
SUBSTITUTE SENATE BILL 5288

State of Washington

61st Legislature

2009 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Regala, and Shin)

READ FIRST TIME 01/26/09.

1 AN ACT Relating to offender risk assessments; amending RCW
2 9.94A.501, 9.94A.501, 9.95.210, 9.95.214, 9.95.220, and 9.92.060;
3 amending 2008 c 231 s 6 (uncodified); reenacting and amending RCW
4 9.94A.030 and 9.95.204; creating a new section; repealing RCW 9.95.206
5 and 9.95.212; repealing 2008 c 231 s 60 (uncodified); providing an
6 effective date; providing an expiration date; and declaring an
7 emergency.

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

9 **Sec. 1.** RCW 9.94A.501 and 2005 c 362 s 1 are each amended to read
10 as follows:

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

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

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

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

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

5 ~~(A) A sex offense;~~

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

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

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

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

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

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

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

16 ~~(A) A sex offense;~~

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

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

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

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

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

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

26 ~~(iii) The conditions of the offender's community custody, community~~
27 ~~placement, or community supervision or the probationer's supervision~~
28 ~~include chemical dependency treatment;~~

29 ~~(iv))~~ The department shall perform a risk assessment for every
30 offender sentenced to a term of community custody, community placement,
31 or community supervision.

32 (2) The department shall supervise every offender whose risk
33 assessment, conducted pursuant to subsection (1) of this section,
34 places the offender in one of the two highest risk categories.

35 (3) If an offender is not in one of the two highest risk categories
36 and has a current felony conviction for a sex offense, the department
37 shall supervise the offender unless the conviction is for a failure to
38 register under RCW 9A.44.130.

1 (a) Given the low or moderate risk of the offender, the department
2 may provide minimal supervision of the offender only as necessary to
3 monitor the critical conditions of the offender's sentence.

4 (b) The department may terminate supervision for a sex offender who
5 is supervised pursuant to this subsection if:

6 (i) At least twelve months have passed since the date of release;

7 (ii) The critical conditions of the offender's sentence have been
8 satisfied; and

9 (iii) The offender has not been found guilty of violating a
10 condition of supervision by a hearing officer under RCW 9.94A.737.

11 (c) The department shall define in rule the critical conditions of
12 a sex offender's sentence.

13 (4) Notwithstanding the provisions of subsections (2) and (3) of
14 this section, the department shall supervise all offenders regardless
15 of risk classification if:

16 (a) The offender has an indeterminate sentence and is subject to
17 parole pursuant to RCW 9.95.017 or was sentenced under RCW 9.94A.507;

18 (b) The offender was sentenced under RCW 9.94A.650, 9.94A.660, or
19 9.94A.670; or

20 ~~((+v+))~~ (c) The offender is subject to supervision pursuant to RCW
21 9.94A.745.

22 ~~((+3+))~~ (5) The department is not authorized to, and may not,
23 supervise any offender sentenced to a term of community custody,
24 community placement, or community supervision or any probationer unless
25 the offender or probationer is one for whom supervision is required
26 under ~~((subsection (2) of))~~ this section.

27 ~~((+4) This section expires July 1, 2010.)~~

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

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

34 ~~(2) The department shall supervise every offender sentenced to a~~
35 ~~term of community custody and every misdemeanor and gross misdemeanor~~
36 ~~probationer ordered by a superior court to probation under the~~

1 ~~supervision of the department pursuant to RCW 9.92.060, 9.95.204, or~~
2 ~~9.95.210;~~

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

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

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

7 ~~(A) A sex offense;~~

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

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

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

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

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

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

17 ~~(ii) The offender or probationer has a prior conviction 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 ~~(iii) The conditions of the offender's community custody or the~~
29 ~~probationer's supervision include chemical dependency treatment;~~

30 ~~(iv)) The department shall conduct a risk assessment for every~~
31 ~~offender sentenced to a term of community custody.~~

32 (2) The department shall supervise every offender whose risk
33 assessment, conducted pursuant to subsection (1) of this section,
34 classifies the offender as one who is at a high risk to reoffend.

35 (3) If an offender sentenced to a term of community custody is not
36 classified as one who is at a high risk to reoffend and has a current
37 felony conviction for a sex offense, the department shall supervise the

1 offender unless the conviction is for a failure to register under RCW
2 9A.44.130.

3 (a) Given the low or moderate risk of the offender, the department
4 may provide minimal supervision of the offender only as necessary to
5 monitor the critical conditions of the offender's sentence.

6 (b) The department may terminate supervision for a sex offender who
7 is supervised pursuant to this subsection if:

8 (i) At least twelve months have passed since the date of release;

9 (ii) The critical conditions of the offender's sentence have been
10 satisfied; and

11 (iii) The offender has not been found guilty of violating a
12 condition of supervision by a hearing officer under RCW 9.94A.737.

13 (c) The department shall define in rule the critical conditions of
14 a sex offender's sentence.

15 (4) Notwithstanding the provisions of subsections (2) and (3) of
16 this section, the department shall supervise an offender regardless of
17 risk classification if:

18 (a) The offender has an indeterminate sentence and is subject to
19 parole pursuant to RCW 9.95.017 or was sentenced under RCW 9.94A.507;

20 (b) The offender was sentenced under RCW 9.94A.650, 9.94A.660, or
21 9.94A.670; or

22 ~~((+v))~~ (c) The offender is subject to supervision pursuant to RCW
23 9.94A.745.

24 ~~((+3))~~ (5) The department is not authorized to, and may not,
25 supervise any offender sentenced to a term of community custody or any
26 probationer unless the offender or probationer is one for whom
27 supervision is required under ~~((subsection (2) of))~~ this section.

28 ~~((+4) This section expires July 1, 2010.)~~

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

32 Unless the context clearly requires otherwise, the definitions in
33 this section apply throughout this chapter.

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

36 (2) "Collect," or any derivative thereof, "collect and remit," or
37 "collect and deliver," when used with reference to the department,

1 means that the department, either directly or through a collection
2 agreement authorized by RCW 9.94A.760, is responsible for monitoring
3 and enforcing the offender's sentence with regard to the legal
4 financial obligation, receiving payment thereof from the offender, and,
5 consistent with current law, delivering daily the entire payment to the
6 superior court clerk without depositing it in a departmental account.

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

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

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

16 (6) "Community custody range" means the minimum and maximum period
17 of community custody included as part of a sentence under RCW
18 (~~(9.94A.715)~~) 9.94A.701, as established by the commission or the
19 legislature under RCW 9.94A.850.

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

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

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

27 (10) "Conviction" means an adjudication of guilt pursuant to
28 Title(~~(§)~~) 10 or 13 RCW and includes a verdict of guilty, a finding of
29 guilty, and acceptance of a plea of guilty.

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

37 (12) "Criminal history" means the list of a defendant's prior

1 convictions and juvenile adjudications, whether in this state, in
2 federal court, or elsewhere.

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

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

11 (c) The determination of a defendant's criminal history is distinct
12 from the determination of an offender score. A prior conviction that
13 was not included in an offender score calculated pursuant to a former
14 version of the sentencing reform act remains part of the defendant's
15 criminal history.

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

26 (14) "Criminal street gang associate or member" means any person
27 who actively participates in any criminal street gang and who
28 intentionally promotes, furthers, or assists in any criminal act by the
29 criminal street gang.

30 (15) "Criminal street gang-related offense" means any felony or
31 misdemeanor offense, whether in this state or elsewhere, that is
32 committed for the benefit of, at the direction of, or in association
33 with any criminal street gang, or is committed with the intent to
34 promote, further, or assist in any criminal conduct by the gang, or is
35 committed for one or more of the following reasons:

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

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

1 (c) To exact revenge or retribution for the gang or any member of
2 the gang;

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

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

8 (f) To provide the gang with any advantage in, or any control or
9 dominance over any criminal market sector, including, but not limited
10 to, manufacturing, delivering, or selling any controlled substance
11 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
12 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
13 RCW); human trafficking (RCW 9A.40.100); or promoting pornography
14 (chapter 9.68 RCW).

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

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

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

25 (19) "Determinate sentence" means a sentence that states with
26 exactitude the number of actual years, months, or days of total
27 confinement, of partial confinement, of community custody, the number
28 of actual hours or days of community restitution work, or dollars or
29 terms of a legal financial obligation. The fact that an offender
30 through earned release can reduce the actual period of confinement
31 shall not affect the classification of the sentence as a determinate
32 sentence.

33 (20) "Disposable earnings" means that part of the earnings of an
34 offender remaining after the deduction from those earnings of any
35 amount required by law to be withheld. For the purposes of this
36 definition, "earnings" means compensation paid or payable for personal
37 services, whether denominated as wages, salary, commission, bonuses, or
38 otherwise, and, notwithstanding any other provision of law making the

1 payments exempt from garnishment, attachment, or other process to
2 satisfy a court-ordered legal financial obligation, specifically
3 includes periodic payments pursuant to pension or retirement programs,
4 or insurance policies of any type, but does not include payments made
5 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
6 or Title 74 RCW.

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

11 (22) "Drug offense" means:

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

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

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

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

23 (24) "Escape" means:

24 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
25 first degree (RCW 9A.76.110), escape in the second degree (RCW
26 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
27 willful failure to return from work release (RCW 72.65.070), or willful
28 failure to be available for supervision by the department while in
29 community custody (RCW 72.09.310); or

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

33 (25) "Felony traffic offense" means:

34 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
35 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
36 run injury-accident (RCW 46.52.020(4)), felony driving while under the
37 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or

1 felony physical control of a vehicle while under the influence of
2 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

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

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

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

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

34 (b) Assault in the second degree;

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

36 (d) Child molestation in the second degree;

37 (e) Controlled substance homicide;

38 (f) Extortion in the first degree;

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

1 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
2 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
3 through July 27, 1997;

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

10 (31) "Nonviolent offense" means an offense which is not a violent
11 offense.

12 (32) "Offender" means a person who has committed a felony
13 established by state law and is eighteen years of age or older or is
14 less than eighteen years of age but whose case is under superior court
15 jurisdiction under RCW 13.04.030 or has been transferred by the
16 appropriate juvenile court to a criminal court pursuant to RCW
17 13.40.110. Throughout this chapter, the terms "offender" and
18 "defendant" are used interchangeably.

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

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

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

31 (i) Any "serious violent" felony offense as defined in RCW
32 9.94A.030, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of
33 a Child 1 (RCW 9A.36.120);

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

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

1 (iv) Any violation of the firearms and dangerous weapon act
2 (chapter 9.41 RCW);
3 (v) Theft of a Firearm (RCW 9A.56.300);
4 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);
5 (vii) Malicious Harassment (RCW 9A.36.080);
6 (viii) Harassment where a subsequent violation or deadly threat is
7 made (RCW 9A.46.020(2)(b));
8 (ix) Criminal Gang Intimidation (RCW 9A.46.120);
9 (x) Any felony conviction by a person eighteen years of age or
10 older with a special finding of involving a juvenile in a felony
11 offense under RCW 9.94A.833;
12 (xi) Residential Burglary (RCW 9A.52.025);
13 (xii) Burglary 2 (RCW 9A.52.030);
14 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
15 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
16 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
17 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
18 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);
19 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
20 9A.56.075);
21 (xix) Extortion 1 (RCW 9A.56.120);
22 (xx) Extortion 2 (RCW 9A.56.130);
23 (xxi) Intimidating a Witness (RCW 9A.72.110);
24 (xxii) Tampering with a Witness (RCW 9A.72.120);
25 (xxiii) Reckless Endangerment (RCW 9A.36.050);
26 (xxiv) Coercion (RCW 9A.36.070);
27 (xxv) Harassment (RCW 9A.46.020); or
28 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
29 (b) That at least one of the offenses listed in (a) of this
30 subsection shall have occurred after July 1, 2008;
31 (c) That the most recent committed offense listed in (a) of this
32 subsection occurred within three years of a prior offense listed in (a)
33 of this subsection; and
34 (d) Of the offenses that were committed in (a) of this subsection,
35 the offenses occurred on separate occasions or were committed by two or
36 more persons.
37 (35) "Persistent offender" is an offender who:

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

3 (ii) Has, before the commission of the offense under (a) of this
4 subsection, been convicted as an offender on at least two separate
5 occasions, whether in this state or elsewhere, of felonies that under
6 the laws of this state would be considered most serious offenses and
7 would be included in the offender score under RCW 9.94A.525; provided
8 that of the two or more previous convictions, at least one conviction
9 must have occurred before the commission of any of the other most
10 serious offenses for which the offender was previously convicted; or

11 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
12 of a child in the first degree, child molestation in the first degree,
13 rape in the second degree, rape of a child in the second degree, or
14 indecent liberties by forcible compulsion; (B) any of the following
15 offenses with a finding of sexual motivation: Murder in the first
16 degree, murder in the second degree, homicide by abuse, kidnapping in
17 the first degree, kidnapping in the second degree, assault in the first
18 degree, assault in the second degree, assault of a child in the first
19 degree, assault of a child in the second degree, or burglary in the
20 first degree; or (C) an attempt to commit any crime listed in this
21 subsection (35)(b)(i); and

22 (ii) Has, before the commission of the offense under (b)(i) of this
23 subsection, been convicted as an offender on at least one occasion,
24 whether in this state or elsewhere, of an offense listed in (b)(i) of
25 this subsection or any federal or out-of-state offense or offense under
26 prior Washington law that is comparable to the offenses listed in
27 (b)(i) of this subsection. A conviction for rape of a child in the
28 first degree constitutes a conviction under (b)(i) of this subsection
29 only when the offender was sixteen years of age or older when the
30 offender committed the offense. A conviction for rape of a child in
31 the second degree constitutes a conviction under (b)(i) of this
32 subsection only when the offender was eighteen years of age or older
33 when the offender committed the offense.

34 (36) "Predatory" means: (a) The perpetrator of the crime was a
35 stranger to the victim, as defined in this section; (b) the perpetrator
36 established or promoted a relationship with the victim prior to the
37 offense and the victimization of the victim was a significant reason
38 the perpetrator established or promoted the relationship; or (c) the

1 perpetrator was: (i) A teacher, counselor, volunteer, or other person
2 in authority in any public or private school and the victim was a
3 student of the school under his or her authority or supervision. For
4 purposes of this subsection, "school" does not include home-based
5 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,
6 volunteer, or other person in authority in any recreational activity
7 and the victim was a participant in the activity under his or her
8 authority or supervision; or (iii) a pastor, elder, volunteer, or other
9 person in authority in any church or religious organization, and the
10 victim was a member or participant of the organization under his or her
11 authority.

12 (37) "Private school" means a school regulated under chapter
13 28A.195 or 28A.205 RCW.

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

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

19 (40) "Risk assessment" means the application of ~~((an objective))~~
20 the risk instrument ~~((supported by research and adopted by))~~
21 recommended to the department ~~((for the purpose of assessing an~~
22 ~~offender's risk of reoffense, taking into consideration the nature of~~
23 ~~the harm done by the offender, place and circumstances of the offender~~
24 ~~related to risk, the offender's relationship to any victim, and any~~
25 ~~information provided to the department by victims. The results of a~~
26 ~~risk assessment shall not be based on unconfirmed or unconfirmable~~
27 ~~allegations))~~ by the Washington state institute for public policy as
28 having the highest degree of predictive accuracy for assessing an
29 offender's risk of reoffense.

30 (41) "Serious traffic offense" means:

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

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

1 (42) "Serious violent offense" is a subcategory of violent offense
2 and means:
3 (a)(i) Murder in the first degree;
4 (ii) Homicide by abuse;
5 (iii) Murder in the second degree;
6 (iv) Manslaughter in the first degree;
7 (v) Assault in the first degree;
8 (vi) Kidnapping in the first degree;
9 (vii) Rape in the first degree;
10 (viii) Assault of a child in the first degree; or
11 (ix) An attempt, criminal solicitation, or criminal conspiracy to
12 commit one of these felonies; or
13 (b) Any federal or out-of-state conviction for an offense that
14 under the laws of this state would be a felony classified as a serious
15 violent offense under (a) of this subsection.
16 (43) "Sex offense" means:
17 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
18 RCW 9A.44.130(12);
19 (ii) A violation of RCW 9A.64.020;
20 (iii) A felony that is a violation of chapter 9.68A RCW other than
21 RCW 9.68A.080; or
22 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
23 criminal solicitation, or criminal conspiracy to commit such crimes;
24 (b) Any conviction for a felony offense in effect at any time prior
25 to July 1, 1976, that is comparable to a felony classified as a sex
26 offense in (a) of this subsection;
27 (c) A felony with a finding of sexual motivation under RCW
28 9.94A.835 or 13.40.135; or
29 (d) Any federal or out-of-state conviction for an offense that
30 under the laws of this state would be a felony classified as a sex
31 offense under (a) of this subsection.
32 (44) "Sexual motivation" means that one of the purposes for which
33 the defendant committed the crime was for the purpose of his or her
34 sexual gratification.
35 (45) "Standard sentence range" means the sentencing court's
36 discretionary range in imposing a nonappealable sentence.
37 (46) "Statutory maximum sentence" means the maximum length of time

1 for which an offender may be confined as punishment for a crime as
2 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
3 crime, or other statute defining the maximum penalty for a crime.

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

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

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

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

19 (51) "Violent offense" means:

20 (a) Any of the following felonies:

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

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

25 (iii) Manslaughter in the first degree;

26 (iv) Manslaughter in the second degree;

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

28 (vi) Kidnapping in the second degree;

29 (vii) Arson in the second degree;

30 (viii) Assault in the second degree;

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

32 (x) Extortion in the first degree;

33 (xi) Robbery in the second degree;

34 (xii) Drive-by shooting;

35 (xiii) Vehicular assault, when caused by the operation or driving
36 of a vehicle by a person while under the influence of intoxicating
37 liquor or any drug or by the operation or driving of a vehicle in a
38 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 (52) "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 (53) "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 (54) "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 **Sec. 4.** RCW 9.95.204 and 2005 c 400 s 2 and 2005 c 362 s 3 are
25 each reenacted and amended to read as follows:

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

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

36 (3) ~~If a county assumes supervision responsibility, the county~~

1 shall supervise all superior court misdemeanor probationers within
2 that county for the duration of the biennium, as set forth in the
3 contract with the department of corrections.

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

7 (a) The county's agreement to supervise all misdemeanor
8 probationers who are sentenced by a superior court within that county
9 and who reside within that county;

10 (b) A reciprocal agreement regarding the supervision of superior
11 court misdemeanor probationers sentenced in one county but who reside
12 in another county;

13 (c) The county's agreement to comply with the minimum standards for
14 classification and supervision of offenders as required under RCW
15 9.95.206;

16 (d) The amount of funds available from the department of
17 corrections to the county for supervision of superior court
18 misdemeanor probationers, calculated according to a formula
19 established by the department of corrections;

20 (e) A method for the payment of funds by the department of
21 corrections to the county;

22 (f) The county's agreement that any funds received by the county
23 under the contract will be expended only to cover costs of supervision
24 of superior court misdemeanor probationers;

25 (g) The county's agreement to account to the department of
26 corrections for the expenditure of all funds received under the
27 contract and to submit to audits for compliance with the supervision
28 standards and financial requirements of this section;

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

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

33 (5) If the contract between the county and the department of
34 corrections is terminated for any reason, the department of corrections
35 shall reassume responsibility for supervision of superior court
36 misdemeanor probationers within that county. In such an event, the
37 department of corrections retains any and all rights and remedies
38 available by law and under the contract.

1 ~~(6) The state of Washington, the department of corrections and its~~
2 ~~employees, community corrections officers, and volunteers who assist~~
3 ~~community corrections officers are not liable for any harm caused by~~
4 ~~the actions of a superior court misdemeanor probationer who is under~~
5 ~~the supervision of a county. A county, its probation department and~~
6 ~~employees, probation officers, and volunteers who assist probation~~
7 ~~officers are not liable for any harm caused by the actions of a~~
8 ~~superior court misdemeanor probationer who is under the supervision of~~
9 ~~the department of corrections. This subsection applies regardless of~~
10 ~~whether the supervising entity is in compliance with the standards of~~
11 ~~supervision at the time of the misdemeanor probationer's actions.~~

12 ~~(7) The state of Washington, the department of corrections and its~~
13 ~~employees, community corrections officers, any county under contract~~
14 ~~with the department of corrections pursuant to this section and its~~
15 ~~employees, probation officers, and volunteers who assist community~~
16 ~~corrections officers and)) A county legislative authority may authorize~~
17 ~~a probation program for the supervision of defendants within its~~
18 ~~jurisdiction who have been convicted of a misdemeanor or gross~~
19 ~~misdemeanor and who may be sentenced to probation by a superior court.~~

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

25 (3) The state of Washington is not liable for any harm caused by
26 the actions of a superior court misdemeanor probationer who is under
27 the supervision of a county. The state of Washington and a county are
28 not liable for any harm caused by the actions of a misdemeanor or gross
29 misdemeanor defendant who has been sentenced to a term of probation by
30 a superior court but who is not being supervised pursuant to a duly
31 authorized superior court misdemeanor probation program.

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

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

3 ~~(9))~~ (5)(a) If a misdemeanor probationer requests permission to
4 travel or transfer to another state, the assigned probation officer
5 employed ~~((or contracted for))~~ by the county shall determine whether
6 such request is subject to RCW 9.94A.745, the interstate compact for
7 adult offender supervision. If such request is subject to the compact,
8 the probation officer shall:

9 ~~(i) ((Notify the department of corrections of the probationer's~~
10 ~~request;~~

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

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

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

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

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

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

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

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

31 (2) In the order granting probation and as a condition thereof, the
32 superior court may in its discretion imprison the defendant in the
33 county jail for a period not exceeding one year and may fine the
34 defendant any sum not exceeding the statutory limit for the offense
35 committed, and court costs. As a condition of probation, the superior
36 court shall require the payment of the penalty assessment required by
37 RCW 7.68.035. The superior court may also require the defendant to

1 make such monetary payments, on such terms as it deems appropriate
2 under the circumstances, as are necessary: (a) To comply with any
3 order of the court for the payment of family support; (b) to make
4 restitution to any person or persons who may have suffered loss or
5 damage by reason of the commission of the crime in question or when the
6 offender pleads guilty to a lesser offense or fewer offenses and agrees
7 with the prosecutor's recommendation that the offender be required to
8 pay restitution to a victim of an offense or offenses which are not
9 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
10 imposed and court costs, including reimbursement of the state for costs
11 of extradition if return to this state by extradition was required; (d)
12 following consideration of the financial condition of the person
13 subject to possible electronic monitoring, to pay for the costs of
14 electronic monitoring if that monitoring was required by the court as
15 a condition of release from custody or as a condition of probation; (e)
16 to contribute to a county or interlocal drug fund; and (f) to make
17 restitution to a public agency for the costs of an emergency response
18 under RCW 38.52.430, and may require bonds for the faithful observance
19 of any and all conditions imposed in the probation.

20 (3) The superior court shall order restitution in all cases where
21 the victim is entitled to benefits under the crime victims'
22 compensation act, chapter 7.68 RCW. If the superior court does not
23 order restitution and the victim of the crime has been determined to be
24 entitled to benefits under the crime victims' compensation act, the
25 department of labor and industries, as administrator of the crime
26 victims' compensation program, may petition the superior court within
27 one year of imposition of the sentence for entry of a restitution
28 order. Upon receipt of a petition from the department of labor and
29 industries, the superior court shall hold a restitution hearing and
30 shall enter a restitution order.

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

1 (~~or contracted for~~) by the county. In cases where a superior court
2 misdemeanor probationer is sentenced in one county, but resides within
3 another county, there must be provisions for the probationer to report
4 to the agency having supervision responsibility for the probationer's
5 county of residence.

6 (5) If the probationer has been ordered to make restitution and the
7 superior court has ordered supervision, the officer supervising the
8 probationer shall make a reasonable effort to ascertain whether
9 restitution has been made. If the superior court has ordered
10 supervision and restitution has not been made as ordered, the officer
11 shall inform the prosecutor of that violation of the terms of probation
12 not less than three months prior to the termination of the probation
13 period. (~~The secretary of corrections will promulgate rules and
14 regulations for the conduct of the person during the term of
15 probation.~~) For defendants found guilty in district court, (~~like~~)
16 functions (~~as the secretary performs~~) in regard to probation may be
17 performed by probation officers employed for that purpose by the county
18 legislative authority of the county wherein the court is located.

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

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

23 Whenever a defendant convicted of a misdemeanor or gross
24 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and
25 the defendant is supervised by (~~the department of corrections or~~) a
26 county probation department, the (~~department or~~) county probation
27 department may assess and collect from the defendant for the duration
28 of the term of supervision a monthly assessment not to exceed one
29 hundred dollars per month. This assessment shall be paid to the agency
30 supervising the defendant and shall be applied, along with funds
31 appropriated by the legislature, toward the payment or part payment of
32 the cost of supervising the defendant. The (~~department or~~) county
33 probation department shall suspend such assessment while the defendant
34 is being supervised by another state pursuant to RCW 9.94A.745, the
35 interstate compact for adult offender supervision.

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

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

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

23 (1) Whenever any person is convicted of any crime except murder,
24 burglary in the first degree, arson in the first degree, robbery, rape
25 of a child, or rape, the superior court may, in its discretion, at the
26 time of imposing sentence upon such person, direct that such sentence
27 be stayed and suspended until otherwise ordered by the superior
28 court(~~, and that the sentenced person be placed under the charge of a~~
29 ~~community corrections officer employed by the department of~~
30 ~~corrections, or if the county elects to assume responsibility for the~~
31 ~~supervision of all superior court misdemeanor probationers a probation~~
32 ~~officer employed or contracted for)).~~

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

1 ~~((+2))~~ (3) As a condition to suspension of sentence, the superior
2 court shall require the payment of the penalty assessment required by
3 RCW 7.68.035. In addition, the superior court may require the
4 convicted person to make such monetary payments, on such terms as the
5 superior court deems appropriate under the circumstances, as are
6 necessary: (a) To comply with any order of the court for the payment
7 of family support; (b) to make restitution to any person or persons who
8 may have suffered loss or damage by reason of the commission of the
9 crime in question or when the offender pleads guilty to a lesser
10 offense or fewer offenses and agrees with the prosecutor's
11 recommendation that the offender be required to pay restitution to a
12 victim of an offense or offenses which are not prosecuted pursuant to
13 a plea agreement; (c) to pay any fine imposed and not suspended and the
14 court or other costs incurred in the prosecution of the case, including
15 reimbursement of the state for costs of extradition if return to this
16 state by extradition was required; and (d) to contribute to a county or
17 interlocal drug fund.

18 ~~((+3) As a condition of the suspended sentence, the superior court
19 may order the probationer to report to the secretary of corrections or
20 such officer as the secretary may designate and as a condition of the
21 probation to follow the instructions of the secretary. If the county
22 legislative authority has elected to assume responsibility for the
23 supervision of superior court misdemeanor probationers within its
24 jurisdiction, the superior court misdemeanor probationer shall report
25 to a probation officer employed or contracted for by the county.))~~

26 (4) In cases where a superior court misdemeanor probationer is
27 sentenced in one county, but resides within another county, ~~((there
28 must be provisions for))~~ the superior court may require that the
29 probationer ~~((to))~~ report to the ~~((agency having supervision
30 responsibility for the))~~ probationer's county of residence if the
31 probationer's county of residence has a superior court misdemeanor
32 program.

33 ~~((+4))~~ (5) If restitution to the victim has been ordered under
34 subsection ~~((+2))~~ (3)(b) of this section and the superior court has
35 ordered supervision, the officer supervising the probationer shall make
36 a reasonable effort to ascertain whether restitution has been made as
37 ordered. If the superior court has ordered supervision and restitution

1 has not been made, the officer shall inform the prosecutor of that
2 violation of the terms of the suspended sentence not less than three
3 months prior to the termination of the suspended sentence.

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

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

7 The existing sentencing reform act contains numerous provisions for
8 supervision of different types of offenders. This duplication has
9 caused great confusion for judges, lawyers, offenders, and the
10 department of corrections, and often results in inaccurate sentences.
11 The clarifications in this act are intended to support continued
12 discussions by the sentencing guidelines commission with the courts and
13 the criminal justice community to identify and propose policy changes
14 that will further simplify and improve the sentencing reform act
15 relating to the supervision of offenders. The sentencing guidelines
16 commission shall submit policy change proposals to the legislature on
17 or before December 1, 2008.

18 Sections 7 through 58 of this act are intended to simplify the
19 supervision provisions of the sentencing reform act and increase the
20 uniformity of its application. These sections are not intended to
21 either increase or decrease the authority of sentencing courts or the
22 department relating to supervision, except for those provisions
23 instructing the court to apply the provisions of the current community
24 custody law to offenders sentenced after July 1, 2009, but who
25 committed their crime prior to August 1, 2009, to the extent that such
26 application is constitutionally permissible.

27 This will effect a change for offenders who committed their crimes
28 prior to the offender accountability act, chapter 196, Laws of 1999.
29 These offenders will be ordered to a term of community custody rather
30 than community placement or community supervision. To the extent
31 constitutionally permissible, the terms of the offender's supervision
32 will be as provided in current law. With the exception of this change,
33 the legislature does not intend to make, and no provision of sections
34 7 through 58 of this act may be construed as making, a substantive
35 change to the supervision provisions of the sentencing reform act.

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

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

3 (1) RCW 9.95.206 (Misdemeanant probation services--Offender
4 classification system--Supervision standards) and 1996 c 298 s 2; and

5 (2) RCW 9.95.212 (Standards for supervision of misdemeanor
6 probationers) and 1998 c 245 s 2 & 1995 1st sp.s. c 19 s 31.

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

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

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

13 NEW SECTION. **Sec. 13.** Section 1 of this act expires August 1,
14 2009.

15 NEW SECTION. **Sec. 14.** This act applies retroactively and
16 prospectively regardless of whether the offender is currently on
17 community custody or probation with the department, currently
18 incarcerated with a term of community custody or probation with the
19 department, or sentenced after the effective date of this section.

--- END ---