regular course of study at school.

1 **Sec. 4.** RCW 9.95.204 and 2005 c 400 s 2 and 2005 c 362 s 3 are
2 each reenacted and amended to read as follows:

3 (1) ~~((When a superior court places a defendant convicted of a~~
4 ~~misdemeanor or gross misdemeanor on probation and orders supervision~~
5 ~~under RCW 9.92.060 or 9.95.210, the department of corrections has~~
6 ~~initial responsibility for supervision of that defendant.~~

7 (2) ~~A county legislative authority may assume responsibility for~~
8 ~~the supervision of all defendants within its jurisdiction who have been~~
9 ~~convicted of a misdemeanor or gross misdemeanor and sentenced to~~
10 ~~probation by a superior court. The assumption of responsibility shall~~
11 ~~be made by contract with the department of corrections on a biennial~~
12 ~~basis.~~

13 (3) ~~If a county assumes supervision responsibility, the county~~
14 ~~shall supervise all superior court misdemeanant probationers within~~
15 ~~that county for the duration of the biennium, as set forth in the~~
16 ~~contract with the department of corrections.~~

17 (4) ~~A contract between a county legislative authority and the~~
18 ~~department of corrections for the transfer of supervision~~
19 ~~responsibility must include, at a minimum, the following provisions:~~

20 (a) ~~The county's agreement to supervise all misdemeanant~~
21 ~~probationers who are sentenced by a superior court within that county~~
22 ~~and who reside within that county;~~

23 (b) ~~A reciprocal agreement regarding the supervision of superior~~
24 ~~court misdemeanant probationers sentenced in one county but who reside~~
25 ~~in another county;~~

26 (c) ~~The county's agreement to comply with the minimum standards for~~
27 ~~classification and supervision of offenders as required under RCW~~
28 ~~9.95.206;~~

29 (d) ~~The amount of funds available from the department of~~
30 ~~corrections to the county for supervision of superior court~~
31 ~~misdemeanant probationers, calculated according to a formula~~
32 ~~established by the department of corrections;~~

33 (e) ~~A method for the payment of funds by the department of~~
34 ~~corrections to the county;~~

35 (f) ~~The county's agreement that any funds received by the county~~
36 ~~under the contract will be expended only to cover costs of supervision~~
37 ~~of superior court misdemeanant probationers;~~

1 ~~(g) The county's agreement to account to the department of~~
2 ~~corrections for the expenditure of all funds received under the~~
3 ~~contract and to submit to audits for compliance with the supervision~~
4 ~~standards and financial requirements of this section;~~

5 ~~(h) Provisions regarding rights and remedies in the event of a~~
6 ~~possible breach of contract or default by either party; and~~

7 ~~(i) Provisions allowing for voluntary termination of the contract~~
8 ~~by either party, with good cause, after sixty days' written notice.~~

9 ~~(5) If the contract between the county and the department of~~
10 ~~corrections is terminated for any reason, the department of corrections~~
11 ~~shall reassume responsibility for supervision of superior court~~
12 ~~misdemeanant probationers within that county. In such an event, the~~
13 ~~department of corrections retains any and all rights and remedies~~
14 ~~available by law and under the contract.~~

15 ~~(6) The state of Washington, the department of corrections and its~~
16 ~~employees, community corrections officers, and volunteers who assist~~
17 ~~community corrections officers are not liable for any harm caused by~~
18 ~~the actions of a superior court misdemeanor probationer who is under~~
19 ~~the supervision of a county. A county, its probation department and~~
20 ~~employees, probation officers, and volunteers who assist probation~~
21 ~~officers are not liable for any harm caused by the actions of a~~
22 ~~superior court misdemeanor probationer who is under the supervision of~~
23 ~~the department of corrections. This subsection applies regardless of~~
24 ~~whether the supervising entity is in compliance with the standards of~~
25 ~~supervision at the time of the misdemeanor probationer's actions.~~

26 ~~(7) The state of Washington, the department of corrections and its~~
27 ~~employees, community corrections officers, any county under contract~~
28 ~~with the department of corrections pursuant to this section and its~~
29 ~~employees, probation officers, and volunteers who assist community~~
30 ~~corrections officers and)) A county legislative authority may authorize~~
31 ~~a probation program for the supervision of defendants within its~~
32 ~~jurisdiction who have been convicted of a misdemeanor or gross~~
33 ~~misdemeanor and who may be sentenced to probation by a superior court.~~

34 (2) To the extent the county legislative authority has authorized
35 a superior court misdemeanor probation program pursuant to subsection
36 (1) of this section, a superior court may place a defendant convicted
37 of a misdemeanor or gross misdemeanor on probation and order
38 supervision under RCW 9.92.060 or 9.95.210.

1 (3) The state of Washington is not liable for any harm caused by
2 the actions of a superior court misdemeanor probationer who is under
3 the supervision of a county. The state of Washington and a county are
4 not liable for any harm caused by the actions of a misdemeanor or gross
5 misdemeanor defendant who has been sentenced to a term of probation by
6 a superior court but who is not being supervised pursuant to a duly
7 authorized superior court misdemeanor probation program.

8 (4) The state of Washington, a county, its probation department and
9 employees, probations officers, and volunteers who assist probation
10 officers in the superior court misdemeanor probation program are not
11 liable for civil damages resulting from any act or omission in the
12 rendering of superior court misdemeanor probation activities unless
13 the act or omission constitutes gross negligence. For purposes of this
14 section, "volunteers" is defined according to RCW 51.12.035.

15 ~~((8) The provisions of RCW 9.94A.501 apply to sentences imposed~~
16 ~~under this section.~~

17 ~~(9))~~ (5)(a) If a misdemeanor probationer requests permission to
18 travel or transfer to another state, the assigned probation officer
19 employed (~~or contracted for~~) by the county shall determine whether
20 such request is subject to RCW 9.94A.745, the interstate compact for
21 adult offender supervision. If such request is subject to the compact,
22 the probation officer shall:

23 ~~(i) (Notify the department of corrections of the probationer's~~
24 ~~request;~~

25 ~~(ii) Provide the department of corrections with the supporting~~
26 ~~documentation it requests for processing an application for transfer;~~

27 ~~(iii) Notify the probationer of the fee due to the department of~~
28 ~~corrections for processing an application under the compact;~~

29 ~~(iv))~~ Cease supervision of the probationer while another state
30 supervises the probationer pursuant to the compact;

31 ~~((v) Resume supervision if the probationer returns to this state~~
32 ~~before the term of probation expires.~~

33 ~~(b) The probationer shall receive credit for time served while~~
34 ~~being supervised by another state))~~ (ii) Resume supervision if the
35 probationer returns to this state before the term of probation expires.

36 (b) The probationer shall receive credit for time served while
37 being supervised by another state.

1 **Sec. 5.** RCW 9.95.210 and 2005 c 362 s 4 are each amended to read
2 as follows:

3 (1) In granting probation, the superior court may suspend the
4 imposition or the execution of the sentence and may direct that the
5 suspension may continue upon such conditions and for such time as it
6 shall designate, not exceeding the maximum term of sentence or two
7 years, whichever is longer.

8 (2) In the order granting probation and as a condition thereof, the
9 superior court may in its discretion imprison the defendant in the
10 county jail for a period not exceeding one year and may fine the
11 defendant any sum not exceeding the statutory limit for the offense
12 committed, and court costs. As a condition of probation, the superior
13 court shall require the payment of the penalty assessment required by
14 RCW 7.68.035. The superior court may also require the defendant to
15 make such monetary payments, on such terms as it deems appropriate
16 under the circumstances, as are necessary: (a) To comply with any
17 order of the court for the payment of family support; (b) to make
18 restitution to any person or persons who may have suffered loss or
19 damage by reason of the commission of the crime in question or when the
20 offender pleads guilty to a lesser offense or fewer offenses and agrees
21 with the prosecutor's recommendation that the offender be required to
22 pay restitution to a victim of an offense or offenses which are not
23 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
24 imposed and court costs, including reimbursement of the state for costs
25 of extradition if return to this state by extradition was required; (d)
26 following consideration of the financial condition of the person
27 subject to possible electronic monitoring, to pay for the costs of
28 electronic monitoring if that monitoring was required by the court as
29 a condition of release from custody or as a condition of probation; (e)
30 to contribute to a county or interlocal drug fund; and (f) to make
31 restitution to a public agency for the costs of an emergency response
32 under RCW 38.52.430, and may require bonds for the faithful observance
33 of any and all conditions imposed in the probation.

34 (3) The superior court shall order restitution in all cases where
35 the victim is entitled to benefits under the crime victims'
36 compensation act, chapter 7.68 RCW. If the superior court does not
37 order restitution and the victim of the crime has been determined to be
38 entitled to benefits under the crime victims' compensation act, the

1 department of labor and industries, as administrator of the crime
2 victims' compensation program, may petition the superior court within
3 one year of imposition of the sentence for entry of a restitution
4 order. Upon receipt of a petition from the department of labor and
5 industries, the superior court shall hold a restitution hearing and
6 shall enter a restitution order.

7 ~~(4) ((In granting probation, the superior court may order the~~
8 ~~probationer to report to the secretary of corrections or such officer~~
9 ~~as the secretary may designate and as a condition of the probation to~~
10 ~~follow the instructions of the secretary.))~~ If the county legislative
11 authority has ~~((elected to assume responsibility for the supervision~~
12 ~~of))~~ authorized a superior court misdemeanor ~~((probationers))~~
13 probation program within its jurisdiction, the superior court
14 misdemeanor probationer shall report to a probation officer employed
15 ~~((or contracted for))~~ by the county. In cases where a superior court
16 misdemeanor probationer is sentenced in one county, but resides within
17 another county, there must be provisions for the probationer to report
18 to the agency having supervision responsibility for the probationer's
19 county of residence.

20 (5) If the probationer has been ordered to make restitution and the
21 superior court has ordered supervision, the officer supervising the
22 probationer shall make a reasonable effort to ascertain whether
23 restitution has been made. If the superior court has ordered
24 supervision and restitution has not been made as ordered, the officer
25 shall inform the prosecutor of that violation of the terms of probation
26 not less than three months prior to the termination of the probation
27 period. ~~((The secretary of corrections will promulgate rules and~~
28 ~~regulations for the conduct of the person during the term of~~
29 ~~probation.))~~ For defendants found guilty in district court, ~~((like))~~
30 functions ~~((as the secretary performs))~~ in regard to probation may be
31 performed by probation officers employed for that purpose by the county
32 legislative authority of the county wherein the court is located.

33 ~~((6) The provisions of RCW 9.94A.501 apply to sentences imposed~~
34 ~~under this section.))~~

35 **Sec. 6.** RCW 9.95.214 and 2005 c 400 s 3 are each amended to read
36 as follows:

37 Whenever a defendant convicted of a misdemeanor or gross

1 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and
2 the defendant is supervised by (~~the department of corrections or~~) a
3 county probation department, the (~~department or~~) county probation
4 department may assess and collect from the defendant for the duration
5 of the term of supervision a monthly assessment not to exceed one
6 hundred dollars per month. This assessment shall be paid to the agency
7 supervising the defendant and shall be applied, along with funds
8 appropriated by the legislature, toward the payment or part payment of
9 the cost of supervising the defendant. The (~~department or~~) county
10 probation department shall suspend such assessment while the defendant
11 is being supervised by another state pursuant to RCW 9.94A.745, the
12 interstate compact for adult offender supervision.

13 **Sec. 7.** RCW 9.95.220 and 1957 c 227 s 5 are each amended to read
14 as follows:

15 Whenever the (~~state parole officer or other~~) officer under whose
16 supervision the probationer has been placed shall have reason to
17 believe such probationer is violating the terms of his probation, or
18 engaging in criminal practices, or is abandoned to improper associates,
19 or living a vicious life, he shall cause the probationer to be brought
20 before the court wherein the probation was granted. For this purpose
21 any peace officer or (~~state~~) parole officer may rearrest any such
22 person without warrant or other process. The court may thereupon in
23 its discretion without notice revoke and terminate such probation. In
24 the event the judgment has been pronounced by the court and the
25 execution thereof suspended, the court may revoke such suspension,
26 whereupon the judgment shall be in full force and effect, and the
27 defendant shall be delivered to the sheriff to be transported to the
28 penitentiary or reformatory as the case may be. If the judgment has
29 not been pronounced, the court shall pronounce judgment after such
30 revocation of probation and the defendant shall be delivered to the
31 sheriff to be transported to the penitentiary or reformatory, in
32 accordance with the sentence imposed.

33 **Sec. 8.** RCW 9.92.060 and 2005 c 362 s 2 are each amended to read
34 as follows:

35 (1) Whenever any person is convicted of any crime except murder,
36 burglary in the first degree, arson in the first degree, robbery, rape

1 of a child, or rape, the superior court may, in its discretion, at the
2 time of imposing sentence upon such person, direct that such sentence
3 be stayed and suspended until otherwise ordered by the superior
4 court(~~(, and that the sentenced person be placed under the charge of a~~
5 ~~community corrections officer employed by the department of~~
6 ~~corrections, or if the county elects to assume responsibility for the~~
7 ~~supervision of all superior court misdemeanor probationers a probation~~
8 ~~officer employed or contracted for)).~~

9 (2) If the county has authorized a superior court misdemeanor
10 probation program for the supervision of persons with suspended
11 sentences as provided in subsection (1) of this section, the sentenced
12 person shall be placed under the charge of a probation officer employed
13 by the county, upon such terms as the superior court may determine.

14 ~~((+2))~~ (3) As a condition to suspension of sentence, the superior
15 court shall require the payment of the penalty assessment required by
16 RCW 7.68.035. In addition, the superior court may require the
17 convicted person to make such monetary payments, on such terms as the
18 superior court deems appropriate under the circumstances, as are
19 necessary: (a) To comply with any order of the court for the payment
20 of family support; (b) to make restitution to any person or persons who
21 may have suffered loss or damage by reason of the commission of the
22 crime in question or when the offender pleads guilty to a lesser
23 offense or fewer offenses and agrees with the prosecutor's
24 recommendation that the offender be required to pay restitution to a
25 victim of an offense or offenses which are not prosecuted pursuant to
26 a plea agreement; (c) to pay any fine imposed and not suspended and the
27 court or other costs incurred in the prosecution of the case, including
28 reimbursement of the state for costs of extradition if return to this
29 state by extradition was required; and (d) to contribute to a county or
30 interlocal drug fund.

31 ~~((-3) As a condition of the suspended sentence, the superior court~~
32 ~~may order the probationer to report to the secretary of corrections or~~
33 ~~such officer as the secretary may designate and as a condition of the~~
34 ~~probation to follow the instructions of the secretary. If the county~~
35 ~~legislative authority has elected to assume responsibility for the~~
36 ~~supervision of superior court misdemeanor probationers within its~~
37 ~~jurisdiction, the superior court misdemeanor probationer shall report~~
38 ~~to a probation officer employed or contracted for by the county.))~~

1 (4) In cases where a superior court misdemeanor probationer is
2 sentenced in one county, but resides within another county, ~~((there~~
3 ~~must be provisions for))~~ the superior court may require that the
4 probationer ~~((to))~~ report to the ~~((agency having supervision~~
5 ~~responsibility for the))~~ probationer's county of residence if the
6 probationer's county of residence has a superior court misdemeanor
7 program.

8 ~~((+4))~~ (5) If restitution to the victim has been ordered under
9 subsection ~~((+2))~~ (3)(b) of this section and the superior court has
10 ordered supervision, the officer supervising the probationer shall make
11 a reasonable effort to ascertain whether restitution has been made as
12 ordered. If the superior court has ordered supervision and restitution
13 has not been made, the officer shall inform the prosecutor of that
14 violation of the terms of the suspended sentence not less than three
15 months prior to the termination of the suspended sentence.

16 ~~((+5) The provisions of RCW 9.94A.501 apply to sentences imposed~~
17 ~~under this section.))~~

18 **Sec. 9.** 2008 c 231 s 6 (uncodified) is amended to read as follows:

19 The existing sentencing reform act contains numerous provisions for
20 supervision of different types of offenders. This duplication has
21 caused great confusion for judges, lawyers, offenders, and the
22 department of corrections, and often results in inaccurate sentences.
23 The clarifications in this act are intended to support continued
24 discussions by the sentencing guidelines commission with the courts and
25 the criminal justice community to identify and propose policy changes
26 that will further simplify and improve the sentencing reform act
27 relating to the supervision of offenders. The sentencing guidelines
28 commission shall submit policy change proposals to the legislature on
29 or before December 1, 2008.

30 Sections 7 through 58 of this act are intended to simplify the
31 supervision provisions of the sentencing reform act and increase the
32 uniformity of its application. These sections are not intended to
33 either increase or decrease the authority of sentencing courts or the
34 department relating to supervision, except for those provisions
35 instructing the court to apply the provisions of the current community
36 custody law to offenders sentenced after July 1, 2009, but who

1 committed their crime prior to August 1, 2009, to the extent that such
2 application is constitutionally permissible.

3 This will effect a change for offenders who committed their crimes
4 prior to the offender accountability act, chapter 196, Laws of 1999.
5 These offenders will be ordered to a term of community custody rather
6 than community placement or community supervision. To the extent
7 constitutionally permissible, the terms of the offender's supervision
8 will be as provided in current law. With the exception of this change,
9 the legislature does not intend to make, and no provision of sections
10 7 through 58 of this act may be construed as making, a substantive
11 change to the supervision provisions of the sentencing reform act.

12 ~~((It is the intent of the legislature to reaffirm that section 3,
13 chapter 379, Laws of 2003, expires July 1, 2010.))~~

14 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
15 each repealed:

- 16 (1) RCW 9.95.206 (Misdemeanant probation services--Offender
17 classification system--Supervision standards) and 1996 c 298 s 2; and
- 18 (2) RCW 9.95.212 (Standards for supervision of misdemeanor
19 probationers) and 1998 c 245 s 2 & 1995 1st sp.s. c 19 s 31.

20 NEW SECTION. **Sec. 11.** 2008 c 231 s 60 (uncodified) is repealed.

21 NEW SECTION. **Sec. 12.** (1) Sections 1, 4 through 8, 10, 11, and 14
22 of this act are necessary for the immediate preservation of the public
23 peace, health, or safety, or support of the state government and its
24 existing public institutions, and take effect immediately.

25 (2) Sections 2, 3, and 9 of this act take effect August 1, 2009.

26 NEW SECTION. **Sec. 13.** Section 1 of this act expires August 1,
27 2009.

28 NEW SECTION. **Sec. 14.** This act applies retroactively and
29 prospectively regardless of whether the offender is currently on
30 community custody or probation with the department, currently
31 incarcerated with a term of community custody or probation with the
32 department, or sentenced after the effective date of this section."

SSB 5288 - S AMD

By Senators Hargrove, Brandland, Carrell, Kauffman, Stevens, Regala

ADOPTED 02/13/2009

1 On page 1, line 1 of the title, after "Relating to" strike the
2 remainder of the title and insert "the supervision of offenders;
3 amending RCW 9.94A.501, 9.94A.501, 9.95.210, 9.95.214, 9.95.220, and
4 9.92.060; amending 2008 c 231 s 6 (uncodified); reenacting and amending
5 RCW 9.94A.030 and 9.95.204; creating a new section; repealing RCW
6 9.95.206 and 9.95.212; repealing 2008 c 231 s 60 (uncodified);
7 providing an effective date; providing an expiration date; and
8 declaring an emergency."

--- END ---