

EHB 1943 - S AMD 427
By Senator Padden

ADOPTED 4/15/2015

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

3 "Sec. 1. RCW 9.94A.030 and 2012 c 143 s 1 are each amended to
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

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

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

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

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

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

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

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

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

2 (9) "Conviction" means an adjudication of guilt pursuant to Title
3 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
4 and acceptance of a plea of guilty.

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

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

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

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

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

29 (12) "Criminal street gang" means any ongoing organization,
30 association, or group of three or more persons, whether formal or
31 informal, having a common name or common identifying sign or symbol,
32 having as one of its primary activities the commission of criminal
33 acts, and whose members or associates individually or collectively
34 engage in or have engaged in a pattern of criminal street gang
35 activity. This definition does not apply to employees engaged in
36 concerted activities for their mutual aid and protection, or to the
37 activities of labor and bona fide nonprofit organizations or their
38 members or agents.

39 (13) "Criminal street gang associate or member" means any person
40 who actively participates in any criminal street gang and who

1 intentionally promotes, furthers, or assists in any criminal act by
2 the criminal street gang.

3 (14) "Criminal street gang-related offense" means any felony or
4 misdemeanor offense, whether in this state or elsewhere, that is
5 committed for the benefit of, at the direction of, or in association
6 with any criminal street gang, or is committed with the intent to
7 promote, further, or assist in any criminal conduct by the gang, or
8 is committed for one or more of the following reasons:

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

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

12 (c) To exact revenge or retribution for the gang or any member of
13 the gang;

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

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

19 (f) To provide the gang with any advantage in, or any control or
20 dominance over any criminal market sector, including, but not limited
21 to, manufacturing, delivering, or selling any controlled substance
22 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
23 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
24 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
25 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
26 9.68 RCW).

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

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

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

37 (18) "Determinate sentence" means a sentence that states with
38 exactitude the number of actual years, months, or days of total
39 confinement, of partial confinement, of community custody, the number
40 of actual hours or days of community restitution work, or dollars or

1 terms of a legal financial obligation. The fact that an offender
2 through earned release can reduce the actual period of confinement
3 shall not affect the classification of the sentence as a determinate
4 sentence.

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

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

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

23 (22) "Drug offense" means:

24 (a) Any felony violation of chapter 69.50 RCW except possession
25 of a controlled substance (RCW 69.50.4013) or forged prescription for
26 a controlled substance (RCW 69.50.403);

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

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

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

35 (24) "Escape" means:

36 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
37 the first degree (RCW 9A.76.110), escape in the second degree (RCW
38 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
39 willful failure to return from work release (RCW 72.65.070), or

1 willful failure to be available for supervision by the department
2 while in community custody (RCW 72.09.310); or

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

6 (25) "Electronic monitoring" means tracking the location of an
7 individual, whether pretrial or posttrial, through the use of
8 technology that is capable of determining or identifying the
9 monitored individual's presence or absence at a particular location
10 including, but not limited to:

11 (a) Radio frequency signaling technology, which detects if the
12 monitored individual is or is not at an approved location and
13 notifies the monitoring agency of the time that the monitored
14 individual either leaves the approved location or tampers with or
15 removes the monitoring device; or

16 (b) Active or passive global positioning system technology, which
17 detects the location of the monitored individual and notifies the
18 monitoring agency of the monitored individual's location.

19 (26) "Felony traffic offense" means:

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

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

29 ~~((+26+))~~ (27) "Fine" means a specific sum of money ordered by the
30 sentencing court to be paid by the offender to the court over a
31 specific period of time.

32 ~~((+27+))~~ (28) "First-time offender" means any person who has no
33 prior convictions for a felony and is eligible for the first-time
34 offender waiver under RCW 9.94A.650.

35 ~~((+28+))~~ (29) "Home detention" is a subset of electronic
36 monitoring and means a program of partial confinement available to
37 offenders wherein the offender is confined in a private residence
38 twenty-four hours a day, unless an absence from the residence is
39 approved, authorized, or otherwise permitted in the order by the

1 court or other supervising agency that ordered home detention, and
2 the offender is subject to electronic ((surveillance)) monitoring.

3 ((+29)) (30) "Homelessness" or "homeless" means a condition
4 where an individual lacks a fixed, regular, and adequate nighttime
5 residence and who has a primary nighttime residence that is:

6 (a) A supervised, publicly or privately operated shelter designed
7 to provide temporary living accommodations;

8 (b) A public or private place not designed for, or ordinarily
9 used as, a regular sleeping accommodation for human beings; or

10 (c) A private residence where the individual stays as a transient
11 invitee.

12 ((+30)) (31) "Legal financial obligation" means a sum of money
13 that is ordered by a superior court of the state of Washington for
14 legal financial obligations which may include restitution to the
15 victim, statutorily imposed crime victims' compensation fees as
16 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
17 drug funds, court-appointed attorneys' fees, and costs of defense,
18 fines, and any other financial obligation that is assessed to the
19 offender as a result of a felony conviction. Upon conviction for
20 vehicular assault while under the influence of intoxicating liquor or
21 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
22 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
23 legal financial obligations may also include payment to a public
24 agency of the expense of an emergency response to the incident
25 resulting in the conviction, subject to RCW 38.52.430.

26 ((+31)) (32) "Minor child" means a biological or adopted child
27 of the offender who is under age eighteen at the time of the
28 offender's current offense.

29 ((+32)) (33) "Most serious offense" means any of the following
30 felonies or a felony attempt to commit any of the following felonies:

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

34 (b) Assault in the second degree;

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

36 (d) Child molestation in the second degree;

37 (e) Controlled substance homicide;

38 (f) Extortion in the first degree;

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

40 (h) Indecent liberties;

- 1 (i) Kidnapping in the second degree;
2 (j) Leading organized crime;
3 (k) Manslaughter in the first degree;
4 (l) Manslaughter in the second degree;
5 (m) Promoting prostitution in the first degree;
6 (n) Rape in the third degree;
7 (o) Robbery in the second degree;
8 (p) Sexual exploitation;
9 (q) Vehicular assault, when caused by the operation or driving of
10 a vehicle by a person while under the influence of intoxicating
11 liquor or any drug or by the operation or driving of a vehicle in a
12 reckless manner;
13 (r) Vehicular homicide, when proximately caused by the driving of
14 any vehicle by any person while under the influence of intoxicating
15 liquor or any drug as defined by RCW 46.61.502, or by the operation
16 of any vehicle in a reckless manner;
17 (s) Any other class B felony offense with a finding of sexual
18 motivation;
19 (t) Any other felony with a deadly weapon verdict under RCW
20 9.94A.825;
21 (u) Any felony offense in effect at any time prior to December 2,
22 1993, that is comparable to a most serious offense under this
23 subsection, or any federal or out-of-state conviction for an offense
24 that under the laws of this state would be a felony classified as a
25 most serious offense under this subsection;
26 (v)(i) A prior conviction for indecent liberties under RCW
27 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
28 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
29 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
30 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
31 until July 1, 1988;
32 (ii) A prior conviction for indecent liberties under RCW
33 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
34 if: (A) The crime was committed against a child under the age of
35 fourteen; or (B) the relationship between the victim and perpetrator
36 is included in the definition of indecent liberties under RCW
37 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
38 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
39 1993, through July 27, 1997;

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

7 ~~((33))~~ (34) "Nonviolent offense" means an offense which is not
8 a violent offense.

9 ~~((34))~~ (35) "Offender" means a person who has committed a
10 felony established by state law and is eighteen years of age or older
11 or is less than eighteen years of age but whose case is under
12 superior court jurisdiction under RCW 13.04.030 or has been
13 transferred by the appropriate juvenile court to a criminal court
14 pursuant to RCW 13.40.110. In addition, for the purpose of community
15 custody requirements under this chapter, "offender" also means a
16 misdemeanor or gross misdemeanor probationer ordered by a superior
17 court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210
18 and supervised by the department pursuant to RCW 9.94A.501 and
19 9.94A.5011. Throughout this chapter, the terms "offender" and
20 "defendant" are used interchangeably.

21 ~~((35))~~ (36) "Partial confinement" means confinement for no more
22 than one year in a facility or institution operated or utilized under
23 contract by the state or any other unit of government, or, if home
24 detention, electronic monitoring, or work crew has been ordered by
25 the court or home detention has been ordered by the department as
26 part of the parenting program, in an approved residence, for a
27 substantial portion of each day with the balance of the day spent in
28 the community. Partial confinement includes work release, home
29 detention, work crew, electronic monitoring, and a combination of
30 work crew, electronic monitoring, and home detention.

31 ~~((36))~~ (37) "Pattern of criminal street gang activity" means:

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

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

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

1 (iii) Deliver or Possession with Intent to Deliver a Controlled
2 Substance (chapter 69.50 RCW);
3 (iv) Any violation of the firearms and dangerous weapon act
4 (chapter 9.41 RCW);
5 (v) Theft of a Firearm (RCW 9A.56.300);
6 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);
7 (vii) Malicious Harassment (RCW 9A.36.080);
8 (viii) Harassment where a subsequent violation or deadly threat
9 is made (RCW 9A.46.020(2)(b));
10 (ix) Criminal Gang Intimidation (RCW 9A.46.120);
11 (x) Any felony conviction by a person eighteen years of age or
12 older with a special finding of involving a juvenile in a felony
13 offense under RCW 9.94A.833;
14 (xi) Residential Burglary (RCW 9A.52.025);
15 (xii) Burglary 2 (RCW 9A.52.030);
16 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
17 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
18 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
19 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
20 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
21 9A.56.070);
22 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
23 9A.56.075);
24 (xix) Extortion 1 (RCW 9A.56.120);
25 (xx) Extortion 2 (RCW 9A.56.130);
26 (xxi) Intimidating a Witness (RCW 9A.72.110);
27 (xxii) Tampering with a Witness (RCW 9A.72.120);
28 (xxiii) Reckless Endangerment (RCW 9A.36.050);
29 (xxiv) Coercion (RCW 9A.36.070);
30 (xxv) Harassment (RCW 9A.46.020); or
31 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
32 (b) That at least one of the offenses listed in (a) of this
33 subsection shall have occurred after July 1, 2008;
34 (c) That the most recent committed offense listed in (a) of this
35 subsection occurred within three years of a prior offense listed in
36 (a) of this subsection; and
37 (d) Of the offenses that were committed in (a) of this
38 subsection, the offenses occurred on separate occasions or were
39 committed by two or more persons.

40 ((-37)) (38) "Persistent offender" is an offender who:

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

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

11 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
12 of a child in the first degree, child molestation in the first
13 degree, rape in the second degree, rape of a child in the second
14 degree, or indecent liberties by forcible compulsion; (B) any of the
15 following offenses with a finding of sexual motivation: Murder in the
16 first degree, murder in the second degree, homicide by abuse,
17 kidnapping in the first degree, kidnapping in the second degree,
18 assault in the first degree, assault in the second degree, assault of
19 a child in the first degree, assault of a child in the second degree,
20 or burglary in the first degree; or (C) an attempt to commit any
21 crime listed in this subsection (~~((+37))~~) (38)(b)(i); and

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

34 (~~((+38))~~) (39) "Predatory" means: (a) The perpetrator of the crime
35 was a stranger to the victim, as defined in this section; (b) the
36 perpetrator established or promoted a relationship with the victim
37 prior to the offense and the victimization of the victim was a
38 significant reason the perpetrator established or promoted the
39 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
40 volunteer, or other person in authority in any public or private

1 school and the victim was a student of the school under his or her
2 authority or supervision. For purposes of this subsection, "school"
3 does not include home-based instruction as defined in RCW
4 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
5 authority in any recreational activity and the victim was a
6 participant in the activity under his or her authority or
7 supervision; (iii) a pastor, elder, volunteer, or other person in
8 authority in any church or religious organization, and the victim was
9 a member or participant of the organization under his or her
10 authority; or (iv) a teacher, counselor, volunteer, or other person
11 in authority providing home-based instruction and the victim was a
12 student receiving home-based instruction while under his or her
13 authority or supervision. For purposes of this subsection: (A) "Home-
14 based instruction" has the same meaning as defined in RCW
15 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
16 in authority" does not include the parent or legal guardian of the
17 victim.

18 ~~((39))~~ (40) "Private school" means a school regulated under
19 chapter 28A.195 or 28A.205 RCW.

20 ~~((40))~~ (41) "Public school" has the same meaning as in RCW
21 28A.150.010.

22 ~~((41))~~ (42) "Repetitive domestic violence offense" means any:

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

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

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

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

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

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

38 ~~((42))~~ (43) "Restitution" means a specific sum of money ordered
39 by the sentencing court to be paid by the offender to the court over

1 a specified period of time as payment of damages. The sum may include
2 both public and private costs.

3 ~~((43))~~ (44) "Risk assessment" means the application of the risk
4 instrument recommended to the department by the Washington state
5 institute for public policy as having the highest degree of
6 predictive accuracy for assessing an offender's risk of reoffense.

7 ~~((44))~~ (45) "Serious traffic offense" means:

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

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

16 ~~((45))~~ (46) "Serious violent offense" is a subcategory of
17 violent offense and means:

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

19 (ii) Homicide by abuse;

20 (iii) Murder in the second degree;

21 (iv) Manslaughter in the first degree;

22 (v) Assault in the first degree;

23 (vi) Kidnapping in the first degree;

24 (vii) Rape in the first degree;

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

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

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

31 ~~((46))~~ (47) "Sex offense" means:

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

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

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

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

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

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

7 (c) A felony with a finding of sexual motivation under RCW
8 9.94A.835 or 13.40.135; or

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

12 ~~((47))~~ (48) "Sexual motivation" means that one of the purposes
13 for which the defendant committed the crime was for the purpose of
14 his or her sexual gratification.

15 ~~((48))~~ (49) "Standard sentence range" means the sentencing
16 court's discretionary range in imposing a nonappealable sentence.

17 ~~((49))~~ (50) "Statutory maximum sentence" means the maximum
18 length of time for which an offender may be confined as punishment
19 for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the
20 statute defining the crime, or other statute defining the maximum
21 penalty for a crime.

22 ~~((50))~~ (51) "Stranger" means that the victim did not know the
23 offender twenty-four hours before the offense.

24 ~~((51))~~ (52) "Total confinement" means confinement inside the
25 physical boundaries of a facility or institution operated or utilized
26 under contract by the state or any other unit of government for
27 twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

28 ~~((52))~~ (53) "Transition training" means written and verbal
29 instructions and assistance provided by the department to the
30 offender during the two weeks prior to the offender's successful
31 completion of the work ethic camp program. The transition training
32 shall include instructions in the offender's requirements and
33 obligations during the offender's period of community custody.

34 ~~((53))~~ (54) "Victim" means any person who has sustained
35 emotional, psychological, physical, or financial injury to person or
36 property as a direct result of the crime charged.

37 ~~((54))~~ (55) "Violent offense" means:

38 (a) Any of the following felonies:

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

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

3 (iii) Manslaughter in the first degree;

4 (iv) Manslaughter in the second degree;

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

6 (vi) Kidnapping in the second degree;

7 (vii) Arson in the second degree;

8 (viii) Assault in the second degree;

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

10 (x) Extortion in the first degree;

11 (xi) Robbery in the second degree;

12 (xii) Drive-by shooting;

13 (xiii) Vehicular assault, when caused by the operation or driving
14 of a vehicle by a person while under the influence of intoxicating
15 liquor or any drug or by the operation or driving of a vehicle in a
16 reckless manner; and

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

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

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

27 ~~((+55+))~~ (56) "Work crew" means a program of partial confinement
28 consisting of civic improvement tasks for the benefit of the
29 community that complies with RCW 9.94A.725.

30 ~~((+56+))~~ (57) "Work ethic camp" means an alternative
31 incarceration program as provided in RCW 9.94A.690 designed to reduce
32 recidivism and lower the cost of corrections by requiring offenders
33 to complete a comprehensive array of real-world job and vocational
34 experiences, character-building work ethics training, life management
35 skills development, substance abuse rehabilitation, counseling,
36 literacy training, and basic adult education.

37 ~~((+57+))~~ (58) "Work release" means a program of partial
38 confinement available to offenders who are employed or engaged as a
39 student in a regular course of study at school.

1 **Sec. 2.** RCW 9.94A.734 and 2010 c 224 s 9 are each amended to
2 read as follows:

3 (1) Home detention may not be imposed for offenders convicted of
4 the following offenses, unless imposed as partial confinement in the
5 department's parenting program under RCW 9.94A.6551:

6 (a) A violent offense;

7 (b) Any sex offense;

8 (c) Any drug offense;

9 (d) Reckless burning in the first or second degree as defined in
10 RCW 9A.48.040 or 9A.48.050;

11 (e) Assault in the third degree as defined in RCW 9A.36.031;

12 (f) Assault of a child in the third degree;

13 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or

14 (h) Harassment as defined in RCW 9A.46.020.

15 Home detention may be imposed for offenders convicted of possession
16 of a controlled substance under RCW 69.50.4013 or forged prescription
17 for a controlled substance under RCW 69.50.403 if the offender
18 fulfills the participation conditions set forth in this section and
19 is monitored for drug use by a treatment alternatives to street crime
20 program or a comparable court or agency-referred program.

21 (2) Home detention may be imposed for offenders convicted of
22 burglary in the second degree as defined in RCW 9A.52.030 or
23 residential burglary conditioned upon the offender:

24 (a) Successfully completing twenty-one days in a work release
25 program;

26 (b) Having no convictions for burglary in the second degree or
27 residential burglary during the preceding two years and not more than
28 two prior convictions for burglary or residential burglary;

29 (c) Having no convictions for a violent felony offense during the
30 preceding two years and not more than two prior convictions for a
31 violent felony offense;

32 (d) Having no prior charges of escape; and

33 (e) Fulfilling the other conditions of the home detention
34 program.

35 (3) Home detention may be imposed for offenders convicted of
36 taking a motor vehicle without permission in the second degree as
37 defined in RCW 9A.56.075, theft of a motor vehicle as defined under
38 RCW 9A.56.065, or possession of a stolen motor vehicle as defined
39 under RCW 9A.56.068 conditioned upon the offender:

1 (a) Having no convictions for taking a motor vehicle without
2 permission, theft of a motor vehicle or possession of a stolen motor
3 vehicle during the preceding five years and not more than two prior
4 convictions for taking a motor vehicle without permission, theft of a
5 motor vehicle or possession of a stolen motor vehicle;

6 (b) Having no convictions for a violent felony offense during the
7 preceding two years and not more than two prior convictions for a
8 violent felony offense;

9 (c) Having no prior charges of escape; and

10 (d) Fulfilling the other conditions of the home detention
11 program.

12 (4) Participation in a home detention program shall be
13 conditioned upon:

14 (a) The offender obtaining or maintaining current employment or
15 attending a regular course of school study at regularly defined
16 hours, or the offender performing parental duties to offspring or
17 minors normally in the custody of the offender;

18 (b) Abiding by the rules of the home detention program; and

19 (c) Compliance with court-ordered legal financial obligations.

20 (5) The home detention program may also be made available to
21 offenders whose charges and convictions do not otherwise disqualify
22 them if medical or health-related conditions, concerns or treatment
23 would be better addressed under the home detention program, or where
24 the health and welfare of the offender, other inmates, or staff would
25 be jeopardized by the offender's incarceration. Participation in the
26 home detention program for medical or health-related reasons is
27 conditioned on the offender abiding by the rules of the home
28 detention program and complying with court-ordered restitution.

29 (6)(a) A sentencing court shall deny the imposition of home
30 detention if the court finds that (i) the offender has previously and
31 knowingly violated the terms of a home detention program and (ii) the
32 previous violation is not a technical, minor, or nonsubstantive
33 violation.

34 (b) A sentencing court may deny the imposition of home detention
35 if the court finds that (i) the offender has previously and knowingly
36 violated the terms of a home detention program and (ii) the previous
37 violation or violations were technical, minor, or nonsubstantive
38 violations.

39 (7) A home detention program must be administered by a monitoring
40 agency that meets the conditions described in section 3 of this act.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A
2 RCW to read as follows:

3 (1) A supervising agency must establish terms and conditions of
4 electronic monitoring for each individual subject to electronic
5 monitoring under the agency's jurisdiction. The supervising agency
6 must communicate those terms and conditions to the monitoring agency.
7 A supervising agency must also establish protocols for when and how a
8 monitoring agency must notify the supervising agency when a violation
9 of the terms and conditions occurs. A monitoring agency must comply
10 with the terms and conditions as established by the supervising
11 agency.

12 (2) A monitoring agency shall:

13 (a) Provide notification within twenty-four hours to the court or
14 other supervising agency when the monitoring agency discovers that
15 the monitored individual is unaccounted for, or is beyond an approved
16 location, for twenty-four consecutive hours. Notification shall also
17 be provided to the probation department, the prosecuting attorney,
18 local law enforcement, the local detention facility, or the
19 department, as applicable;

20 (b) Establish geographic boundaries consistent with court-ordered
21 activities and report substantive violations of those boundaries;

22 (c) Verify the location of the offender through in-person contact
23 on a random basis at least once per month; and

24 (d) Report to the supervising agency or other appropriate
25 authority any known violation of the law or court-ordered condition.

26 (3) In addition, a private monitoring agency shall:

27 (a) Have detailed contingency plans for the monitoring agency's
28 operation with provisions for power outage, loss of telephone
29 service, fire, flood, malfunction of equipment, death, incapacitation
30 or personal emergency of a monitor, and financial insolvency of the
31 monitoring agency;

32 (b) Prohibit certain relationships between a monitored individual
33 and a monitoring agency, including:

34 (i) Personal associations between a monitored individual and a
35 monitoring agency or agency employee;

36 (ii) A monitoring agency or employee entering into another
37 business relationship with a monitored individual or monitored
38 individual's family during the monitoring; and

1 (iii) A monitoring agency or employee employing a monitored
2 individual for at least one year after the termination of the
3 monitoring;

4 (c) Not employ or be owned by any person convicted of a felony
5 offense within the past four years; and

6 (d) Obtain a background check through the Washington state patrol
7 for every partner, director, officer, owner, employee, or operator of
8 the monitoring agency, at the monitoring agency's expense.

9 (4) A private monitoring agency that fails to comply with any of
10 the requirements in this section may be subject to a civil penalty,
11 as determined by a court of competent jurisdiction or a court
12 administrator, in an amount of not more than one thousand dollars for
13 each violation, in addition to any penalties imposed by contract. A
14 court or court administrator may cancel a contract with a monitoring
15 agency for any violation by the monitoring agency.

16 (5)(a) A court that receives notice of a violation by a monitored
17 individual of the terms of electronic monitoring or home detention
18 shall note and maintain a record of the violation in the court file.

19 (b)(i) The presiding judge of a court must notify the
20 administrative office of the courts if:

21 (A) The court or court administrator decides it will not allow
22 use of a particular monitoring agency by persons ordered to comply
23 with an electronic monitoring or home detention program; and

24 (B) The court or court administrator, after previously deciding
25 not to allow use of a particular monitoring agency, decides to resume
26 allowing use of the monitoring agency by persons ordered to comply
27 with a home detention program.

28 (ii) In either case, the court or court administrator must
29 include in its notice the reasons for the court's decision.

30 (6) The administrative office of the courts shall, after
31 receiving notice pursuant to subsection (5) of this section, transmit
32 the notice to all superior courts and courts of limited jurisdiction
33 in the state, and any law enforcement or corrections agency that has
34 requested such notification.

35 (7) The courts, the administrative office of the courts, and
36 their employees and agents are not liable for acts or omissions
37 pursuant to subsections (5) and (6) of this section absent a showing
38 of gross negligence or bad faith.

39 (8) For the purposes of this section:

1 (a) A "monitoring agency" means an entity, private or public,
2 which electronically monitors an individual, pursuant to an
3 electronic monitoring or home detention program, including the
4 department of corrections, a sheriff's office, a police department, a
5 local detention facility, or a private entity; and

6 (b) A "supervising agency" means the public entity that
7 authorized, approved, administers or manages, whether pretrial or
8 posttrial, the home detention or electronic monitoring program of an
9 individual and has jurisdiction and control over the monitored
10 individual. A supervising agency may also be a monitoring agency.

11 (9) All government contracts with a private monitoring agency to
12 provide electronic monitoring or home detention must be in writing
13 and may provide contractual penalties in addition to those provided
14 under this act.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.94A
16 RCW to read as follows:

17 (1) By December 1, 2015, the administrative office of the courts
18 shall create a pattern form order for use by a court in cases where a
19 court orders a person to comply with a home detention program.

20 (2) The court shall provide a copy of the form order to the
21 person ordered to comply with a home detention program. The form
22 order must include the following:

23 (a) In a conspicuous location, a notice of criminal penalties
24 resulting for a violation of the terms and conditions of a home
25 detention program; and

26 (b) Language stating that a person may leave his or her residence
27 for specific purposes only as ordered by the court, with a list of
28 common purposes, such as school, employment, treatment, counseling,
29 programming, or other activities from which a court may select.

30 (3) When a court orders a person to comply with the terms of a
31 home detention program, the court must, in addition to its order,
32 complete the form order created pursuant to this section to notify
33 the person of criminal penalties associated with violation of the
34 terms and conditions of the program and of any express permission
35 granted for absence from the residence.

36 **Sec. 5.** RCW 10.21.030 and 2014 c 24 s 2 are each amended to read
37 as follows:

1 (1) The judicial officer may at any time amend the order to
2 impose additional or different conditions of release. The conditions
3 imposed under this chapter supplement but do not supplant provisions
4 of law allowing the imposition of conditions to assure the appearance
5 of the defendant at trial or to prevent interference with the
6 administration of justice.

7 (2) Appropriate conditions of release under this chapter include,
8 but are not limited to, the following:

9 (a) The defendant may be placed in the custody of a pretrial
10 release program;

11 (b) The defendant may have restrictions placed upon travel,
12 association, or place of abode during the period of release;

13 (c) The defendant may be required to comply with a specified
14 curfew;

15 (d) The defendant may be required to return to custody during
16 specified hours or to be placed on electronic monitoring, as defined
17 in RCW 9.94A.030, if available. The defendant, if convicted, may not
18 have the period of incarceration reduced by the number of days spent
19 on electronic monitoring;

20 (e) The defendant may be required to comply with a program of
21 home detention, as defined in RCW 9.94A.030;

22 (f) The defendant may be prohibited from approaching or
23 communicating in any manner with particular persons or classes of
24 persons;

25 ((+f)) (g) The defendant may be prohibited from going to certain
26 geographical areas or premises;

27 ((+g)) (h) The defendant may be prohibited from possessing any
28 dangerous weapons or firearms;

29 ((+h)) (i) The defendant may be prohibited from possessing or
30 consuming any intoxicating liquors or drugs not prescribed to the
31 defendant. The defendant may be required to submit to testing to
32 determine the defendant's compliance with this condition;

33 ((+i)) (j) The defendant may be prohibited from operating a
34 motor vehicle that is not equipped with an ignition interlock device;

35 ((+j)) (k) The defendant may be required to report regularly to
36 and remain under the supervision of an officer of the court or other
37 person or agency; and

38 ((+k)) (l) The defendant may be prohibited from committing any
39 violations of criminal law.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 10.21
2 RCW to read as follows:

3 Under this chapter, "home detention" means any program meeting
4 the definition of home detention in RCW 9.94A.030, and complying with
5 the requirements of section 3 of this act.

6 **Sec. 7.** RCW 9.94A.704 and 2014 c 35 s 1 are each amended to read
7 as follows:

8 (1) Every person who is sentenced to a period of community
9 custody shall report to and be placed under the supervision of the
10 department, subject to RCW 9.94A.501.

11 (2)(a) The department shall assess the offender's risk of
12 reoffense and may establish and modify additional conditions of
13 community custody based upon the risk to community safety.

14 (b) Within the funds available for community custody, the
15 department shall determine conditions on the basis of risk to
16 community safety, and shall supervise offenders during community
17 custody on the basis of risk to community safety and conditions
18 imposed by the court. The secretary shall adopt rules to implement
19 the provisions of this subsection (2)(b).

20 (3) If the offender is supervised by the department, the
21 department shall at a minimum instruct the offender to:

22 (a) Report as directed to a community corrections officer;

23 (b) Remain within prescribed geographical boundaries;

24 (c) Notify the community corrections officer of any change in the
25 offender's address or employment;

26 (d) Pay the supervision fee assessment; and

27 (e) Disclose the fact of supervision to any mental health or
28 chemical dependency treatment provider, as required by RCW 9.94A.722.

29 (4) The department may require the offender to participate in
30 rehabilitative programs, or otherwise perform affirmative conduct,
31 and to obey all laws.

32 (5) If the offender was sentenced pursuant to a conviction for a
33 sex offense, the department may:

34 (a) Require the offender to refrain from direct or indirect
35 contact with the victim of the crime or immediate family member of
36 the victim of the crime. If a victim or an immediate family member of
37 a victim has requested that the offender not contact him or her after
38 notice as provided in RCW 72.09.340, the department shall require the
39 offender to refrain from contact with the requestor. Where the victim

1 is a minor, the parent or guardian of the victim may make a request
2 on the victim's behalf.

3 (b) Impose electronic monitoring. Within the resources made
4 available by the department for this purpose, the department shall
5 carry out any electronic monitoring using the most appropriate
6 technology given the individual circumstances of the offender. As
7 used in this section, "electronic monitoring" (~~means the monitoring~~
8 ~~of an offender using an electronic offender tracking system~~
9 ~~including, but not limited to, a system using radio frequency or~~
10 ~~active or passive global positioning system technology~~) has the same
11 meaning as in RCW 9.94A.030.

12 (6) The department may not impose conditions that are contrary to
13 those ordered by the court and may not contravene or decrease court-
14 imposed conditions.

15 (7)(a) The department shall notify the offender in writing of any
16 additional conditions or modifications.

17 (b) By the close of the next business day after receiving notice
18 of a condition imposed or modified by the department, an offender may
19 request an administrative review under rules adopted by the
20 department. The condition shall remain in effect unless the reviewing
21 officer finds that it is not reasonably related to the crime of
22 conviction, the offender's risk of reoffending, or the safety of the
23 community.

24 (8) The department shall notify the offender in writing upon
25 community custody intake of the department's violation process.

26 (9) The department may require offenders to pay for special
27 services rendered including electronic monitoring, day reporting, and
28 telephone reporting, dependent on the offender's ability to pay. The
29 department may pay for these services for offenders who are not able
30 to pay.

31 (10)(a) When a sex offender has been sentenced pursuant to RCW
32 9.94A.507, the department shall assess the offender's risk of
33 recidivism and shall recommend to the board any additional or
34 modified conditions based upon the offender's risk to community
35 safety and may recommend affirmative conduct or electronic monitoring
36 consistent with subsections (4) through (6) of this section.

37 (b) The board may impose conditions in addition to court-ordered
38 conditions. The board must consider and may impose department-
39 recommended conditions. The board must impose a condition requiring
40 the offender to refrain from contact with the victim or immediate

1 family member of the victim as provided in subsection (5)(a) of this
2 section.

3 (c) By the close of the next business day, after receiving notice
4 of a condition imposed by the board or the department, an offender
5 may request an administrative hearing under rules adopted by the
6 board. The condition shall remain in effect unless the hearing
7 examiner finds that it is not reasonably related to any of the
8 following:

- 9 (i) The crime of conviction;
- 10 (ii) The offender's risk of reoffending;
- 11 (iii) The safety of the community.

12 (d) If the department finds that an emergency exists requiring
13 the immediate imposition of additional conditions in order to prevent
14 the offender from committing a crime, the department may impose such
15 conditions. The department may not impose conditions that are
16 contrary to those set by the board or the court and may not
17 contravene or decrease court-imposed or board-imposed conditions.
18 Conditions imposed under this subsection shall take effect
19 immediately after notice to the offender by personal service, but
20 shall not remain in effect longer than seven working days unless
21 approved by the board.

22 (11) In setting, modifying, and enforcing conditions of community
23 custody, the department shall be deemed to be performing a
24 quasi-judicial function.

25 **Sec. 8.** RCW 26.50.010 and 2008 c 6 s 406 are each amended to
26 read as follows:

27 As used in this chapter, the following terms shall have the
28 meanings given them:

29 (1) "Domestic violence" means: (a) Physical harm, bodily injury,
30 assault, or the infliction of fear of imminent physical harm, bodily
31 injury or assault, between family or household members; (b) sexual
32 assault of one family or household member by another; or (c) stalking
33 as defined in RCW 9A.46.110 of one family or household member by
34 another family or household member.

35 (2) "Family or household members" means spouses, domestic
36 partners, former spouses, former domestic partners, persons who have
37 a child in common regardless of whether they have been married or
38 have lived together at any time, adult persons related by blood or
39 marriage, adult persons who are presently residing together or who

1 have resided together in the past, persons sixteen years of age or
2 older who are presently residing together or who have resided
3 together in the past and who have or have had a dating relationship,
4 persons sixteen years of age or older with whom a person sixteen
5 years of age or older has or has had a dating relationship, and
6 persons who have a biological or legal parent-child relationship,
7 including stepparents and stepchildren and grandparents and
8 grandchildren.

9 (3) "Dating relationship" means a social relationship of a
10 romantic nature. Factors that the court may consider in making this
11 determination include: (a) The length of time the relationship has
12 existed; (b) the nature of the relationship; and (c) the frequency of
13 interaction between the parties.

14 (4) "Court" includes the superior, district, and municipal courts
15 of the state of Washington.

16 (5) "Judicial day" does not include Saturdays, Sundays, or legal
17 holidays.

18 (6) "Electronic monitoring" (~~means a program in which a person's~~
19 ~~presence at a particular location is monitored from a remote location~~
20 ~~by use of electronic equipment~~) has the same meaning as in RCW
21 9.94A.030.

22 (7) "Essential personal effects" means those items necessary for
23 a person's immediate health, welfare, and livelihood. "Essential
24 personal effects" includes but is not limited to clothing, cribs,
25 bedding, documents, medications, and personal hygiene items.

26 **Sec. 9.** RCW 10.99.040 and 2012 c 223 s 3 are each amended to
27 read as follows:

28 (1) Because of the serious nature of domestic violence, the court
29 in domestic violence actions:

30 (a) Shall not dismiss any charge or delay disposition because of
31 concurrent dissolution or other civil proceedings;

32 (b) Shall not require proof that either party is seeking a
33 dissolution of marriage prior to instigation of criminal proceedings;

34 (c) Shall waive any requirement that the victim's location be
35 disclosed to any person, other than the attorney of a criminal
36 defendant, upon a showing that there is a possibility of further
37 violence: PROVIDED, That the court may order a criminal defense
38 attorney not to disclose to his or her client the victim's location;
39 and

1 (d) Shall identify by any reasonable means on docket sheets those
2 criminal actions arising from acts of domestic violence.

3 (2)(a) Because of the likelihood of repeated violence directed at
4 those who have been victims of domestic violence in the past, when
5 any person charged with or arrested for a crime involving domestic
6 violence is released from custody before arraignment or trial on bail
7 or personal recognizance, the court authorizing the release may
8 prohibit that person from having any contact with the victim. The
9 jurisdiction authorizing the release shall determine whether that
10 person should be prohibited from having any contact with the victim.
11 If there is no outstanding restraining or protective order
12 prohibiting that person from having contact with the victim, the
13 court authorizing release may issue, by telephone, a no-contact order
14 prohibiting the person charged or arrested from having contact with
15 the victim or from knowingly coming within, or knowingly remaining
16 within, a specified distance of a location.

17 (b) In issuing the order, the court shall consider the provisions
18 of RCW 9.41.800.

19 (c) The no-contact order shall also be issued in writing as soon
20 as possible, and shall state that it may be extended as provided in
21 subsection (3) of this section. By January 1, 2011, the
22 administrative office of the courts shall develop a pattern form for
23 all no-contact orders issued under this chapter. A no-contact order
24 issued under this chapter must substantially comply with the pattern
25 form developed by the administrative office of the courts.

26 (3) At the time of arraignment the court shall determine whether
27 a no-contact order shall be issued or extended. So long as the court
28 finds probable cause, the court may issue or extend a no-contact
29 order even if the defendant fails to appear at arraignment. The no-
30 contact order shall terminate if the defendant is acquitted or the
31 charges are dismissed. If a no-contact order is issued or extended,
32 the court may also include in the conditions of release a requirement
33 that the defendant submit to electronic monitoring as defined in RCW
34 9.94A.030. If electronic monitoring is ordered, the court shall
35 specify who shall provide the monitoring services, and the terms
36 under which the monitoring shall be performed. Upon conviction, the
37 court may require as a condition of the sentence that the defendant
38 reimburse the providing agency for the costs of the electronic
39 monitoring.

1 (4)(a) Willful violation of a court order issued under subsection
2 (2), (3), or (7) of this section is punishable under RCW 26.50.110.

3 (b) The written order releasing the person charged or arrested
4 shall contain the court's directives and shall bear the legend:
5 "Violation of this order is a criminal offense under chapter 26.50
6 RCW and will subject a violator to arrest; any assault, drive-by
7 shooting, or reckless endangerment that is a violation of this order
8 is a felony. You can be arrested even if any person protected by the
9 order invites or allows you to violate the order's prohibitions. You
10 have the sole responsibility to avoid or refrain from violating the
11 order's provisions. Only the court can change the order."

12 (c) A certified copy of the order shall be provided to the
13 victim.

14 (5) If a no-contact order has been issued prior to charging, that
15 order shall expire at arraignment or within seventy-two hours if
16 charges are not filed.

17 (6) Whenever a no-contact order is issued, modified, or
18 terminated under subsection (2) or (3) of this section, the clerk of
19 the court shall forward a copy of the order on or before the next
20 judicial day to the appropriate law enforcement agency specified in
21 the order. Upon receipt of the copy of the order the law enforcement
22 agency shall enter the order for one year or until the expiration
23 date specified on the order into any computer-based criminal
24 intelligence information system available in this state used by law
25 enforcement agencies to list outstanding warrants. Entry into the
26 computer-based criminal intelligence information system constitutes
27 notice to all law enforcement agencies of the existence of the order.
28 The order is fully enforceable in any jurisdiction in the state. Upon
29 receipt of notice that an order has been terminated under subsection
30 (3) of this section, the law enforcement agency shall remove the
31 order from the computer-based criminal intelligence information
32 system.

33 (7) All courts shall develop policies and procedures by January
34 1, 2011, to grant victims a process to modify or rescind a no-contact
35 order issued under this chapter. The administrative office of the
36 courts shall develop a model policy to assist the courts in
37 implementing the requirements of this subsection.

38 **Sec. 10.** RCW 9.94A.505 and 2010 c 224 s 4 are each amended to
39 read as follows:

1 (1) When a person is convicted of a felony, the court shall
2 impose punishment as provided in this chapter.

3 (2)(a) The court shall impose a sentence as provided in the
4 following sections and as applicable in the case:

5 (i) Unless another term of confinement applies, a sentence within
6 the standard sentence range established in RCW 9.94A.510 or
7 9.94A.517;

8 (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

9 (iii) RCW 9.94A.570, relating to persistent offenders;

10 (iv) RCW 9.94A.540, relating to mandatory minimum terms;

11 (v) RCW 9.94A.650, relating to the first-time offender waiver;

12 (vi) RCW 9.94A.660, relating to the drug offender sentencing
13 alternative;

14 (vii) RCW 9.94A.670, relating to the special sex offender
15 sentencing alternative;

16 (viii) RCW 9.94A.655, relating to the parenting sentencing
17 alternative;

18 (ix) RCW 9.94A.507, relating to certain sex offenses;

19 (x) RCW 9.94A.535, relating to exceptional sentences;

20 (xi) RCW 9.94A.589, relating to consecutive and concurrent
21 sentences;

22 (xii) RCW 9.94A.603, relating to felony driving while under the
23 influence of intoxicating liquor or any drug and felony physical
24 control of a vehicle while under the influence of intoxicating liquor
25 or any drug.

26 (b) If a standard sentence range has not been established for the
27 offender's crime, the court shall impose a determinate sentence which
28 may include not more than one year of confinement; community
29 restitution work; a term of community custody under RCW 9.94A.702 not
30 to exceed one year; and/or other legal financial obligations. The
31 court may impose a sentence which provides more than one year of
32 confinement and a community custody term under RCW 9.94A.701 if the
33 court finds reasons justifying an exceptional sentence as provided in
34 RCW 9.94A.535.

35 (3) If the court imposes a sentence requiring confinement of
36 thirty days or less, the court may, in its discretion, specify that
37 the sentence be served on consecutive or intermittent days. A
38 sentence requiring more than thirty days of confinement shall be
39 served on consecutive days. Local jail administrators may schedule
40 court-ordered intermittent sentences as space permits.

1 (4) If a sentence imposed includes payment of a legal financial
2 obligation, it shall be imposed as provided in RCW 9.94A.750,
3 9.94A.753, 9.94A.760, and 43.43.7541.

4 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
5 court may not impose a sentence providing for a term of confinement
6 or community custody that exceeds the statutory maximum for the crime
7 as provided in chapter 9A.20 RCW.

8 (6) The sentencing court shall give the offender credit for all
9 confinement time served before the sentencing if that confinement was
10 solely in regard to the offense for which the offender is being
11 sentenced.

12 (7) The sentencing court shall not give the offender credit for
13 any time the offender was required to comply with an electronic
14 monitoring program prior to sentencing if the offender was convicted
15 of one of the following offenses:

16 (a) A violent offense;

17 (b) Any sex offense;

18 (c) Any drug offense;

19 (d) Reckless burning in the first or second degree as defined in
20 RCW 9A.48.040 or 9A.48.050;

21 (e) Assault in the third degree as defined in RCW 9A.36.031;

22 (f) Assault of a child in the third degree;

23 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or

24 (h) Harassment as defined in RCW 9A.46.020.

25 (8) The court shall order restitution as provided in RCW
26 9.94A.750 and 9.94A.753.

27 ~~((+8))~~ (9) As a part of any sentence, the court may impose and
28 enforce crime-related prohibitions and affirmative conditions as
29 provided in this chapter.

30 ~~((+9))~~ (10) In any sentence of partial confinement, the court
31 may require the offender to serve the partial confinement in work
32 release, in a program of home detention, on work crew, or in a
33 combined program of work crew and home detention.

34 **Sec. 11.** RCW 9A.76.130 and 2011 c 336 s 403 are each amended to
35 read as follows:

36 (1) A person is guilty of escape in the third degree if he or
37 she:

38 (a) Escapes from custody; or

1 (b) Knowingly violates the terms of an electronic monitoring
2 program.

3 (2) Escape in the third degree is a (~~gross~~) misdemeanor, except
4 as provided in subsection (3) of this section.

5 (3)(a) If the person has one prior conviction for escape in the
6 third degree, escape in the third degree is a gross misdemeanor.

7 (b) If the person has two or more prior convictions for escape in
8 the third degree, escape in the third degree is a class C felony.

9 NEW SECTION. Sec. 12. A new section is added to chapter 10.21
10 RCW to read as follows:

11 A monitoring agency, as defined in section 3 of this act, may not
12 agree to monitor pursuant to home detention or electronic monitoring
13 an offender who is currently awaiting trial for a violent or sex
14 offense, as defined in RCW 9.94A.030, unless the defendant's release
15 before trial is secured with a payment of bail. If bail is revoked by
16 the court or the bail bond agency, the court shall note the reason
17 for the revocation in the court file.

18 NEW SECTION. Sec. 13. If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected."

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By Senator Padden

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22 On page 1, line 1 of the title, after "Relating to" strike the
23 remainder of the title and insert "electronic monitoring; amending
24 RCW 9.94A.030, 9.94A.734, 10.21.030, 9.94A.704, 26.50.010, 10.99.040,
25 9.94A.505, and 9A.76.130; adding new sections to chapter 9.94A RCW;
26 adding new sections to chapter 10.21 RCW; and prescribing penalties."

EFFECT: (1) Home detention is a subset of electronic monitoring.
(2) A sentencing court may deny the imposition of home detention
if the offender previously and knowingly violated a home detention
program, and the violation was technical, minor, and nonsubstantive.
(3) A sentencing court shall deny the imposition of home
detention if the offender previously and knowingly violated a home
detention program, and the violation was not technical, minor, and
nonsubstantive.

(4) A supervising agency must establish terms and conditions of electronic monitoring for each individual and communicate those terms and conditions to the monitoring agency. A monitoring agency must comply with the terms and conditions.

(5) A court administrator may determine noncompliance by a monitoring agency, and may subject the monitoring agency to a monetary penalty or cancel a contract with a monitoring agency. A court administrator may decide not to allow the use of a particular monitoring agency.

(6) A sentencing court may not give credit to an offender for time served complying with electronic monitoring.

(7) The crime of escape in the 3rd degree includes knowing violations of electronic monitoring.

(8) A monitoring agency may not agree to monitor an offender unless the defendant's pretrial release is secured by bail. A court must note the reason anytime it revokes bail.

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