

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5891

Chapter 40, Laws of 2011

62nd Legislature
2011 1st Special Session

CRIMINAL JUSTICE--COST SAVINGS

EFFECTIVE DATE: 08/24/11 - Except sections 1-9 and 42, which become effective 06/15/11; and section 43, which becomes effective 07/01/11.

Passed by the Senate May 25, 2011
YEAS 26 NAYS 20

BRAD OWEN

President of the Senate

Passed by the House May 24, 2011
YEAS 50 NAYS 43

FRANK CHOPP

Speaker of the House of Representatives

Approved June 15, 2011, 3:13 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5891** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

June 15, 2011

**Secretary of State
State of Washington**

1 (1) A term of confinement ordered in a sentence pursuant to this
2 chapter shall be tolled by any period of time during which the offender
3 has absented himself or herself from confinement without the prior
4 approval of the entity in whose custody the offender has been placed.
5 A term of partial confinement shall be tolled during any period of time
6 spent in total confinement pursuant to a new conviction (~~or pursuant~~
7 ~~to sanctions for violation of sentence conditions on a separate felony~~
8 ~~conviction~~)).

9 (2) Any term of community custody shall be tolled by any period of
10 time during which the offender has absented himself or herself from
11 supervision without prior approval of the entity under whose
12 supervision the offender has been placed.

13 (3)(a) For offenders other than sex offenders serving a sentence
14 for a sex offense as defined in RCW 9.94A.030, any period of community
15 custody shall be tolled during any period of time the offender is in
16 confinement for any reason(~~(. However, if an)) unless the~~ offender is
17 detained pursuant to RCW 9.94A.740 or 9.94A.631 (~~(and is later found~~
18 not to have violated a condition or requirement of community custody,
19 time spent in confinement due to such detention shall not toll the
20 period of community custody)) for the period of time prior to the
21 hearing or for confinement pursuant to sanctions imposed for violation
22 of sentence conditions, in which case, the period of community custody
23 shall not toll. However, sanctions that result in the imposition of
24 the remaining sentence or the original sentence will continue to toll
25 the period of community custody. In addition, inpatient treatment
26 ordered by the court in lieu of jail time shall not toll the period of
27 community custody.

28 (b) For sex offenders serving a sentence for a sex offense as
29 defined in RCW 9.94A.030, any period of community custody shall be
30 tolled during any period of time the sex offender is in confinement for
31 any reason.

32 (4) For terms of confinement or community custody, the date for the
33 tolling of the sentence shall be established by the entity responsible
34 for the confinement or supervision.

35 (5) For the purposes of this section, "tolling" means the period of
36 time in which community custody or confinement time is paused and for
37 which the offender does not receive credit towards the term ordered.

1 **Sec. 2.** RCW 9.94A.501 and 2010 c 267 s 10 and 2010 c 224 s 3 are
2 each reenacted and amended to read as follows:

3 (1) The department shall supervise (~~(every offender convicted of a~~
4 ~~misdemeanor or gross misdemeanor offense who is)~~) the following
5 offenders who are sentenced to probation in superior court, pursuant to
6 RCW 9.92.060, 9.95.204, or 9.95.210(~~(, for an offense included in (a)~~
7 ~~and (b) of this subsection. The superior court shall order probation~~
8 ~~for:~~

9 ~~(a) Offenders convicted of fourth degree assault, violation of a~~
10 ~~domestic violence court order pursuant to RCW 10.99.040, 10.99.050,~~
11 ~~26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145,~~
12 ~~and who also have a prior conviction for one or more of the following:~~

13 ~~(i) A violent offense;~~

14 ~~(ii) A sex offense;~~

15 ~~(iii) A crime against a person as provided in RCW 9.94A.411;~~

16 ~~(iv) Fourth degree assault; or~~

17 ~~(v) Violation of a domestic violence court order; and~~

18 ~~(b))):~~

19 (a) Offenders convicted of:

20 (i) Sexual misconduct with a minor second degree;

21 (ii) Custodial sexual misconduct second degree;

22 (iii) Communication with a minor for immoral purposes; and

23 (iv) Violation of RCW 9A.44.132(2) (failure to register); and

24 (b) Offenders who have:

25 (i) A current conviction for a repetitive domestic violence offense
26 where domestic violence has been plead and proven after August 1, 2011;
27 and

28 (ii) A prior conviction for a repetitive domestic violence offense
29 or domestic violence felony offense where domestic violence has been
30 plead and proven after August 1, 2011.

31 (2) Misdemeanor and gross misdemeanor offenders supervised by the
32 department pursuant to this section shall be placed on community
33 custody.

34 (3) The department shall supervise every felony offender sentenced
35 to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk
36 assessment(~~(, conducted pursuant to subsection (6) of this section,~~)
37 classifies the offender as one who is at a high risk to reoffend.

1 (4) Notwithstanding any other provision of this section, the
2 department shall supervise an offender sentenced to community custody
3 regardless of risk classification if the offender:

4 (a) Has a current conviction for a sex offense or a serious violent
5 offense (~~(as defined in RCW 9.94A.030)~~) and was sentenced to a term of
6 community custody pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

7 (b) Has been identified by the department as a dangerous mentally
8 ill offender pursuant to RCW 72.09.370;

9 (c) Has an indeterminate sentence and is subject to parole pursuant
10 to RCW 9.95.017;

11 (d) Has a current conviction for violating RCW 9A.44.132(1)
12 (failure to register) and was sentenced to a term of community custody
13 pursuant to RCW 9.94A.701;

14 (e) Has a current conviction for a domestic violence felony offense
15 where domestic violence has been plead and proven after August 1, 2011,
16 and a prior conviction for a repetitive domestic violence offense or
17 domestic violence felony offense where domestic violence has been plead
18 and proven after August 1, 2011;

19 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or
20 9.94A.670; or

21 (~~(f)~~) (g) Is subject to supervision pursuant to RCW 9.94A.745.

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

27 (6) The department shall conduct a risk assessment for every felony
28 offender sentenced to a term of community custody who may be subject to
29 supervision under this section or section 3 of this act.

30 NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW
31 to read as follows:

32 (1) The department shall supervise every offender convicted prior
33 to August 2, 2011, of a misdemeanor or gross misdemeanor offense who is
34 sentenced to probation in superior court, pursuant to RCW 9.92.060,
35 9.95.204, or 9.95.210, for an offense as provided in this subsection.
36 The superior court shall order probation for offenders who have:

1 (a) A current conviction for fourth degree assault or violation of
2 a domestic violence court order pursuant to RCW 10.99.040, 10.99.050,
3 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145;
4 and

5 (b) A prior conviction for one or more of the following:

6 (i) A violent offense;

7 (ii) A sex offense;

8 (iii) A crime against a person as provided in RCW 9.94A.411;

9 (iv) Fourth degree assault; or

10 (v) Violation of a domestic violence court order.

11 (2) This section expires August 1, 2014.

12 **Sec. 4.** RCW 9.94A.729 and 2010 c 224 s 7 are each amended to read
13 as follows:

14 (1)(a) The term of the sentence of an offender committed to a
15 correctional facility operated by the department may be reduced by
16 earned release time in accordance with procedures that shall be
17 developed and adopted by the correctional agency having jurisdiction in
18 which the offender is confined. The earned release time shall be for
19 good behavior and good performance, as determined by the correctional
20 agency having jurisdiction. The correctional agency shall not credit
21 the offender with earned release credits in advance of the offender
22 actually earning the credits.

23 (b) Any program established pursuant to this section shall allow an
24 offender to earn early release credits for presentence incarceration.
25 If an offender is transferred from a county jail to the department, the
26 administrator of a county jail facility shall certify to the department
27 the amount of time spent in custody at the facility and the amount of
28 earned release time. The department may approve a jail certification
29 from a correctional agency that calculates earned release time based on
30 the actual amount of confinement time served by the offender before
31 sentencing when an erroneous calculation of confinement time served by
32 the offender before sentencing appears on the judgment and sentence.

33 (2) An offender who has been convicted of a felony committed after
34 July 23, 1995, that involves any applicable deadly weapon enhancements
35 under RCW 9.94A.533 (3) or (4), or both, shall not receive any good
36 time credits or earned release time for that portion of his or her
37 sentence that results from any deadly weapon enhancements.

1 (3) An offender may earn early release time as follows:

2 (a) In the case of an offender convicted of a serious violent
3 offense, or a sex offense that is a class A felony, committed on or
4 after July 1, 1990, and before July 1, 2003, the aggregate earned
5 release time may not exceed fifteen percent of the sentence.

6 (b) In the case of an offender convicted of a serious violent
7 offense, or a sex offense that is a class A felony, committed on or
8 after July 1, 2003, the aggregate earned release time may not exceed
9 ten percent of the sentence.

10 (c) An offender is qualified to earn up to fifty percent of
11 aggregate earned release time if he or she:

12 (i) Is not classified as an offender who is at a high risk to
13 reoffend as provided in subsection (4) of this section;

14 (ii) Is not confined pursuant to a sentence for:

15 (A) A sex offense;

16 (B) A violent offense;

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

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

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

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

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

25 (iii) Has no prior conviction for the offenses listed in (c)(ii) of
26 this subsection;

27 (iv) Participates in programming or activities as directed by the
28 offender's individual reentry plan as provided under RCW 72.09.270 to
29 the extent that such programming or activities are made available by
30 the department; and

31 (v) Has not committed a new felony after July 22, 2007, while under
32 community custody.

33 (d) In no other case shall the aggregate earned release time exceed
34 one-third of the total sentence.

35 (4) The department shall perform a risk assessment of each offender
36 who may qualify for earned early release under subsection (3)(c) of
37 this section utilizing the risk assessment tool recommended by the

1 Washington state institute for public policy. Subsection (3)(c) of
2 this section does not apply to offenders convicted after July 1, 2010.

3 (5)(a) A person who is eligible for earned early release as
4 provided in this section and who (~~is convicted of a sex offense, a~~
5 ~~violent offense, any crime against persons under RCW 9.94A.411(2), or~~
6 ~~a felony offense under chapter 69.50 or 69.52 RCW~~) will be supervised
7 by the department pursuant to RCW 9.94A.501 or section 3 of this act,
8 shall be transferred to community custody in lieu of earned release
9 time;

10 (b) The department shall, as a part of its program for release to
11 the community in lieu of earned release, require the offender to
12 propose a release plan that includes an approved residence and living
13 arrangement. All offenders with community custody terms eligible for
14 release to community custody in lieu of earned release shall provide an
15 approved residence and living arrangement prior to release to the
16 community;

17 (c) The department may deny transfer to community custody in lieu
18 of earned release time if the department determines an offender's
19 release plan, including proposed residence location and living
20 arrangements, may violate the conditions of the sentence or conditions
21 of supervision, place the offender at risk to violate the conditions of
22 the sentence, place the offender at risk to reoffend, or present a risk
23 to victim safety or community safety. The department's authority under
24 this section is independent of any court-ordered condition of sentence
25 or statutory provision regarding conditions for community custody;

26 (d) If the department is unable to approve the offender's release
27 plan, the department may do one or more of the following:

28 (i) Transfer an offender to partial confinement in lieu of earned
29 early release for a period not to exceed three months. The three
30 months in partial confinement is in addition to that portion of the
31 offender's term of confinement that may be served in partial
32 confinement as provided in RCW 9.94A.728(5);

33 (ii) Provide rental vouchers to the offender for a period not to
34 exceed three months if rental assistance will result in an approved
35 release plan. The voucher must be provided in conjunction with
36 additional transition support programming or services that enable an
37 offender to participate in services including, but not limited to,

1 substance abuse treatment, mental health treatment, sex offender
2 treatment, educational programming, or employment programming;

3 (e) For each offender who is the recipient of a rental voucher, the
4 department shall include, concurrent with the data that the department
5 otherwise obtains and records, the housing status of the offender for
6 the duration of the offender's supervision.

7 (6) An offender serving a term of confinement imposed under RCW
8 9.94A.670(5)(a) is not eligible for earned release credits under this
9 section.

10 **Sec. 5.** RCW 9.92.060 and 2005 c 362 s 2 are each amended to read
11 as follows:

12 (1) Whenever any person is convicted of any crime except murder,
13 burglary in the first degree, arson in the first degree, robbery, rape
14 of a child, or rape, the superior court may, in its discretion, at the
15 time of imposing sentence upon such person, direct that such sentence
16 be stayed and suspended until otherwise ordered by the superior court,
17 and, upon such terms as the superior court may determine, that the
18 sentenced person be placed under the charge of:

19 (a) A community corrections officer employed by the department of
20 corrections, if the person is subject to supervision under RCW
21 9.94A.501 or section 3 of this act; or (~~(if the county elects to assume~~
22 ~~responsibility for the supervision of all superior court misdemeanor~~
23 ~~probationers))~~)

24 (b) A probation officer employed or contracted for by the county,
25 ~~((upon such terms as the superior court may determine))~~ if the county
26 has elected to assume responsibility for the supervision of superior
27 court misdemeanor probationers.

28 (2) As a condition to suspension of sentence, the superior court
29 shall require the payment of the penalty assessment required by RCW
30 7.68.035. In addition, the superior court may require the convicted
31 person to make such monetary payments, on such terms as the superior
32 court deems appropriate under the circumstances, as are necessary: (a)
33 To comply with any order of the court for the payment of family
34 support; (b) to make restitution to any person or persons who may have
35 suffered loss or damage by reason of the commission of the crime in
36 question or when the offender pleads guilty to a lesser offense or
37 fewer offenses and agrees with the prosecutor's recommendation that the

1 offender be required to pay restitution to a victim of an offense or
2 offenses which are not prosecuted pursuant to a plea agreement; (c) to
3 pay any fine imposed and not suspended and the court or other costs
4 incurred in the prosecution of the case, including reimbursement of the
5 state for costs of extradition if return to this state by extradition
6 was required; and (d) to contribute to a county or interlocal drug
7 fund.

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

20 (4) If restitution to the victim has been ordered under subsection
21 (2)(b) of this section and the superior court has ordered supervision,
22 the officer supervising the probationer shall make a reasonable effort
23 to ascertain whether restitution has been made as ordered. If the
24 superior court has ordered supervision and restitution has not been
25 made, the officer shall inform the prosecutor of that violation of the
26 terms of the suspended sentence not less than three months prior to the
27 termination of the suspended sentence.

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

30 **Sec. 6.** RCW 9.95.204 and 2005 c 400 s 2 and 2005 c 362 s 3 are
31 each reenacted and amended to read as follows:

32 (1) When a superior court places a defendant convicted of a
33 misdemeanor or gross misdemeanor on probation and orders supervision
34 under RCW 9.92.060 or 9.95.210, the department of corrections has
35 ~~((initial))~~ responsibility for supervision of ~~((that))~~ defendants
36 pursuant to RCW 9.94A.501 and section 3 of this act.

1 (2) A county legislative authority may assume responsibility for
2 the supervision of ~~((all))~~ defendants within its jurisdiction who have
3 been convicted of a misdemeanor or gross misdemeanor and sentenced to
4 probation by a superior court. If a county legislative authority
5 chooses to assume responsibility for defendants supervised by the
6 department, the assumption of responsibility shall be made by contract
7 with the department of corrections on a biennial basis.

8 ~~((If a county assumes supervision responsibility, the county~~
9 ~~shall supervise all superior court misdemeanant probationers within~~
10 ~~that county for the duration of the biennium, as set forth in the~~
11 ~~contract with the department of corrections.~~

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

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

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

21 ~~(c) The county's agreement to comply with the minimum standards for~~
22 ~~classification and supervision of offenders as required under RCW~~
23 ~~9.95.206;~~

24 ~~(d) The amount of funds available from the department of~~
25 ~~corrections to the county for supervision of superior court~~
26 ~~misdemeanant probationers, calculated according to a formula~~
27 ~~established by the department of corrections;~~

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

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

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

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

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

3 ~~(5) If the contract between the county and the department of~~
4 ~~corrections is terminated for any reason, the department of corrections~~
5 ~~shall reassume responsibility for supervision of superior court~~
6 ~~misdemeanant probationers within that county. In such an event, the~~
7 ~~department of corrections retains any and all rights and remedies~~
8 ~~available by law and under the contract.~~

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

20 ~~(7))~~ (4) The state of Washington, the department of corrections
21 and its employees, community corrections officers, any county ~~((under~~
22 ~~contract with the department of corrections))~~ providing supervision
23 services pursuant to this section and its employees, probation
24 officers, and volunteers who assist community corrections officers and
25 probation officers in the superior court misdemeanor probation program
26 are not liable for civil damages resulting from any act or omission in
27 the rendering of superior court misdemeanor probation activities
28 unless the act or omission constitutes gross negligence. For purposes
29 of this section, "volunteers" is defined according to RCW 51.12.035.

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

32 ~~(9))~~ (5)(a) If a misdemeanor probationer requests permission to
33 travel or transfer to another state, the assigned probation officer
34 employed or contracted for by the county shall determine whether such
35 request is subject to RCW 9.94A.745, the interstate compact for adult
36 offender supervision. If such request is subject to the compact, the
37 probation officer shall:

1 (i) Notify the department of corrections of the probationer's
2 request;

3 (ii) Provide the department of corrections with the supporting
4 documentation it requests for processing an application for transfer;

5 (iii) Notify the probationer of the fee due to the department of
6 corrections for processing an application under the compact;

7 (iv) Cease supervision of the probationer while another state
8 supervises the probationer pursuant to the compact;

9 (v) Resume supervision if the probationer returns to this state
10 before the term of probation expires.

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

13 **Sec. 7.** RCW 9.95.210 and 2005 c 362 s 4 are each amended to read
14 as follows:

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

20 (2) In the order granting probation and as a condition thereof, the
21 superior court may in its discretion imprison the defendant in the
22 county jail for a period not exceeding one year and may fine the
23 defendant any sum not exceeding the statutory limit for the offense
24 committed, and court costs. As a condition of probation, the superior
25 court shall require the payment of the penalty assessment required by
26 RCW 7.68.035. The superior court may also require the defendant to
27 make such monetary payments, on such terms as it deems appropriate
28 under the circumstances, as are necessary: (a) To comply with any
29 order of the court for the payment of family support; (b) to make
30 restitution to any person or persons who may have suffered loss or
31 damage by reason of the commission of the crime in question or when the
32 offender pleads guilty to a lesser offense or fewer offenses and agrees
33 with the prosecutor's recommendation that the offender be required to
34 pay restitution to a victim of an offense or offenses which are not
35 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
36 imposed and court costs, including reimbursement of the state for costs
37 of extradition if return to this state by extradition was required; (d)

1 following consideration of the financial condition of the person
2 subject to possible electronic monitoring, to pay for the costs of
3 electronic monitoring if that monitoring was required by the court as
4 a condition of release from custody or as a condition of probation; (e)
5 to contribute to a county or interlocal drug fund; and (f) to make
6 restitution to a public agency for the costs of an emergency response
7 under RCW 38.52.430, and may require bonds for the faithful observance
8 of any and all conditions imposed in the probation.

9 (3) The superior court shall order restitution in all cases where
10 the victim is entitled to benefits under the crime victims'
11 compensation act, chapter 7.68 RCW. If the superior court does not
12 order restitution and the victim of the crime has been determined to be
13 entitled to benefits under the crime victims' compensation act, the
14 department of labor and industries, as administrator of the crime
15 victims' compensation program, may petition the superior court within
16 one year of imposition of the sentence for entry of a restitution
17 order. Upon receipt of a petition from the department of labor and
18 industries, the superior court shall hold a restitution hearing and
19 shall enter a restitution order.

20 (4) In granting probation, the superior court may order the
21 probationer to report to the secretary of corrections or such officer
22 as the secretary may designate and as a condition of the probation to
23 follow the instructions of the secretary. If the county legislative
24 authority has elected to assume responsibility for the supervision of
25 superior court misdemeanor probationers within its jurisdiction, the
26 superior court misdemeanor probationer shall report to a probation
27 officer employed or contracted for by the county. In cases where a
28 superior court misdemeanor probationer is sentenced in one county, but
29 resides within another county, there must be provisions for the
30 probationer to report to the agency having supervision responsibility
31 for the probationer's county of residence.

32 (5) If the probationer has been ordered to make restitution and the
33 superior court has ordered supervision, the officer supervising the
34 probationer shall make a reasonable effort to ascertain whether
35 restitution has been made. If the superior court has ordered
36 supervision and restitution has not been made as ordered, the officer
37 shall inform the prosecutor of that violation of the terms of probation
38 not less than three months prior to the termination of the probation

1 period. The secretary of corrections will promulgate rules and
2 regulations for the conduct of the person during the term of probation.
3 For defendants found guilty in district court, like functions as the
4 secretary performs in regard to probation may be performed by probation
5 officers employed for that purpose by the county legislative authority
6 of the county wherein the court is located.

7 (6) The provisions of RCW 9.94A.501 and section 3 of this act apply
8 to sentences imposed under this section.

9 **Sec. 8.** RCW 9.94A.030 and 2010 c 274 s 401, 2010 c 267 s 9, 2010
10 c 227 s 11, and 2010 c 224 s 1 are each reenacted and amended to read
11 as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

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

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

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

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

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

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

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

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

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

8 (10) "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 (11) "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 (12) "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 (13) "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 (14) "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 (15) "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 (16) "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 (17) "Department" means the department of corrections.

4 (18) "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 (19) "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 (20) "Domestic violence" has the same meaning as defined in RCW
25 10.99.020 and 26.50.010.

26 (21) "Drug offender sentencing alternative" is a sentencing option
27 available to persons convicted of a felony offense other than a violent
28 offense or a sex offense and who are eligible for the option under RCW
29 9.94A.660.

30 (22) "Drug offense" means:

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

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

37 (c) Any out-of-state conviction for an offense that under the laws

1 of this state would be a felony classified as a drug offense under (a)
2 of this subsection.

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

5 (24) "Escape" means:

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

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

15 (25) "Felony traffic offense" means:

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

22 (b) 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 felony
24 traffic offense under (a) of this subsection.

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

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

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

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

1 court-appointed attorneys' fees, and costs of defense, fines, and any
2 other financial obligation that is assessed to the offender as a result
3 of a felony conviction. Upon conviction for vehicular assault while
4 under the influence of intoxicating liquor or any drug, RCW
5 46.61.522(1)(b), or vehicular homicide while under the influence of
6 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
7 obligations may also include payment to a public agency of the expense
8 of an emergency response to the incident resulting in the conviction,
9 subject to RCW 38.52.430.

10 (30) "Minor child" means a biological or adopted child of the
11 offender who is under age eighteen at the time of the offender's
12 current offense.

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

15 (a) Any felony defined under any law as a class A felony or
16 criminal solicitation of or criminal conspiracy to commit a class A
17 felony;

18 (b) Assault in the second degree;

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

20 (d) Child molestation in the second degree;

21 (e) Controlled substance homicide;

22 (f) Extortion in the first degree;

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

24 (h) Indecent liberties;

25 (i) Kidnapping in the second degree;

26 (j) Leading organized crime;

27 (k) Manslaughter in the first degree;

28 (l) Manslaughter in the second degree;

29 (m) Promoting prostitution in the first degree;

30 (n) Rape in the third degree;

31 (o) Robbery in the second degree;

32 (p) Sexual exploitation;

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

37 (r) Vehicular homicide, when proximately caused by the driving of

1 any vehicle by any person while under the influence of intoxicating
2 liquor or any drug as defined by RCW 46.61.502, or by the operation of
3 any vehicle in a reckless manner;

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

6 (t) Any other felony with a deadly weapon verdict under RCW
7 9.94A.825;

8 (u) Any felony offense in effect at any time prior to December 2,
9 1993, that is comparable to a most serious offense under this
10 subsection, or any federal or out-of-state conviction for an offense
11 that under the laws of this state would be a felony classified as a
12 most serious offense under this subsection;

13 (v)(i) A prior conviction for indecent liberties under RCW
14 (~~9A.88.100~~) 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975
15 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a),
16 (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and
17 RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
18 until July 1, 1988;

19 (ii) A prior conviction for indecent liberties under RCW
20 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
21 if: (A) The crime was committed against a child under the age of
22 fourteen; or (B) the relationship between the victim and perpetrator is
23 included in the definition of indecent liberties under RCW
24 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
25 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
26 through July 27, 1997;

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

33 (32) "Nonviolent offense" means an offense which is not a violent
34 offense.

35 (33) "Offender" means a person who has committed a felony
36 established by state law and is eighteen years of age or older or is
37 less than eighteen years of age but whose case is under superior court
38 jurisdiction under RCW 13.04.030 or has been transferred by the

1 appropriate juvenile court to a criminal court pursuant to RCW
2 13.40.110. In addition, for the purpose of community custody
3 requirements under this chapter, "offender" also means a (~~misdemeanor~~
4 ~~or gross misdemeanor~~) misdemeanant or gross misdemeanant probationer
5 (~~convicted of an offense included in RCW 9.94A.501(1) and~~) ordered by
6 a superior court to probation (~~under the supervision of the~~
7 ~~department~~) pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
8 supervised by the department pursuant to RCW 9.94A.501 and section 3 of
9 this act. Throughout this chapter, the terms "offender" and
10 "defendant" are used interchangeably.

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

20 (35) "Pattern of criminal street gang activity" means:

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

24 (i) Any "serious violent" felony offense as defined in this
25 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
26 Child 1 (RCW 9A.36.120);

27 (ii) Any "violent" offense as defined by this section, excluding
28 Assault of a Child 2 (RCW 9A.36.130);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
12 9A.56.075);

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

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

15 (xxi) Intimidating a Witness (RCW 9A.72.110);

16 (xxii) Tampering with a Witness (RCW 9A.72.120);

17 (xxiii) Reckless Endangerment (RCW 9A.36.050);

18 (xxiv) Coercion (RCW 9A.36.070);

19 (xxv) Harassment (RCW 9A.46.020); or

20 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

21 (b) That at least one of the offenses listed in (a) of this
22 subsection shall have occurred after July 1, 2008;

23 (c) That the most recent committed offense listed in (a) of this
24 subsection occurred within three years of a prior offense listed in (a)
25 of this subsection; and

26 (d) Of the offenses that were committed in (a) of this subsection,
27 the offenses occurred on separate occasions or were committed by two or
28 more persons.

29 (36) "Persistent offender" is an offender who:

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

32 (ii) Has, before the commission of the offense under (a) of this
33 subsection, been convicted as an offender on at least two separate
34 occasions, whether in this state or elsewhere, of felonies that under
35 the laws of this state would be considered most serious offenses and
36 would be included in the offender score under RCW 9.94A.525; provided
37 that of the two or more previous convictions, at least one conviction

1 must have occurred before the commission of any of the other most
2 serious offenses for which the offender was previously convicted; or

3 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
4 of a child in the first degree, child molestation in the first degree,
5 rape in the second degree, rape of a child in the second degree, or
6 indecent liberties by forcible compulsion; (B) any of the following
7 offenses with a finding of sexual motivation: Murder in the first
8 degree, murder in the second degree, homicide by abuse, kidnapping in
9 the first degree, kidnapping in the second degree, assault in the first
10 degree, assault in the second degree, assault of a child in the first
11 degree, assault of a child in the second degree, or burglary in the
12 first degree; or (C) an attempt to commit any crime listed in this
13 subsection (36)(b)(i); and

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

26 (37) "Predatory" means: (a) The perpetrator of the crime was a
27 stranger to the victim, as defined in this section; (b) the perpetrator
28 established or promoted a relationship with the victim prior to the
29 offense and the victimization of the victim was a significant reason
30 the perpetrator established or promoted the relationship; or (c) the
31 perpetrator was: (i) A teacher, counselor, volunteer, or other person
32 in authority in any public or private school and the victim was a
33 student of the school under his or her authority or supervision. For
34 purposes of this subsection, "school" does not include home-based
35 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,
36 volunteer, or other person in authority in any recreational activity
37 and the victim was a participant in the activity under his or her
38 authority or supervision; (iii) a pastor, elder, volunteer, or other

1 person in authority in any church or religious organization, and the
2 victim was a member or participant of the organization under his or her
3 authority; or (iv) a teacher, counselor, volunteer, or other person in
4 authority providing home-based instruction and the victim was a student
5 receiving home-based instruction while under his or her authority or
6 supervision. For purposes of this subsection: (A) "Home-based
7 instruction" has the same meaning as defined in RCW 28A.225.010; and
8 (B) "teacher, counselor, volunteer, or other person in authority" does
9 not include the parent or legal guardian of the victim.

10 (38) "Private school" means a school regulated under chapter
11 28A.195 or 28A.205 RCW.

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

13 (40) "Repetitive domestic violence offense" means any:

14 (a)(i) Domestic violence assault that is not a felony offense under
15 RCW 9A.36.041;

16 (ii) Domestic violence violation of a no-contact order under
17 chapter 10.99 RCW that is not a felony offense;

18 (iii) Domestic violence violation of a protection order under
19 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

20 (iv) Domestic violence harassment offense under RCW 9A.46.020 that
21 is not a felony offense; or

22 (v) Domestic violence stalking offense under RCW 9A.46.110 that is
23 not a felony offense; or

24 (b) Any federal, out-of-state, tribal court, military, county, or
25 municipal conviction for an offense that under the laws of this state
26 would be classified as a repetitive domestic violence offense under (a)
27 of this subsection.

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

32 (42) "Risk assessment" means the application of the risk instrument
33 recommended to the department by the Washington state institute for
34 public policy as having the highest degree of predictive accuracy for
35 assessing an offender's risk of reoffense.

36 (43) "Serious traffic offense" means:

37 (a) Nonfelony driving while under the influence of intoxicating
38 liquor or any drug (RCW 46.61.502), nonfelony actual physical control

1 while under the influence of intoxicating liquor or any drug (RCW
2 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
3 attended vehicle (RCW 46.52.020(5)); or

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

7 (44) "Serious violent offense" is a subcategory of violent offense
8 and means:

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

10 (ii) Homicide by abuse;

11 (iii) Murder in the second degree;

12 (iv) Manslaughter in the first degree;

13 (v) Assault in the first degree;

14 (vi) Kidnapping in the first degree;

15 (vii) Rape in the first degree;

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

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

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

22 (45) "Sex offense" means:

23 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
24 RCW 9A.44.132;

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

26 (iii) A felony that is a violation of chapter 9.68A RCW other than
27 RCW 9.68A.080;

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

30 (v) A felony violation of RCW 9A.44.132(1) (failure to register) if
31 the person has been convicted of violating RCW 9A.44.132(1) (failure to
32 register) on at least one prior occasion;

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

36 (c) A felony with a finding of sexual motivation under RCW
37 9.94A.835 or 13.40.135; or

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

4 (46) "Sexual motivation" means that one of the purposes for which
5 the defendant committed the crime was for the purpose of his or her
6 sexual gratification.

7 (47) "Standard sentence range" means the sentencing court's
8 discretionary range in imposing a nonappealable sentence.

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

13 (49) "Stranger" means that the victim did not know the offender
14 twenty-four hours before the offense.

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

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

25 (52) "Victim" means any person who has sustained emotional,
26 psychological, physical, or financial injury to person or property as
27 a direct result of the crime charged.

28 (53) "Violent offense" means:

29 (a) Any of the following felonies:

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

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

34 (iii) Manslaughter in the first degree;

35 (iv) Manslaughter in the second degree;

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

37 (vi) Kidnapping in the second degree;

38 (vii) Arson in the second degree;

1 (viii) Assault in the second degree;

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

3 (x) Extortion in the first degree;

4 (xi) Robbery in the second degree;

5 (xii) Drive-by shooting;

6 (xiii) Vehicular assault, when caused by the operation or driving
7 of a vehicle by a person while under the influence of intoxicating
8 liquor or any drug or by the operation or driving of a vehicle in a
9 reckless manner; and

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

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

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

20 (54) "Work crew" means a program of partial confinement consisting
21 of civic improvement tasks for the benefit of the community that
22 complies with RCW 9.94A.725.

23 (55) "Work ethic camp" means an alternative incarceration program
24 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
25 the cost of corrections by requiring offenders to complete a
26 comprehensive array of real-world job and vocational experiences,
27 character-building work ethics training, life management skills
28 development, substance abuse rehabilitation, counseling, literacy
29 training, and basic adult education.

30 (56) "Work release" means a program of partial confinement
31 available to offenders who are employed or engaged as a student in a
32 regular course of study at school.

33 **Sec. 9.** RCW 9.94A.650 and 2008 c 231 s 29 are each amended to read
34 as follows:

35 (1) This section applies to offenders who have never been
36 previously convicted of a felony in this state, federal court, or

1 another state, and who have never participated in a program of deferred
2 prosecution for a felony, and who are convicted of a felony that is
3 not:

4 (a) Classified as a violent offense or a sex offense under this
5 chapter;

6 (b) Manufacture, delivery, or possession with intent to manufacture
7 or deliver a controlled substance classified in Schedule I or II that
8 is a narcotic drug or flunitrazepam classified in Schedule IV;

9 (c) Manufacture, delivery, or possession with intent to deliver a
10 methamphetamine, its salts, isomers, and salts of its isomers as
11 defined in RCW 69.50.206(d)(2);

12 (d) The selling for profit of any controlled substance or
13 counterfeit substance classified in Schedule I, RCW 69.50.204, except
14 leaves and flowering tops of marihuana; or

15 (e) Felony driving while under the influence of intoxicating liquor
16 or any drug or felony physical control of a vehicle while under the
17 influence of intoxicating liquor or any drug.

18 (2) In sentencing a first-time offender the court may waive the
19 imposition of a sentence within the standard sentence range and impose
20 a sentence which may include up to ninety days of confinement in a
21 facility operated or utilized under contract by the county and a
22 requirement that the offender refrain from committing new offenses.

23 (3) The court may impose up to (~~one year~~) six months of community
24 custody unless treatment is ordered, in which case the period of
25 community custody may include up to the period of treatment, but shall
26 not exceed (~~two years~~) one year.

27 (4) As a condition of community custody, in addition to any
28 conditions authorized in RCW 9.94A.703, the court may order the
29 offender to pay all court-ordered legal financial obligations and/or
30 perform community restitution work.

31 **PART II**
32 **Cost Of Supervision**

33 **Sec. 10.** RCW 9.94A.780 and 2008 c 231 s 37 are each amended to
34 read as follows:

35 (1) Whenever a punishment imposed under this chapter requires
36 supervision services to be provided, the offender shall pay to the

1 department of corrections the (~~monthly assessment~~) supervision intake
2 fee, prescribed under subsection (2) of this section, (~~which shall be~~
3 ~~for the duration of the terms of supervision and~~) which shall be
4 considered as payment or part payment of the cost of (~~providing~~)
5 establishing supervision to the offender. The department may exempt or
6 defer a person from the payment of all or any part of the
7 (~~assessment~~) intake fee based upon any of the following factors:

8 (a) The offender has diligently attempted but has been unable to
9 obtain employment that provides the offender sufficient income to make
10 such a payment(~~s~~).

11 (b) The offender is a student in a school, college, university, or
12 a course of vocational or technical training designed to fit the
13 student for gainful employment.

14 (c) The offender has an employment handicap, as determined by an
15 examination acceptable to or ordered by the department.

16 (d) The offender's age prevents him or her from obtaining
17 employment.

18 (e) The offender is responsible for the support of dependents and
19 the payment of the (~~assessment~~) intake fee constitutes an undue
20 hardship on the offender.

21 (f) Other extenuating circumstances as determined by the
22 department.

23 (2) The department of corrections shall adopt a rule prescribing
24 the amount of the assessment. The (~~department may, if it finds it~~
25 ~~appropriate, prescribe a schedule of assessments that shall vary in~~
26 ~~accordance with the intensity or cost of the supervision. The~~
27 ~~department may not prescribe any assessment that is less than ten~~
28 ~~dollars nor more than fifty dollars~~) supervision intake fee shall be
29 imposed after the determination of eligibility for supervision has been
30 completed. For offenders whose crime was committed on or after October
31 1, 2011, the intake fee prescribed shall be not less than four hundred
32 dollars or more than six hundred dollars, and shall be assessed for
33 each judgment and sentence imposed by the superior court in which
34 supervision by the department is required.

35 (3) For offenders whose offense date was before October 1, 2011,
36 the monthly rate shall be converted to a one-time fee. The amount due
37 shall be based upon the most recent monthly fee amount by the months of

1 supervision left to serve, but in no case shall exceed six hundred
2 dollars.

3 (4) Nothing in this act shall affect the amount or dates payments
4 are due for any prior balances owed by an offender for the cost of
5 supervision.

6 ~~((3))~~ (5) All amounts required to be paid under this section
7 shall be collected by the department of corrections and deposited by
8 the department in the dedicated fund established pursuant to RCW
9 72.11.040.

10 ~~((4))~~ (6) This section shall not apply to probation services
11 provided under an interstate compact pursuant to chapter 9.95 RCW or to
12 probation services provided for persons placed on probation prior to
13 June 10, 1982.

14 ~~((5))~~ (7) If a county clerk assumes responsibility for collection
15 of unpaid legal financial obligations under RCW 9.94A.760, or under any
16 agreement with the department under that section, whether before or
17 after the completion of any period of community custody, the clerk may
18 impose a monthly or annual assessment for the cost of collections. The
19 amount of the assessment shall not exceed the actual cost of
20 collections. The county clerk may exempt or defer payment of all or
21 part of the assessment based upon any of the factors listed in
22 subsection (1) of this section. The offender shall pay the assessment
23 under this subsection to the county clerk who shall apply it to the
24 cost of collecting legal financial obligations under RCW 9.94A.760.

25 **Sec. 11.** RCW 9.95.214 and 2005 c 400 s 3 are each amended to read
26 as follows:

27 Whenever a defendant convicted of a misdemeanor or gross
28 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and
29 the defendant is supervised by ~~((the department of corrections or))~~ a
30 county probation department, the ~~((department or))~~ county probation
31 department may assess and collect from the defendant for the duration
32 of the term of supervision a monthly assessment not to exceed one
33 hundred dollars per month. Whenever a defendant convicted of a
34 misdemeanor or gross misdemeanor is placed on probation under RCW
35 9.92.060 or 9.95.210, and the defendant is supervised by the department
36 of corrections, the department may collect supervision intake fees
37 pursuant to RCW 9.94A.780. This assessment shall be paid to the agency

1 supervising the defendant and shall be applied, along with funds
2 appropriated by the legislature, toward the payment or part payment of
3 the cost of supervising the defendant. The (~~department or~~) county
4 probation department shall suspend such assessment while the defendant
5 is being supervised by another state pursuant to RCW 9.94A.745, the
6 interstate compact for adult offender supervision.

7 **Sec. 12.** RCW 72.04A.120 and 1991 c 104 s 2 are each amended to
8 read as follows:

9 (1) Any person placed on parole shall be required to pay the
10 (~~monthly assessment~~) supervision intake fee, prescribed under
11 (~~subsection (2) of this section, which shall be for the duration of~~
12 ~~the parole and which shall be considered as payment or part payment of~~
13 ~~the cost of providing parole supervision to the parolee~~) RCW
14 9.94A.780(3). The department may exempt a person from the payment of
15 all or any part of the assessment based upon any of the following
16 factors:

17 (a) The offender has diligently attempted but has been unable to
18 obtain employment which provides the offender sufficient income to make
19 such payments.

20 (b) The offender is a student in a school, college, university, or
21 a course of vocational or technical training designed to fit the
22 student for gainful employment.

23 (c) The offender has an employment handicap, as determined by an
24 examination acceptable to or ordered by the department.

25 (d) The offender's age prevents him from obtaining employment.

26 (e) The offender is responsible for the support of dependents and
27 the payment of the assessment constitutes an undue hardship on the
28 offender.

29 (f) Other extenuating circumstances as determined by the
30 department.

31 (2) The department of corrections shall adopt a rule prescribing
32 the amount of the assessment. (~~The department may, if it finds it~~
33 ~~appropriate, prescribe a schedule of assessments which shall vary in~~
34 ~~accordance with the intensity or cost of the supervision. The~~
35 ~~department may not prescribe any assessment which is less than ten~~
36 ~~dollars nor more than fifty dollars.))~~

1 (3) Payment of the assessed amount shall constitute a condition of
2 parole for purposes of the application of RCW 72.04A.090.

3 (4) All amounts required to be paid under this section shall be
4 collected by the department of corrections and deposited by the
5 department in the dedicated fund established pursuant to RCW 72.11.040.

6 ~~((5) This section shall not apply to parole services provided
7 under an interstate compact pursuant to chapter 9.95 RCW or to parole
8 services provided for offenders paroled before June 10, 1982.))~~

9 **Sec. 13.** RCW 72.11.040 and 2005 c 518 s 943 are each amended to
10 read as follows:

11 The cost of supervision fund is created in the custody of the state
12 treasurer. All receipts from assessments made under RCW 9.94A.780,
13 9.94A.74504, and 72.04A.120 shall be deposited into the fund.
14 Expenditures from the fund may be used only to support the collection
15 of legal financial obligations. ~~((During the 2005-2007 biennium, funds
16 from the account may also be used for costs associated with the
17 department's supervision of the offenders in the community.))~~ Only the
18 secretary of the department of corrections or the secretary's designee
19 may authorize expenditures from the fund. The fund is subject to
20 allotment procedures under chapter 43.88 RCW, but no appropriation is
21 required for expenditures.

22 **Sec. 14.** RCW 9.94A.74504 and 2005 c 400 s 1 are each amended to
23 read as follows:

24 (1) The department may supervise nonfelony offenders transferred to
25 Washington pursuant to RCW 9.94A.745, the interstate compact for adult
26 offender supervision, and shall supervise these offenders according to
27 the provisions of this chapter.

28 (2) The department shall process applications for interstate
29 transfer of felony and nonfelony offenders requesting transfer of
30 supervision out-of-state pursuant to RCW 9.94A.745, the interstate
31 compact for adult offender supervision, and may charge offenders a
32 reasonable fee for processing the application.

33 (3) The department shall adopt a rule prescribing the amount of the
34 interstate transfer application fee.

1 (~~The board may employ, and fix, with the approval of the governor,~~
2 ~~the compensation of and prescribe the duties of a senior administrative~~
3 ~~officer and such officers, employees, and assistants as may be~~
4 ~~necessary, and provide necessary quarters, supplies, and equipment.~~)

5 NEW SECTION. **Sec. 16.** (1) The indeterminate sentence review board
6 is transferred to the department of corrections.

7 (2)(a) All reports, documents, surveys, books, records, files,
8 papers, or written materials in the possession of the indeterminate
9 sentence review board shall be delivered to the custody of the
10 department of corrections. All cabinets, furniture, office equipment,
11 motor vehicles, and other tangible property employed by the
12 indeterminate sentence review board shall be made available to the
13 department of corrections. All funds, credits, or other assets held by
14 the indeterminate sentence review board shall be assigned to the
15 department of corrections.

16 (b) Any appropriations made to the indeterminate sentence review
17 board shall, on the effective date of this section, be transferred and
18 credited to the department of corrections.

19 (c) If any question arises as to the transfer of any personnel,
20 funds, books, documents, records, papers, files, equipment, or other
21 tangible property used or held in the exercise of the powers and the
22 performance of the duties and functions transferred, the director of
23 financial management shall make a determination as to the proper
24 allocation and certify the same to the state agencies concerned.

25 (3) All employees of the indeterminate sentence review board are
26 transferred to the jurisdiction of the department of corrections. All
27 employees classified under chapter 41.06 RCW, the state civil service
28 law, are assigned to the department of corrections to perform their
29 usual duties upon the same terms as formerly, without any loss of
30 rights, subject to any action that may be appropriate thereafter in
31 accordance with the laws and rules governing state civil service.

32 (4) All rules and all pending business before the indeterminate
33 sentence review board shall be continued and acted upon by the
34 department of corrections. All existing contracts and obligations
35 shall remain in full force and shall be performed by the department of
36 corrections.

1 (5) The transfer of the powers, duties, functions, and personnel of
2 the indeterminate sentence review board shall not affect the validity
3 of any act performed before the effective date of this section.

4 (6) If apportionments of budgeted funds are required because of the
5 transfers directed by this section, the director of financial
6 management shall certify the apportionments to the agencies affected,
7 the state auditor, and the state treasurer. Each of these shall make
8 the appropriate transfer and adjustments in funds and appropriation
9 accounts and equipment records in accordance with the certification.

10 (7) All classified employees of the indeterminate sentence review
11 board assigned to the department of corrections under this act whose
12 positions are within an existing bargaining unit description at the
13 department of corrections shall become a part of the existing
14 bargaining unit at the department of corrections and shall be
15 considered an appropriate inclusion or modification of the existing
16 bargaining unit under the provisions of chapter 41.80 RCW.

17 (8) Notwithstanding any provision of this act and despite the
18 transfer of the indeterminate sentence review board to the department
19 of corrections, the members of the indeterminate sentence review board
20 will possess and shall exercise independent judgment when making any
21 decisions concerning offenders. These decisions include, but are not
22 limited to, decisions concerning offenders' release, revocation,
23 reinstatement, or the imposition of conditions of supervision.

24 **Sec. 17.** RCW 9.95.005 and 2001 2nd sp.s. c 12 s 318 are each
25 amended to read as follows:

26 The board shall meet at major state correctional institutions at
27 such times as may be necessary for a full and complete study of the
28 cases of all convicted persons whose durations of confinement are to be
29 determined by it; whose community custody supervision is under the
30 board's authority; or whose applications for parole come before it.
31 Other times and places of meetings may also be fixed by the board.

32 The superintendents of the different institutions shall provide
33 suitable quarters for the board (~~and assistants~~) while in the
34 discharge of their duties.

35 **Sec. 18.** RCW 9.95.007 and 1986 c 224 s 5 are each amended to read
36 as follows:

1 The board may meet and transact business in panels. Each board
2 panel shall consist of at least two members of the board. In all
3 matters concerning the internal affairs of the board and policy-making
4 decisions, a majority of the full board must concur in such matters.
5 The (~~chairman~~) chair of the board with the consent of a majority of
6 the board may designate any two members to exercise all the powers and
7 duties of the board in connection with any hearing before the board.
8 If the two members so designated cannot unanimously agree as to the
9 disposition of the hearing assigned to them, such hearing shall be
10 reheard by the full board. All actions of the full board shall be by
11 concurrence of a majority of the sitting board members.

12 **Sec. 19.** RCW 9.95.140 and 2009 c 28 s 29 are each amended to read
13 as follows:

14 (1) The board shall cause a complete record to be kept of every
15 prisoner under the jurisdiction of the board released on parole or
16 community custody. Such records shall be organized in accordance with
17 the most modern methods of filing and indexing so that there will be
18 always immediately available complete information about each such
19 prisoner. Subject to information sharing provisions related to
20 (~~mentally-ill~~) offenders(~~(7)~~) with mental illness and the end of
21 sentence review committee, (~~and the department of corrections,~~) the
22 board may make rules as to the privacy of such records and their use by
23 others than the board and (~~its~~) the department staff assigned to
24 perform board-related duties. Sex offenders convicted of crimes
25 committed before July 1, 1984, who are under the board's jurisdiction
26 shall be subject to the determinations of the end of sentence review
27 committee regarding risk level and subject to sex offender registration
28 and community notification. The board and the department staff
29 assigned to perform board-related duties shall be immune from liability
30 for the release of information concerning sex offenders as provided in
31 RCW 4.24.550.

32 The superintendents of state correctional facilities and all
33 officers and employees thereof and all other public officials shall at
34 all times cooperate with the board and furnish to the board(~~(7-its~~
35 ~~officers, and employees)~~) and staff assigned to perform board-related
36 duties such information as may be necessary to enable it to perform its
37 functions, and such superintendents and other employees shall at all

1 times give the members of the board(~~(, its officers, and employees)~~)
2 and staff assigned to perform board-related duties free access to all
3 prisoners confined in the state correctional facilities.

4 (2) Offenders sentenced under RCW 9.94A.507 shall be subject to the
5 determinations of the end of sentence review committee regarding risk
6 level and subject to sex offender registration and community
7 notification.

8 (3) The end of sentence review committee shall make law enforcement
9 notifications for offenders under board jurisdiction on the same basis
10 that it notifies law enforcement regarding offenders sentenced under
11 chapter 9.94A RCW for crimes committed after July 1, 1984.

12 **Sec. 20.** RCW 9.95.280 and 2001 2nd sp.s. c 12 s 344 are each
13 amended to read as follows:

14 The secretary, upon recommendation by the board, may deputize any
15 person (regularly employed by another state) to act as an officer and
16 agent of this state in effecting the return of any person convicted of
17 a crime committed before July 1, 1984, who has violated the terms and
18 conditions of parole or probation as granted by this state. In any
19 matter relating to the return of such a person, any agent so deputized
20 shall have all the powers of a police officer of this state.

21 **Sec. 21.** RCW 9.95.300 and 2001 2nd sp.s. c 12 s 346 are each
22 amended to read as follows:

23 The secretary, upon recommendation by the board, may enter into
24 contracts with similar officials of any other state or states for the
25 purpose of sharing an equitable portion of the cost of effecting the
26 return of any person who has violated the terms and conditions of
27 parole, probation, or community custody as granted by this state.

28 **Sec. 22.** RCW 9.96.050 and 2009 c 325 s 4 are each amended to read
29 as follows:

30 (1)(a) When an offender on parole has performed all obligations of
31 his or her release, including any and all legal financial obligations,
32 for such time as shall satisfy the indeterminate sentence review board
33 that his or her final release is not incompatible with the best
34 interests of society and the welfare of the paroled individual, the

1 board may make a final order of discharge and issue a certificate of
2 discharge to the offender.

3 (b) The board retains the jurisdiction to issue a certificate of
4 discharge after the expiration of the offender's or parolee's maximum
5 statutory sentence. If not earlier granted and any and all legal
6 financial obligations have been paid, the board shall issue a final
7 order of discharge three years from the date of parole unless the
8 parolee is on suspended or revoked status at the expiration of the
9 three years.

10 (c) The discharge, regardless of when issued, shall have the effect
11 of restoring all civil rights not already restored by RCW 29A.08.520,
12 and the certification of discharge shall so state.

13 (d) This restoration of civil rights shall not restore the right to
14 receive, possess, own, or transport firearms.

15 (e) The board shall issue a certificate of discharge to the
16 offender in person or by mail to the offender's last known address.

17 (2) (~~The board shall send to the department of corrections~~) A
18 copy of every signed certificate of discharge for offender sentences
19 under the authority of the department of corrections shall be placed in
20 the department's files.

21 (3) The discharge provided for in this section shall be considered
22 as a part of the sentence of the convicted person and shall not in any
23 manner be construed as affecting the powers of the governor to pardon
24 any such person.

25 **Sec. 23.** RCW 71.05.385 and 2009 c 320 s 2 are each amended to read
26 as follows:

27 (1) A mental health service provider shall release to the persons
28 authorized under subsection (2) of this section, upon request:

29 (a) The fact, place, and date of an involuntary commitment, the
30 fact and date of discharge or release, and the last known address of a
31 person who has been committed under this chapter.

32 (b) Information related to mental health services, in the format
33 determined under subsection (9) of this section, concerning a person
34 who:

35 (i) Is currently committed to the custody or supervision of the
36 department of corrections or the indeterminate sentence review board
37 under chapter 9.94A or 9.95 RCW;

1 (ii) Has been convicted or found not guilty by reason of insanity
2 of a serious violent offense; or

3 (iii) Was charged with a serious violent offense and such charges
4 were dismissed under RCW 10.77.086.

5 Legal counsel may release such information to the persons
6 authorized under subsection (2) of this section on behalf of the mental
7 health service provider, provided that nothing in this subsection shall
8 require the disclosure of attorney work product or attorney-client
9 privileged information.

10 (2) The information subject to release under subsection (1) of this
11 section shall be released to law enforcement officers, personnel of a
12 county or city jail, designated mental health professionals, public
13 health officers, therapeutic court personnel, or personnel of the
14 department of corrections, (~~or — personnel — of~~) including the
15 indeterminate sentence review board and personnel assigned to perform
16 board-related duties, when such information is requested during the
17 course of business and for the purpose of carrying out the
18 responsibilities of the requesting person's office. No mental health
19 service provider or person employed by a mental health service
20 provider, or its legal counsel, shall be liable for information
21 released to or used under the provisions of this section or rules
22 adopted under this section except under RCW 71.05.440.

23 (3) A person who requests information under subsection (1)(b) of
24 this section must comply with the following restrictions:

25 (a) Information must be requested only for the purposes permitted
26 by this subsection and for the purpose of carrying out the
27 responsibilities of the requesting person's office. Appropriate
28 purposes for requesting information under this section include:

29 (i) Completing presentence investigations or risk assessment
30 reports;

31 (ii) Assessing a person's risk to the community;

32 (iii) Assessing a person's risk of harm to self or others when
33 confined in a city or county jail;

34 (iv) Planning for and provision of supervision of an offender,
35 including decisions related to sanctions for violations of conditions
36 of community supervision; and

37 (v) Responding to an offender's failure to report for department of
38 corrections supervision.

1 (b) Information shall not be requested under this section unless
2 the requesting person has reasonable suspicion that the individual who
3 is the subject of the information:

4 (i) Has engaged in activity indicating that a crime or a violation
5 of community custody or parole has been committed or, based upon his or
6 her current or recent past behavior, is likely to be committed in the
7 near future; or

8 (ii) Is exhibiting signs of a deterioration in mental functioning
9 which may make the individual appropriate for civil commitment under
10 this chapter.

11 (c) Any information received under this section shall be held
12 confidential and subject to the limitations on disclosure outlined in
13 this chapter, except:

14 (i) Such information may be shared with other persons who have the
15 right to request similar information under subsection (2) of this
16 section, solely for the purpose of coordinating activities related to
17 the individual who is the subject of the information in a manner
18 consistent with the official responsibilities of the persons involved;

19 (ii) Such information may be shared with a prosecuting attorney
20 acting in an advisory capacity for a person who receives information
21 under this section. A prosecuting attorney under this subsection shall
22 be subject to the same restrictions and confidentiality limitations as
23 the person who requested the information; and

24 (iii) As provided in RCW 72.09.585.

25 (4) A request for information related to mental health services
26 under this section shall not require the consent of the subject of the
27 records. Such request shall be provided in writing, except to the
28 extent authorized in subsection (5) of this section. A written request
29 may include requests made by e-mail or facsimile so long as the
30 requesting person is clearly identified. The request must specify the
31 information being requested.

32 (5) In the event of an emergency situation that poses a significant
33 risk to the public or the offender, a mental health service provider,
34 or its legal counsel, shall release information related to mental
35 health services delivered to the offender and, if known, information
36 regarding where the offender is likely to be found to the department of
37 corrections or law enforcement upon request. The initial request may
38 be written or oral. All oral requests must be subsequently confirmed

1 in writing. Information released in response to an oral request is
2 limited to a statement as to whether the offender is or is not being
3 treated by the mental health service provider and the address or
4 information about the location or whereabouts of the offender.

5 (6) Disclosure under this section to state or local law enforcement
6 authorities is mandatory for the purposes of the health insurance
7 portability and accountability act.

8 (7) Whenever federal law or federal regulations restrict the
9 release of information contained in the treatment records of any
10 patient who receives treatment for alcoholism or drug dependency, the
11 release of the information may be restricted as necessary to comply
12 with federal law and regulations.

13 (8) This section does not modify the terms and conditions of
14 disclosure of information related to sexually transmitted diseases
15 under chapter 70.24 RCW.

16 (9) In collaboration with interested organizations, the department
17 shall develop a standard form for requests for information related to
18 mental health services made under this section and a standard format
19 for information provided in response to such requests. Consistent with
20 the goals of the health information privacy provisions of the federal
21 health insurance portability and accountability act, in developing the
22 standard form for responsive information, the department shall design
23 the form in such a way that the information disclosed is limited to the
24 minimum necessary to serve the purpose for which the information is
25 requested.

26 **Sec. 24.** RCW 72.09.585 and 2004 c 166 s 5 are each amended to read
27 as follows:

28 (1) When the department is determining an offender's risk
29 management level, the department shall inquire of the offender and
30 shall be told whether the offender is subject to court-ordered
31 treatment for mental health services or chemical dependency services.
32 The department shall request and the offender shall provide an
33 authorization to release information form that meets applicable state
34 and federal requirements and shall provide the offender with written
35 notice that the department will request the offender's mental health
36 and substance abuse treatment information. An offender's failure to
37 inform the department of court-ordered treatment is a violation of the

1 conditions of supervision if the offender is in the community and an
2 infraction if the offender is in confinement, and the violation or
3 infraction is subject to sanctions.

4 (2) When an offender discloses that he or she is subject to court-
5 ordered mental health services or chemical dependency treatment, the
6 department shall provide the mental health services provider or
7 chemical dependency treatment provider with a written request for
8 information and any necessary authorization to release information
9 forms. The written request shall comply with rules adopted by the
10 department of social and health services or protocols developed jointly
11 by the department and the department of social and health services. A
12 single request shall be valid for the duration of the offender's
13 supervision in the community. Disclosures of information related to
14 mental health services made pursuant to a department request shall not
15 require consent of the offender.

16 (3) The information received by the department under RCW 71.05.445
17 or (~~71.34.225~~) 71.34.345 may be released to the indeterminate
18 sentence review board as relevant to carry out its responsibility of
19 planning and ensuring community protection with respect to persons
20 under its jurisdiction. Further disclosure by the indeterminate
21 sentence review board is subject to the limitations set forth in
22 subsections (5) and (6) of this section and must be consistent with the
23 written policy of the indeterminate sentence review board. The
24 decision to disclose or not shall not result in civil liability for the
25 indeterminate sentence review board or (~~its employees~~) staff assigned
26 to perform board-related duties provided that the decision was reached
27 in good faith and without gross negligence.

28 (4) The information received by the department under RCW 71.05.445
29 or (~~71.34.225~~) 71.34.345 may be used to meet the statutory duties of
30 the department to provide evidence or report to the court. Disclosure
31 to the public of information provided to the court by the department
32 related to mental health services shall be limited in accordance with
33 RCW 9.94A.500 or this section.

34 (5) The information received by the department under RCW 71.05.445
35 or (~~71.34.225~~) 71.34.345 may be disclosed by the department to other
36 state and local agencies as relevant to plan for and provide offenders
37 transition, treatment, and supervision services, or as relevant and
38 necessary to protect the public and counteract the danger created by a

1 particular offender, and in a manner consistent with the written policy
2 established by the secretary. The decision to disclose or not shall
3 not result in civil liability for the department or its employees so
4 long as the decision was reached in good faith and without gross
5 negligence. The information received by a state or local agency from
6 the department shall remain confidential and subject to the limitations
7 on disclosure set forth in chapters 70.02, 71.05, and 71.34 RCW and,
8 subject to these limitations, may be released only as relevant and
9 necessary to counteract the danger created by a particular offender.

10 (6) The information received by the department under RCW 71.05.445
11 or (~~71.34.225~~) 71.34.345 may be disclosed by the department to
12 individuals only with respect to offenders who have been determined by
13 the department to have a high risk of reoffending by a risk assessment,
14 as defined in RCW 9.94A.030, only as relevant and necessary for those
15 individuals to take reasonable steps for the purpose of self-
16 protection, or as provided in RCW 72.09.370(2). The information may
17 not be disclosed for the purpose of engaging the public in a system of
18 supervision, monitoring, and reporting offender behavior to the
19 department. The department must limit the disclosure of information
20 related to mental health services to the public to descriptions of an
21 offender's behavior, risk he or she may present to the community, and
22 need for mental health treatment, including medications, and shall not
23 disclose or release to the public copies of treatment documents or
24 records, except as otherwise provided by law. All disclosure of
25 information to the public must be done in a manner consistent with the
26 written policy established by the secretary. The decision to disclose
27 or not shall not result in civil liability for the department or its
28 employees so long as the decision was reached in good faith and without
29 gross negligence. Nothing in this subsection prevents any person from
30 reporting to law enforcement or the department behavior that he or she
31 believes creates a public safety risk.

32 NEW SECTION. **Sec. 25.** RCW 4.24.5502 is decodified.

33 **PART IV**

34 **Sentencing Guidelines Commission and Related Duties**

1 NEW SECTION. **Sec. 26.** A new section is added to chapter 9.94A RCW
2 to read as follows:

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

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

11 (2) If the maximum term in the range is greater than one year, the
12 minimum term in the range shall be no less than seventy-five percent of
13 the maximum term in the range, except that for murder in the second
14 degree in seriousness level XIV under RCW 9.94A.510, the minimum term
15 in the range shall be no less than fifty percent of the maximum term in
16 the range; and

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

19 **Sec. 27.** RCW 9.94A.480 and 2002 c 290 s 16 are each amended to
20 read as follows:

21 (1) A current, newly created or reworked judgment and sentence
22 document for each felony sentencing shall record any and all
23 recommended sentencing agreements or plea agreements and the sentences
24 for any and all felony crimes kept as public records under RCW
25 9.94A.475 shall contain the clearly printed name and legal signature of
26 the sentencing judge. The judgment and sentence document as defined in
27 this section shall also provide additional space for the sentencing
28 judge's reasons for going either above or below the presumptive
29 sentence range for any and all felony crimes covered as public records
30 under RCW 9.94A.475. Both the sentencing judge and the prosecuting
31 attorney's office shall each retain or receive a completed copy of each
32 sentencing document as defined in this section for their own records.

33 (2) The (~~sentencing guidelines commission~~) caseload forecast
34 council shall be sent a completed copy of the judgment and sentence
35 document upon conviction for each felony sentencing under subsection
36 (1) of this section (~~and shall compile a yearly and cumulative~~

1 ~~judicial record of each sentencing judge in regards to his or her~~
2 ~~sentencing practices for any and all felony crimes involving:~~

3 ~~(a) Any violent offense as defined in this chapter;~~

4 ~~(b) Any most serious offense as defined in this chapter;~~

5 ~~(c) Any felony with any deadly weapon special verdict under RCW~~
6 ~~9.94A.602;~~

7 ~~(d) Any felony with any deadly weapon enhancements under RCW~~
8 ~~9.94A.533 (3) or (4), or both; and/or~~

9 ~~(e) The felony crimes of possession of a machine gun, possessing a~~
10 ~~stolen firearm, drive by shooting, theft of a firearm, unlawful~~
11 ~~possession of a firearm in the first or second degree, and/or use of a~~
12 ~~machine gun in a felony.~~

13 ~~(3) The sentencing guidelines commission shall compare each~~
14 ~~individual judge's sentencing practices to the standard or presumptive~~
15 ~~sentence range for any and all felony crimes listed in subsection (2)~~
16 ~~of this section for the appropriate offense level as defined in RCW~~
17 ~~9.94A.515 or 9.94A.518, offender score as defined in RCW 9.94A.525, and~~
18 ~~any applicable deadly weapon enhancements as defined in RCW 9.94A.533~~
19 ~~(3) or (4), or both. These comparative records shall be retained and~~
20 ~~made available to the public for review in a current, newly created or~~
21 ~~reworked official published document by the sentencing guidelines~~
22 ~~commission.~~

23 ~~(4) Any and all felony sentences which are either above or below~~
24 ~~the standard or presumptive sentence range in subsection (3) of this~~
25 ~~section shall also mark whether the prosecuting attorney in the case~~
26 ~~also recommended a similar sentence, if any, which was either above or~~
27 ~~below the presumptive sentence range and shall also indicate if the~~
28 ~~sentence was in conjunction with an approved alternative sentencing~~
29 ~~option including a first time offender waiver, sex offender sentencing~~
30 ~~alternative, or other prescribed sentencing option.~~

31 ~~(5)))_~~

32 (3) If any completed judgment and sentence document as defined in
33 subsection (1) of this section is not sent to the ((sentencing
34 guidelines commission)) caseload forecast council as required in
35 subsection (2) of this section, the ((sentencing guidelines
36 commission)) caseload forecast council shall have the authority and
37 shall undertake reasonable and necessary steps to assure that all past,

1 current, and future sentencing documents as defined in subsection (1)
2 of this section are received by the (~~sentencing guidelines~~
3 ~~commission~~) caseload forecast council.

4 NEW SECTION. Sec. 28. A new section is added to chapter 43.88C
5 RCW to read as follows:

6 (1) The caseload forecast council shall develop and maintain a
7 computerized adult and juvenile sentencing information system
8 consisting of offender, offense, history, and sentence information
9 entered from the judgment and sentence forms for all adult felons.

10 (2) As part of its duties in maintaining the sentencing information
11 system, the caseload forecast council shall:

12 (a) On an annual basis, publish a statistical summary of adult
13 felony sentencing and juvenile dispositions;

14 (b) Publish and maintain an adult felony sentencing manual; and

15 (c) Publish and maintain a juvenile sentencing manual.

16 (3) The sentencing manuals are intended only as a guide to assist
17 practitioners in determining appropriate sentencing ranges. The
18 manuals are not a substitute for the actual statutes, which list the
19 sentencing ranges, or for any other information contained within this
20 chapter. The caseload forecast council is not liable for errors or
21 omissions in the manual, for sentences that may be inappropriately
22 calculated as a result of a practitioner's or court's reliance on the
23 manual, or for any other written or verbal information provided by the
24 caseload forecast council or its staff related to adult or juvenile
25 sentencing.

26 (4) In publishing materials required by this section, the caseload
27 forecast council shall make the materials available on its web site.
28 The caseload forecast council may charge a reasonable cost for
29 producing and distributing hard copies of any materials.

30 NEW SECTION. Sec. 29. A new section is added to chapter 43.88C
31 RCW to read as follows:

32 The caseload forecast council shall appoint a research staff of
33 sufficient size and with sufficient resources to accomplish its duties.
34 The caseload forecast council may request from the administrative
35 office of the courts and the department of social and health services

1 such data, information, and data processing assistance as it may need
2 to accomplish its duties, and such services shall be provided without
3 cost to the caseload forecast council.

4 **Sec. 30.** RCW 13.50.010 and 2010 c 150 s 3 are each amended to read
5 as follows:

6 (1) For purposes of this chapter:

7 (a) "Juvenile justice or care agency" means any of the following:
8 Police, diversion units, court, prosecuting attorney, defense attorney,
9 detention center, attorney general, the legislative children's
10 oversight committee, the office of the family and children's ombudsman,
11 the department of social and health services and its contracting
12 agencies, schools; persons or public or private agencies having
13 children committed to their custody; and any placement oversight
14 committee created under RCW 72.05.415;

15 (b) "Official juvenile court file" means the legal file of the
16 juvenile court containing the petition or information, motions,
17 memorandums, briefs, findings of the court, and court orders;

18 (c) "Records" means the official juvenile court file, the social
19 file, and records of any other juvenile justice or care agency in the
20 case;

21 (d) "Social file" means the juvenile court file containing the
22 records and reports of the probation counselor.

23 (2) Each petition or information filed with the court may include
24 only one juvenile and each petition or information shall be filed under
25 a separate docket number. The social file shall be filed separately
26 from the official juvenile court file.

27 (3) It is the duty of any juvenile justice or care agency to
28 maintain accurate records. To this end:

29 (a) The agency may never knowingly record inaccurate information.
30 Any information in records maintained by the department of social and
31 health services relating to a petition filed pursuant to chapter 13.34
32 RCW that is found by the court to be false or inaccurate shall be
33 corrected or expunged from such records by the agency;

34 (b) An agency shall take reasonable steps to assure the security of
35 its records and prevent tampering with them; and

36 (c) An agency shall make reasonable efforts to insure the

1 completeness of its records, including action taken by other agencies
2 with respect to matters in its files.

3 (4) Each juvenile justice or care agency shall implement procedures
4 consistent with the provisions of this chapter to facilitate inquiries
5 concerning records.

6 (5) Any person who has reasonable cause to believe information
7 concerning that person is included in the records of a juvenile justice
8 or care agency and who has been denied access to those records by the
9 agency may make a motion to the court for an order authorizing that
10 person to inspect the juvenile justice or care agency record concerning
11 that person. The court shall grant the motion to examine records
12 unless it finds that in the interests of justice or in the best
13 interests of the juvenile the records or parts of them should remain
14 confidential.

15 (6) A juvenile, or his or her parents, or any person who has
16 reasonable cause to believe information concerning that person is
17 included in the records of a juvenile justice or care agency may make
18 a motion to the court challenging the accuracy of any information
19 concerning the moving party in the record or challenging the continued
20 possession of the record by the agency. If the court grants the
21 motion, it shall order the record or information to be corrected or
22 destroyed.

23 (7) The person making a motion under subsection (5) or (6) of this
24 section shall give reasonable notice of the motion to all parties to
25 the original action and to any agency whose records will be affected by
26 the motion.

27 (8) The court may permit inspection of records by, or release of
28 information to, any clinic, hospital, or agency which has the subject
29 person under care or treatment. The court may also permit inspection
30 by or release to individuals or agencies, including juvenile justice
31 advisory committees of county law and justice councils, engaged in
32 legitimate research for educational, scientific, or public purposes.
33 The court shall release to the (~~sentencing guidelines commission~~)
34 caseload forecast council records needed for its research and data-
35 gathering functions (~~under RCW 9.94A.850 and other statutes~~). Access
36 to records or information for research purposes shall be permitted only
37 if the anonymity of all persons mentioned in the records or information
38 will be preserved. Each person granted permission to inspect juvenile

1 justice or care agency records for research purposes shall present a
2 notarized statement to the court stating that the names of juveniles
3 and parents will remain confidential.

4 (9) Juvenile detention facilities shall release records to the
5 (~~sentencing guidelines commission under RCW 9.94A.850~~) caseload
6 forecast council upon request. The commission shall not disclose the
7 names of any juveniles or parents mentioned in the records without the
8 named individual's written permission.

9 (10) Requirements in this chapter relating to the court's authority
10 to compel disclosure shall not apply to the legislative children's
11 oversight committee or the office of the family and children's
12 ombudsman.

13 (11) For the purpose of research only, the administrative office of
14 the courts shall maintain an electronic research copy of all records in
15 the judicial information system related to juveniles. Access to the
16 research copy is restricted to the Washington state center for court
17 research. The Washington state center for court research shall
18 maintain the confidentiality of all confidential records and shall
19 preserve the anonymity of all persons identified in the research copy.
20 The research copy may not be subject to any records retention schedule
21 and must include records destroyed or removed from the judicial
22 information system pursuant to RCW 13.50.050 (17) and (18) and
23 13.50.100(3).

24 (12) The court shall release to the Washington state office of
25 public defense records needed to implement the agency's oversight,
26 technical assistance, and other functions as required by RCW 2.70.020.
27 Access to the records used as a basis for oversight, technical
28 assistance, or other agency functions is restricted to the Washington
29 state office of public defense. The Washington state office of public
30 defense shall maintain the confidentiality of all confidential
31 information included in the records.

32 **Sec. 31.** RCW 9.94A.74501 and 2001 c 35 s 3 are each amended to
33 read as follows:

34 (1) The (~~sentencing guidelines commission~~) department of
35 corrections shall serve as the state council for interstate adult
36 offender supervision as required under article IV of RCW 9.94A.745, the
37 interstate compact for adult offender supervision. (~~To assist the~~

1 ~~commission in performing its functions as the state council, the~~
2 ~~department of corrections shall provide staffing and support~~
3 ~~services.)~~ The ~~((commission))~~ department of corrections may form a
4 subcommittee, including members representing the legislative, judicial,
5 and executive branches of state government, and victims' groups ~~((, and~~
6 ~~the secretary of corrections,))~~ to perform the functions of the state
7 council. Any such subcommittee shall include representation of both
8 houses and at least two of the four largest political caucuses in the
9 legislature.

10 (2) The ~~((commission,))~~ department or a subcommittee if formed for
11 that purpose, shall:

12 (a) Review department operations and procedures under RCW
13 9.94A.745, and recommend policies to the compact administrator,
14 including policies to be pursued in the administrator's capacity as the
15 state's representative on the interstate commission created under
16 article III of RCW 9.94A.745; and

17 (b) Report annually to the legislature on interstate supervision
18 operations and procedures under RCW 9.94A.745, including
19 recommendations for policy changes ~~((; and~~

20 ~~((c) Not later than December 1, 2004, report to the legislature on~~
21 ~~the effectiveness of its functioning as the state council under article~~
22 ~~IV of RCW 9.94A.745, and recommend any legislation it deems~~
23 ~~appropriate)).~~

24 (3) The ~~((commission, or a subcommittee if formed for that~~
25 ~~purpose,))~~ secretary shall appoint ~~((one of its members, or))~~ an
26 employee of the department ~~((designated by the secretary)), or a~~
27 subcommittee if formed for that purpose shall appoint one of its
28 members, to represent the state at meetings of the interstate
29 commission created under article III of RCW 9.94A.745 when the compact
30 administrator cannot attend.

31 **Sec. 32.** RCW 10.98.140 and 1987 c 462 s 4 are each amended to read
32 as follows:

33 (1) The section, the department, and the office of financial
34 management shall be the primary sources of information for criminal
35 justice forecasting. The information maintained by these agencies
36 shall be complete, accurate, and sufficiently timely to support state
37 criminal justice forecasting.

1 (2) ~~The ((office of financial management shall be the official~~
2 ~~state agency for the sentenced felon jail forecast. This forecast~~
3 ~~shall provide at least a six year projection and shall be published by~~
4 ~~December 1 of every even numbered year beginning with 1986. The office~~
5 ~~of financial management shall seek advice regarding the assumptions in~~
6 ~~the forecast from criminal justice agencies and associations.~~

7 ~~(3) The sentencing guidelines commission)~~ caseload forecast
8 council shall keep records on all sentencings above or below the
9 standard range defined by chapter 9.94A RCW. As a minimum, the records
10 shall include the name of the offender, the crimes for which the
11 offender was sentenced, the name and county of the sentencing judge,
12 and the deviation from the standard range. Such records shall be made
13 available to public officials upon request.

14 **Sec. 33.** RCW 10.98.160 and 2005 c 282 s 25 are each amended to
15 read as follows:

16 In the development and modification of the procedures, definitions,
17 and reporting capabilities of the section, the department, the office
18 of financial management, and the responsible agencies and persons shall
19 consider the needs of other criminal justice agencies such as the
20 administrative office of the courts, local law enforcement agencies,
21 local jails, ~~((the sentencing guidelines commission,))~~ the
22 indeterminate sentence review board, the clemency board, prosecuting
23 attorneys, and affected state agencies such as the office of financial
24 management and legislative committees dealing with criminal justice
25 issues. The Washington integrated justice information board shall
26 review and provide recommendations to state justice agencies and the
27 courts for development and modification of the statewide justice
28 information network.

29 **Sec. 34.** RCW 70.96A.350 and 2009 c 479 s 50 and 2009 c 445 s 1 are
30 each reenacted and amended to read as follows:

31 (1) The criminal justice treatment account is created in the state
32 treasury. Moneys in the account may be expended solely for: (a)
33 Substance abuse treatment and treatment support services for offenders
34 with an addiction or a substance abuse problem that, if not treated,
35 would result in addiction, against whom charges are filed by a
36 prosecuting attorney in Washington state; (b) the provision of drug and

1 alcohol treatment services and treatment support services for
2 nonviolent offenders within a drug court program; (c) the
3 administrative and overhead costs associated with the operation of a
4 drug court; and (d) during the 2007-2009 biennium, operation of the
5 integrated crisis response and intensive case management pilots
6 contracted with the department of social and health services division
7 of alcohol and substance abuse. Moneys in the account may be spent
8 only after appropriation.

9 (2) For purposes of this section:

10 (a) "Treatment" means services that are critical to a participant's
11 successful completion of his or her substance abuse treatment program,
12 but does not include the following services: Housing other than that
13 provided as part of an inpatient substance abuse treatment program,
14 vocational training, and mental health counseling; and

15 (b) "Treatment support" means transportation to or from inpatient
16 or outpatient treatment services when no viable alternative exists, and
17 child care services that are necessary to ensure a participant's
18 ability to attend outpatient treatment sessions.

19 (3) Revenues to the criminal justice treatment account consist of:

20 (a) Funds transferred to the account pursuant to this section; and (b)
21 any other revenues appropriated to or deposited in the account.

22 (4)(a) For the fiscal biennium beginning July 1, 2003, the state
23 treasurer shall transfer eight million nine hundred fifty thousand
24 dollars from the general fund into the criminal justice treatment
25 account, divided into eight equal quarterly payments. For the fiscal
26 year beginning July 1, 2005, and each subsequent fiscal year, the state
27 treasurer shall transfer eight million two hundred fifty thousand
28 dollars from the general fund to the criminal justice treatment
29 account, divided into four equal quarterly payments. For the fiscal
30 year beginning July 1, 2006, and each subsequent fiscal year, the
31 amount transferred shall be increased on an annual basis by the
32 implicit price deflator as published by the federal bureau of labor
33 statistics.

34 (b) In each odd-numbered year, the legislature shall appropriate
35 the amount transferred to the criminal justice treatment account in (a)
36 of this subsection to the division of alcohol and substance abuse for
37 the purposes of subsection (5) of this section.

1 (5) Moneys appropriated to the division of alcohol and substance
2 abuse from the criminal justice treatment account shall be distributed
3 as specified in this subsection. The department shall serve as the
4 fiscal agent for purposes of distribution. Until July 1, 2004, the
5 department may not use moneys appropriated from the criminal justice
6 treatment account for administrative expenses and shall distribute all
7 amounts appropriated under subsection (4)(b) of this section in
8 accordance with this subsection. Beginning in July 1, 2004, the
9 department may retain up to three percent of the amount appropriated
10 under subsection (4)(b) of this section for its administrative costs.

11 (a) Seventy percent of amounts appropriated to the division from
12 the account shall be distributed to counties pursuant to the
13 distribution formula adopted under this section. The division of
14 alcohol and substance abuse, in consultation with the department of
15 corrections, (~~the sentencing guidelines commission,~~) the Washington
16 state association of counties, the Washington state association of drug
17 court professionals, the superior court judges' association, the
18 Washington association of prosecuting attorneys, representatives of the
19 criminal defense bar, representatives of substance abuse treatment
20 providers, and any other person deemed by the division to be necessary,
21 shall establish a fair and reasonable methodology for distribution to
22 counties of moneys in the criminal justice treatment account. County
23 or regional plans submitted for the expenditure of formula funds must
24 be approved by the panel established in (b) of this subsection.

25 (b) Thirty percent of the amounts appropriated to the division from
26 the account shall be distributed as grants for purposes of treating
27 offenders against whom charges are filed by a county prosecuting
28 attorney. The division shall appoint a panel of representatives from
29 the Washington association of prosecuting attorneys, the Washington
30 association of sheriffs and police chiefs, the superior court judges'
31 association, the Washington state association of counties, the
32 Washington defender's association or the Washington association of
33 criminal defense lawyers, the department of corrections, the Washington
34 state association of drug court professionals, substance abuse
35 treatment providers, and the division. The panel shall review county
36 or regional plans for funding under (a) of this subsection and grants
37 approved under this subsection. The panel shall attempt to ensure that
38 treatment as funded by the grants is available to offenders statewide.

1 (6) The county alcohol and drug coordinator, county prosecutor,
2 county sheriff, county superior court, a substance abuse treatment
3 provider appointed by the county legislative authority, a member of the
4 criminal defense bar appointed by the county legislative authority,
5 and, in counties with a drug court, a representative of the drug court
6 shall jointly submit a plan, approved by the county legislative
7 authority or authorities, to the panel established in subsection (5)(b)
8 of this section, for disposition of all the funds provided from the
9 criminal justice treatment account within that county. The funds shall
10 be used solely to provide approved alcohol and substance abuse
11 treatment pursuant to RCW 70.96A.090, treatment support services, and
12 for the administrative and overhead costs associated with the operation
13 of a drug court.

14 (a) No more than ten percent of the total moneys received under
15 subsections (4) and (5) of this section by a county or group of
16 counties participating in a regional agreement shall be spent on the
17 administrative and overhead costs associated with the operation of a
18 drug court.

19 (b) No more than ten percent of the total moneys received under
20 subsections (4) and (5) of this section by a county or group of
21 counties participating in a regional agreement shall be spent for
22 treatment support services.

23 (7) Counties are encouraged to consider regional agreements and
24 submit regional plans for the efficient delivery of treatment under
25 this section.

26 (8) Moneys allocated under this section shall be used to
27 supplement, not supplant, other federal, state, and local funds used
28 for substance abuse treatment.

29 (9) Counties must meet the criteria established in RCW
30 2.28.170(3)(b).

31 (10) The authority under this section to use funds from the
32 criminal justice treatment account for the administrative and overhead
33 costs associated with the operation of a drug court expires June 30,
34 2013.

35 **Sec. 35.** RCW 72.66.016 and 1983 c 255 s 8 are each amended to read
36 as follows:

1 (1) A furlough shall not be granted to a resident if the furlough
2 would commence prior to the time the resident has served the minimum
3 amounts of time provided under this section:

4 (a) If his or her minimum term of imprisonment is longer than
5 twelve months, he or she shall have served at least six months of the
6 term;

7 (b) If his or her minimum term of imprisonment is less than twelve
8 months, he or she shall have served at least ninety days and shall have
9 no longer than six months left to serve on his or her minimum term;

10 (c) If he or she is serving a mandatory minimum term of
11 confinement, he or she shall have served all but the last six months of
12 such term.

13 (2) A person convicted and sentenced for a violent offense as
14 defined in RCW 9.94A.030 is not eligible for furlough until the person
15 has served at least one-half of the minimum term (~~(as established by~~
16 ~~the board of prison terms and paroles or the sentencing guidelines~~
17 ~~commission)).~~

18 **Sec. 36.** RCW 9.94A.860 and 2001 2nd sp.s. c 12 s 311 are each
19 amended to read as follows:

20 (1) The sentencing guidelines commission is hereby created, located
21 within the office of financial management. Except as provided in RCW
22 9.94A.875, the commission shall serve to advise the governor and the
23 legislature as necessary on issues relating to adult and juvenile
24 sentencing. The commission may meet, as necessary, to accomplish these
25 purposes within funds appropriated.

26 (2) The commission consists of twenty voting members, one of whom
27 the governor shall designate as chairperson. With the exception of ex
28 officio voting members, the voting members of the commission shall be
29 appointed by the governor, or his or her designee, subject to
30 confirmation by the senate.

31 ~~((+2))~~ (3) The voting membership consists of the following:

32 (a) The head of the state agency having general responsibility for
33 adult correction programs, as an ex officio member;

34 (b) The director of financial management or designee, as an ex
35 officio member;

36 (c) The chair of the indeterminate sentence review board, as an ex
37 officio member;

1 (d) The head of the state agency, or the agency head's designee,
2 having responsibility for juvenile corrections programs, as an ex
3 officio member;

4 (e) Two prosecuting attorneys;

5 (f) Two attorneys with particular expertise in defense work;

6 (g) Four persons who are superior court judges;

7 (h) One person who is the chief law enforcement officer of a county
8 or city;

9 (i) Four members of the public who are not prosecutors, defense
10 attorneys, judges, or law enforcement officers, one of whom is a victim
11 of crime or a crime victims' advocate;

12 (j) One person who is an elected official of a county government,
13 other than a prosecuting attorney or sheriff;

14 (k) One person who is an elected official of a city government;

15 (l) One person who is an administrator of juvenile court services.

16 In making the appointments, the governor shall endeavor to assure
17 that the commission membership includes adequate representation and
18 expertise relating to both the adult criminal justice system and the
19 juvenile justice system. In making the appointments, the governor
20 shall seek the recommendations of Washington prosecutors in respect to
21 the prosecuting attorney members, of the Washington state bar
22 association in respect to the defense attorney members, of the
23 association of superior court judges in respect to the members who are
24 judges, of the Washington association of sheriffs and police chiefs in
25 respect to the member who is a law enforcement officer, of the
26 Washington state association of counties in respect to the member who
27 is a county official, of the association of Washington cities in
28 respect to the member who is a city official, of the office of crime
29 victims advocacy and other organizations of crime victims in respect to
30 the member who is a victim of crime or a crime victims' advocate, and
31 of the Washington association of juvenile court administrators in
32 respect to the member who is an administrator of juvenile court
33 services.

34 (~~(3)~~) (4)(a) All voting members of the commission, except ex
35 officio voting members, shall serve terms of three years and until
36 their successors are appointed and confirmed.

37 (b) The governor shall stagger the terms of the members appointed

1 under subsection ~~((+2))~~ (3)(j), (k), and (l) of this section by
2 appointing one of them for a term of one year, one for a term of two
3 years, and one for a term of three years.

4 ~~((+4))~~ (5) The speaker of the house of representatives and the
5 president of the senate may each appoint two nonvoting members to the
6 commission, one from each of the two largest caucuses in each house.
7 The members so appointed shall serve two-year terms, or until they
8 cease to be members of the house from which they were appointed,
9 whichever occurs first.

10 ~~((+5))~~ (6) The members of the commission ~~((shall))~~ may be
11 reimbursed for travel expenses as provided in RCW 43.03.050 and
12 43.03.060. Legislative members ~~((shall))~~ may be reimbursed by their
13 respective houses as provided under RCW 44.04.120. Except for the
14 reimbursement of travel expenses, members shall not be compensated ~~((in~~
15 ~~accordance with RCW 43.03.250))~~.

16 **Sec. 37.** RCW 9.94A.8673 and 2008 c 249 s 3 are each amended to
17 read as follows:

18 (1) Within funds appropriated for this purpose, the sentencing
19 guidelines commission shall establish and maintain a sex offender
20 policy board.

21 (2)(a) The board shall serve to advise the governor and the
22 legislature as necessary on issues relating to sex offender management.

23 (b) At such times as the governor or a legislative committee of
24 jurisdiction may request, the sex offender policy board may be convened
25 to:

26 (i) Undertake projects to assist policymakers in making informed
27 judgments about issues relating to sex offender policy; and

28 (ii) Conduct case reviews of sex offense incidents to understand
29 performance of Washington's sex offender prevention and response
30 systems.

31 (3) The sex offender policy board shall consist of thirteen voting
32 members. Unless the member is specifically named in this section, the
33 following organizations shall designate a person to sit on the board.
34 The voting membership shall consist of the following:

35 (a) A representative of the Washington association of sheriffs and
36 police chiefs;

1 (b) A representative of the Washington association of prosecuting
2 attorneys;

3 (c) A representative of the Washington association of criminal
4 defense lawyers;

5 (d) The chair of the indeterminate sentence review board or his or
6 her designee;

7 (e) A representative of the Washington association for the
8 treatment of sex abusers;

9 (f) The secretary of the department of corrections or his or her
10 designee;

11 (g) A representative of the Washington state superior court judge's
12 association;

13 (h) The assistant secretary of the juvenile rehabilitation
14 administration or his or her designee;

15 (i) The office of crime victims advocacy in the department of
16 ~~((community, trade, and economic development))~~ commerce;

17 (j) A representative of the Washington state association of
18 counties;

19 (k) A representative of the association of Washington cities;

20 (l) A representative of the Washington association of sexual
21 assault programs; and

22 (m) The director of the special commitment center or his or her
23 designee.

24 ~~((2) The person so named in subsection (1) of this section has the
25 authority to make decisions on behalf of the organization he or she
26 represents.~~

27 ~~(3) The nonvoting membership shall consist of the following:~~

28 ~~(a) Two members of the sentencing guidelines commission chosen by
29 the chair of the commission; and~~

30 ~~(b) A representative of the criminal justice division in the
31 attorney general's office.)~~

32 (4) The board shall choose its chair by majority vote from among
33 its voting membership. The chair's term shall be two years.

34 ~~(5) ((The chair of the sentencing guidelines commission shall
35 convene the first meeting.~~

36 ~~(6))~~ As appropriate, the board shall consult with the criminal
37 justice division in the attorney general's office and the Washington
38 institute for public policy ~~((shall act as an advisor to the board))~~.

1 (6) Members of the board shall receive no compensation but may be
2 reimbursed for travel expenses as provided in RCW 43.03.050 and
3 43.03.060.

4 **Sec. 38.** RCW 9A.52.025 and 1989 2nd ex.s. c 1 s 1 are each amended
5 to read as follows:

6 (1) A person is guilty of residential burglary if, with intent to
7 commit a crime against a person or property therein, the person enters
8 or remains unlawfully in a dwelling other than a vehicle.

9 (2) Residential burglary is a class B felony. In establishing
10 sentencing guidelines and disposition standards, (~~the sentencing~~
11 ~~guidelines commission and the juvenile disposition standards commission~~
12 ~~shall consider~~) residential burglary (~~as~~) is to be considered a more
13 serious offense than second degree burglary.

14 NEW SECTION. **Sec. 39.** The following acts or parts of acts are
15 each repealed:

16 (1) RCW 13.40.005 (Juvenile disposition standards commission--
17 Abolished--References to commission--Transfer of powers, duties, and
18 functions) and 1995 c 269 s 301;

19 (2) RCW 9.94A.850 (Sentencing guidelines commission--Established--
20 Powers and duties) and 2009 c 375 s 8, 2009 c 28 s 17, & 2005 c 282 s
21 19;

22 (3) RCW 9.94A.855 (Sentencing guidelines commission--Research
23 staff--Data, information, assistance--Bylaws--Salary of executive
24 officer) and 2005 c 282 s 20, 1999 c 143 s 10, 1982 c 192 s 3, & 1981
25 c 137 s 5;

26 (4) RCW 9.94A.863 (Monetary threshold amounts of property crimes--
27 Review--Report) and 2009 c 431 s 2;

28 (5) RCW 9.94A.8671 (Sex offender policy board--Findings--Intent)
29 and 2008 c 249 s 1;

30 (6) RCW 9.94A.8672 (Sex offender policy board--Establishment) and
31 2008 c 249 s 2;

32 (7) RCW 9.94A.8674 (Sex offender policy board--Terms--Vacancies)
33 and 2008 c 249 s 4;

34 (8) RCW 9.94A.8675 (Sex offender policy board--Authority) and 2008
35 c 249 s 5;

- 1 (9) RCW 9.94A.8676 (Sex offender policy board--Duties) and 2008 c
2 249 s 6;
- 3 (10) RCW 9.94A.8677 (Sex offender policy board--Travel expenses)
4 and 2008 c 249 s 7;
- 5 (11) RCW 9.94A.8678 (Sex offender policy board--Meeting
6 attendance--Member replacement) and 2008 c 249 s 8;
- 7 (12) RCW 43.131.411 (Sex offender policy board--Termination) and
8 2008 c 249 s 9; and
- 9 (13) RCW 43.131.412 (Sex offender policy board--Repeal) and 2008 c
10 249 s 10.

11 **Sec. 40.** RCW 9.95.011 and 2009 c 28 s 21 are each amended to read
12 as follows:

13 (1) When the court commits a convicted person to the department of
14 corrections on or after July 1, 1986, for an offense committed before
15 July 1, 1984, the court shall, at the time of sentencing or revocation
16 of probation, fix the minimum term. The term so fixed shall not exceed
17 the maximum sentence provided by law for the offense of which the
18 person is convicted.

19 The court shall attempt to set the minimum term reasonably
20 consistent with the purposes, standards, and sentencing ranges
21 (~~adopted under RCW 9.94A.850~~) under chapter 9.94A RCW of the
22 sentencing reform act, but the court is subject to the same limitations
23 as those placed on the board under RCW 9.92.090, 9.95.040 (1) through
24 (4), 9.95.115, 9A.32.040, 9A.44.045, and chapter 69.50 RCW. The
25 court's minimum term decision is subject to review to the same extent
26 as a minimum term decision by the parole board before July 1, 1986.

27 Thereafter, the expiration of the minimum term set by the court
28 minus any time credits earned under RCW 9.95.070 and 9.95.110
29 constitutes the parole eligibility review date, at which time the board
30 may consider the convicted person for parole under RCW 9.95.100 and
31 9.95.110 and chapter 72.04A RCW. Nothing in this section affects the
32 board's authority to reduce or increase the minimum term, once set by
33 the court, under RCW 9.95.040, 9.95.052, 9.95.055, 9.95.070, 9.95.080,
34 9.95.100, 9.95.115, 9.95.125, or 9.95.047.

35 (2)(a) Except as provided in (b) of this subsection, not less than
36 ninety days prior to the expiration of the minimum term of a person
37 sentenced under RCW 9.94A.507, for a sex offense committed on or after

1 September 1, 2001, less any time credits permitted by statute, the
2 board shall review the person for conditional release to community
3 custody as provided in RCW 9.95.420. If the board does not release the
4 person, it shall set a new minimum term not to exceed an additional
5 five years. The board shall review the person again not less than
6 ninety days prior to the expiration of the new minimum term.

7 (b) If at the time a person sentenced under RCW 9.94A.507 for a sex
8 offense committed on or after September 1, 2001, arrives at a
9 department of corrections facility, the offender's minimum term has
10 expired or will expire within one hundred twenty days of the offender's
11 arrival, then no later than one hundred twenty days after the
12 offender's arrival at a department of corrections facility, but after
13 the board receives the results from the end of sentence review process
14 and the recommendations for additional or modified conditions of
15 community custody from the department, the board shall review the
16 person for conditional release to community custody as provided in RCW
17 9.95.420. If the board does not release the person, it shall set a new
18 minimum term not to exceed an additional five years. The board shall
19 review the person again not less than ninety days prior to the
20 expiration of the new minimum term.

21 (c) In setting a new minimum term, the board may consider the
22 length of time necessary for the offender to complete treatment and
23 programming as well as other factors that relate to the offender's
24 release under RCW 9.95.420. The board's rules shall permit an offender
25 to petition for an earlier review if circumstances change or the board
26 receives new information that would warrant an earlier review.

27 **Sec. 41.** RCW 9.95.009 and 1990 c 3 s 707 are each amended to read
28 as follows:

29 (1) On July 1, 1986, the board of prison terms and paroles shall be
30 redesignated as the indeterminate sentence review board. The board's
31 membership shall be reduced as follows: On July 1, 1986, and on July
32 1st of each year until 1998, the number of board members shall be
33 reduced in a manner commensurate with the board's remaining workload as
34 determined by the office of financial management based upon its
35 population forecast for the indeterminate sentencing system and in
36 conjunction with the budget process. To meet the statutory obligations
37 of the indeterminate sentence review board, the number of board members

1 shall not be reduced to fewer than three members, although the office
2 of financial management may designate some or all members as part-time
3 members and specify the extent to which they shall be less than full-
4 time members. Any reduction shall take place by the expiration, on
5 that date, of the term or terms having the least time left to serve.

6 (2) After July 1, 1984, the board shall continue its functions with
7 respect to persons convicted of crimes committed prior to July 1, 1984,
8 and committed to the department of corrections. When making decisions
9 on duration of confinement, including those relating to persons
10 committed under a mandatory life sentence, and parole release under RCW
11 9.95.100 and 9.95.110, the board shall consider the purposes,
12 standards, and sentencing ranges (~~adopted pursuant to RCW 9.94A.850~~)
13 under chapter 9.94A RCW of the sentencing reform act and the minimum
14 term recommendations of the sentencing judge and prosecuting attorney,
15 and shall attempt to make decisions reasonably consistent with those
16 ranges, standards, purposes, and recommendations: PROVIDED, That the
17 board and its successors shall give adequate written reasons whenever
18 a minimum term or parole release decision is made which is outside the
19 sentencing ranges (~~adopted pursuant to RCW 9.94A.850~~) under chapter
20 9.94A RCW of the sentencing reform act. In making such decisions, the
21 board and its successors shall consider the different charging and
22 disposition practices under the indeterminate sentencing system.

23 (3) Notwithstanding the provisions of subsection (2) of this
24 section, the indeterminate sentence review board shall give public
25 safety considerations the highest priority when making all
26 discretionary decisions on the remaining indeterminate population
27 regarding the ability for parole, parole release, and conditions of
28 parole.

29 PART V

30 Miscellaneous

31 NEW SECTION. Sec. 42. (1) Except as otherwise provided in this
32 section, the provisions of this act apply to persons convicted before,
33 on, or after the effective date of this section.

34 (2) By January 1, 2012, consistent with RCW 9.94A.171, 9.94A.501,
35 and section 3 of this act, the department of corrections shall
36 recalculate the term of community custody for offenders currently in

1 confinement or serving a term of community custody. The department of
2 corrections shall reset the date that community custody will end for
3 those offenders. The recalculation shall not extend a term of
4 community custody beyond that to which an offender is currently
5 subject.

6 (3) By January 1, 2012, consistent with the provisions of RCW
7 9.94A.650, the department of corrections shall recalculate the term of
8 community custody for each offender sentenced to a first-time offender
9 waiver under RCW 9.94A.650 and currently in confinement or serving a
10 term of community custody. The department of corrections shall reset
11 the date that community custody will end for those offenders. The
12 recalculation shall not extend a term of community custody beyond that
13 to which an offender is currently subject.

14 NEW SECTION. **Sec. 43.** 2011 c 96 s 11 is repealed.

15 NEW SECTION. **Sec. 44.** Sections 1 through 9 and 42 of this act are
16 necessary for the immediate preservation of the public peace, health,
17 or safety, or support of the state government and its existing public
18 institutions, and take effect immediately.

19 NEW SECTION. **Sec. 45.** Section 43 of this act is necessary for the
20 immediate preservation of the public peace, health, or safety, or
21 support of the state government and its existing public institutions,
22 and takes effect July 1, 2011.

Passed by the Senate May 25, 2011.

Passed by the House May 24, 2011.

Approved by the Governor June 15, 2011.

Filed in Office of Secretary of State June 15, 2011.