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HOUSE BILL 1943

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State of Washington                      64th Legislature                      2015 Regular Session

By Representatives Shea, Goodman, McCaslin, and Scott

Read first time 02/03/15. Referred to Committee on Public Safety.

1            AN ACT Relating to improving home detention accountability to  
2 better protect the public; amending RCW 9.94A.030, 9.94A.734,  
3 10.21.030, 9.94A.505, and 9A.76.130; adding new sections to chapter  
4 9.94A RCW; adding a new section to chapter 10.21 RCW; prescribing  
5 penalties; and declaring an emergency.

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

7            **Sec. 1.** RCW 9.94A.030 and 2012 c 143 s 1 are each amended to  
8 read as follows:

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

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

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

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

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

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

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

14 (7) "Community restitution" means compulsory service, without  
15 compensation, performed for the benefit of the community by the  
16 offender.

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

18 (9) "Conviction" means an adjudication of guilt pursuant to Title  
19 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,  
20 and acceptance of a plea of guilty.

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

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

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

36 (b) A conviction may be removed from a defendant's criminal  
37 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
38 9.95.240, or a similar out-of-state statute, or if the conviction has  
39 been vacated pursuant to a governor's pardon.

1 (c) The determination of a defendant's criminal history is  
2 distinct from the determination of an offender score. A prior  
3 conviction that was not included in an offender score calculated  
4 pursuant to a former version of the sentencing reform act remains  
5 part of the defendant's criminal history.

6 (12) "Criminal street gang" means any ongoing organization,  
7 association, or group of three or more persons, whether formal or  
8 informal, having a common name or common identifying sign or symbol,  
9 having as one of its primary activities the commission of criminal  
10 acts, and whose members or associates individually or collectively  
11 engage in or have engaged in a pattern of criminal street gang  
12 activity. This definition does not apply to employees engaged in  
13 concerted activities for their mutual aid and protection, or to the  
14 activities of labor and bona fide nonprofit organizations or their  
15 members or agents.

16 (13) "Criminal street gang associate or member" means any person  
17 who actively participates in any criminal street gang and who  
18 intentionally promotes, furthers, or assists in any criminal act by  
19 the criminal street gang.

20 (14) "Criminal street gang-related offense" means any felony or  
21 misdemeanor offense, whether in this state or elsewhere, that is  
22 committed for the benefit of, at the direction of, or in association  
23 with any criminal street gang, or is committed with the intent to  
24 promote, further, or assist in any criminal conduct by the gang, or  
25 is committed for one or more of the following reasons:

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

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

29 (c) To exact revenge or retribution for the gang or any member of  
30 the gang;

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

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

36 (f) To provide the gang with any advantage in, or any control or  
37 dominance over any criminal market sector, including, but not limited  
38 to, manufacturing, delivering, or selling any controlled substance  
39 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
40 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88

1 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual  
2 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter  
3 9.68 RCW).

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

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

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

14 (18) "Determinate sentence" means a sentence that states with  
15 exactitude the number of actual years, months, or days of total  
16 confinement, of partial confinement, of community custody, the number  
17 of actual hours or days of community restitution work, or dollars or  
18 terms of a legal financial obligation. The fact that an offender  
19 through earned release can reduce the actual period of confinement  
20 shall not affect the classification of the sentence as a determinate  
21 sentence.

22 (19) "Disposable earnings" means that part of the earnings of an  
23 offender remaining after the deduction from those earnings of any  
24 amount required by law to be withheld. For the purposes of this  
25 definition, "earnings" means compensation paid or payable for  
26 personal services, whether denominated as wages, salary, commission,  
27 bonuses, or otherwise, and, notwithstanding any other provision of  
28 law making the payments exempt from garnishment, attachment, or other  
29 process to satisfy a court-ordered legal financial obligation,  
30 specifically includes periodic payments pursuant to pension or  
31 retirement programs, or insurance policies of any type, but does not  
32 include payments made under Title 50 RCW, except as provided in RCW  
33 50.40.020 and 50.40.050, or Title 74 RCW.

34 (20) "Domestic violence" has the same meaning as defined in RCW  
35 10.99.020 and 26.50.010.

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

40 (22) "Drug offense" means:

1 (a) Any felony violation of chapter 69.50 RCW except possession  
2 of a controlled substance (RCW 69.50.4013) or forged prescription for  
3 a controlled substance (RCW 69.50.403);

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

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

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

12 (24) "Escape" means:

13 (a) Sexually violent predator escape (RCW 9A.76.115), escape in  
14 the first degree (RCW 9A.76.110), escape in the second degree (RCW  
15 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
16 willful failure to return from work release (RCW 72.65.070), or  
17 willful failure to be available for supervision by the department  
18 while in community custody (RCW 72.09.310); 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 an  
21 escape under (a) of this subsection.

22 (25) "Felony traffic offense" means:

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

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

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

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

38 (28) "Home detention" means a program of partial confinement  
39 available to offenders wherein the offender is confined in a private  
40 residence twenty-four hours a day, unless an absence from the

1 residence is included in the order by the court that ordered home  
2 detention, and the offender is subject to electronic surveillance  
3 that determines the monitored individual's presence at an approved  
4 location through either:

5 (a) Signaling, which continuously detects whether the monitored  
6 individual is at the approved location and notifies the monitoring  
7 agency of the time that the monitored individual leaves the approved  
8 location, tampers with, or removes the monitoring device; or

9 (b) Satellite monitoring, which continuously detects the location  
10 of the monitored individual and notifies a home detention monitoring  
11 agency of the monitored individual's location at all times.

12 (29) "Homelessness" or "homeless" means a condition where an  
13 individual lacks a fixed, regular, and adequate nighttime residence  
14 and who has a primary nighttime residence that is:

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

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

19 (c) A private residence where the individual stays as a transient  
20 invitee.

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

35 (31) "Minor child" means a biological or adopted child of the  
36 offender who is under age eighteen at the time of the offender's  
37 current offense.

38 (32) "Most serious offense" means any of the following felonies  
39 or a felony attempt to commit any of the following felonies:

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

1 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,  
2 until July 1, 1988;

3 (ii) A prior conviction for indecent liberties under RCW  
4 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
5 if: (A) The crime was committed against a child under the age of  
6 fourteen; or (B) the relationship between the victim and perpetrator  
7 is included in the definition of indecent liberties under RCW  
8 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,  
9 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,  
10 1993, through July 27, 1997;

11 (w) Any out-of-state conviction for a felony offense with a  
12 finding of sexual motivation if the minimum sentence imposed was ten  
13 years or more; provided that the out-of-state felony offense must be  
14 comparable to a felony offense under this title and Title 9A RCW and  
15 the out-of-state definition of sexual motivation must be comparable  
16 to the definition of sexual motivation contained in this section.

17 (33) "Nonviolent offense" means an offense which is not a violent  
18 offense.

19 (34) "Offender" means a person who has committed a felony  
20 established by state law and is eighteen years of age or older or is  
21 less than eighteen years of age but whose case is under superior  
22 court jurisdiction under RCW 13.04.030 or has been transferred by the  
23 appropriate juvenile court to a criminal court pursuant to RCW  
24 13.40.110. In addition, for the purpose of community custody  
25 requirements under this chapter, "offender" also means a misdemeanor  
26 or gross misdemeanor probationer ordered by a superior court to  
27 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and  
28 supervised by the department pursuant to RCW 9.94A.501 and  
29 9.94A.5011. Throughout this chapter, the terms "offender" and  
30 "defendant" are used interchangeably.

31 (35) "Partial confinement" means confinement for no more than one  
32 year in a facility or institution operated or utilized under contract  
33 by the state or any other unit of government, or, if home detention  
34 or work crew has been ordered by the court or home detention has been  
35 ordered by the department as part of the parenting program, in an  
36 approved residence, for a substantial portion of each day with the  
37 balance of the day spent in the community. Partial confinement  
38 includes work release, home detention, work crew, and a combination  
39 of work crew and home detention.

40 (36) "Pattern of criminal street gang activity" means:



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW  
29 9A.56.070);

30 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
31 9A.56.075);

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

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

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

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

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

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

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

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

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

3 (c) That the most recent committed offense listed in (a) of this  
4 subsection occurred within three years of a prior offense listed in  
5 (a) of this subsection; and

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

9 (37) "Persistent offender" is an offender who:

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

12 (ii) Has, before the commission of the offense under (a) of this  
13 subsection, been convicted as an offender on at least two separate  
14 occasions, whether in this state or elsewhere, of felonies that under  
15 the laws of this state would be considered most serious offenses and  
16 would be included in the offender score under RCW 9.94A.525; provided  
17 that of the two or more previous convictions, at least one conviction  
18 must have occurred before the commission of any of the other most  
19 serious offenses for which the offender was previously convicted; or

20 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
21 of a child in the first degree, child molestation in the first  
22 degree, rape in the second degree, rape of a child in the second  
23 degree, or indecent liberties by forcible compulsion; (B) any of the  
24 following offenses with a finding of sexual motivation: Murder in the  
25 first degree, murder in the second degree, homicide by abuse,  
26 kidnapping in the first degree, kidnapping in the second degree,  
27 assault in the first degree, assault in the second degree, assault of  
28 a child in the first degree, assault of a child in the second degree,  
29 or burglary in the first degree; or (C) an attempt to commit any  
30 crime listed in this subsection (37)(b)(i); and

31 (ii) Has, before the commission of the offense under (b)(i) of  
32 this subsection, been convicted as an offender on at least one  
33 occasion, whether in this state or elsewhere, of an offense listed in  
34 (b)(i) of this subsection or any federal or out-of-state offense or  
35 offense under prior Washington law that is comparable to the offenses  
36 listed in (b)(i) of this subsection. A conviction for rape of a child  
37 in the first degree constitutes a conviction under (b)(i) of this  
38 subsection only when the offender was sixteen years of age or older  
39 when the offender committed the offense. A conviction for rape of a  
40 child in the second degree constitutes a conviction under (b)(i) of

1 this subsection only when the offender was eighteen years of age or  
2 older when the offender committed the offense.

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

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

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

30 (41) "Repetitive domestic violence offense" means any:

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

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

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

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

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

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

7 (42) "Restitution" means a specific sum of money ordered by the  
8 sentencing court to be paid by the offender to the court over a  
9 specified period of time as payment of damages. The sum may include  
10 both public and private costs.

11 (43) "Risk assessment" means the application of the risk  
12 instrument recommended to the department by the Washington state  
13 institute for public policy as having the highest degree of  
14 predictive accuracy for assessing an offender's risk of reoffense.

15 (44) "Serious traffic offense" means:

16 (a) Nonfelony driving while under the influence of intoxicating  
17 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
18 while under the influence of intoxicating liquor or any drug (RCW  
19 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
20 attended vehicle (RCW 46.52.020(5)); or

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

24 (45) "Serious violent offense" is a subcategory of violent  
25 offense and means:

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

27 (ii) Homicide by abuse;

28 (iii) Murder in the second degree;

29 (iv) Manslaughter in the first degree;

30 (v) Assault in the first degree;

31 (vi) Kidnapping in the first degree;

32 (vii) Rape in the first degree;

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

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

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

39 (46) "Sex offense" means:

1 (a)(i) A felony that is a violation of chapter 9A.44 RCW other  
2 than RCW 9A.44.132;  
3 (ii) A violation of RCW 9A.64.020;  
4 (iii) A felony that is a violation of chapter 9.68A RCW other  
5 than RCW 9.68A.080;  
6 (iv) A felony that is, under chapter 9A.28 RCW, a criminal  
7 attempt, criminal solicitation, or criminal conspiracy to commit such  
8 crimes; or  
9 (v) A felony violation of RCW 9A.44.132(1) (failure to register)  
10 if the person has been convicted of violating RCW 9A.44.132(1)  
11 (failure to register) on at least one prior occasion;  
12 (b) Any conviction for a felony offense in effect at any time  
13 prior to July 1, 1976, that is comparable to a felony classified as a  
14 sex offense in (a) of this subsection;  
15 (c) A felony with a finding of sexual motivation under RCW  
16 9.94A.835 or 13.40.135; or  
17 (d) 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 sex  
19 offense under (a) of this subsection.  
20 (47) "Sexual motivation" means that one of the purposes for which  
21 the defendant committed the crime was for the purpose of his or her  
22 sexual gratification.  
23 (48) "Standard sentence range" means the sentencing court's  
24 discretionary range in imposing a nonappealable sentence.  
25 (49) "Statutory maximum sentence" means the maximum length of  
26 time for which an offender may be confined as punishment for a crime  
27 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute  
28 defining the crime, or other statute defining the maximum penalty for  
29 a crime.  
30 (50) "Stranger" means that the victim did not know the offender  
31 twenty-four hours before the offense.  
32 (51) "Total confinement" means confinement inside the physical  
33 boundaries of a facility or institution operated or utilized under  
34 contract by the state or any other unit of government for twenty-four  
35 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.  
36 (52) "Transition training" means written and verbal instructions  
37 and assistance provided by the department to the offender during the  
38 two weeks prior to the offender's successful completion of the work  
39 ethic camp program. The transition training shall include

1 instructions in the offender's requirements and obligations during  
2 the offender's period of community custody.

3 (53) "Victim" means any person who has sustained emotional,  
4 psychological, physical, or financial injury to person or property as  
5 a direct result of the crime charged.

6 (54) "Violent offense" means:

7 (a) Any of the following felonies:

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

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

12 (iii) Manslaughter in the first degree;

13 (iv) Manslaughter in the second degree;

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

15 (vi) Kidnapping in the second degree;

16 (vii) Arson in the second degree;

17 (viii) Assault in the second degree;

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

19 (x) Extortion in the first degree;

20 (xi) Robbery in the second degree;

21 (xii) Drive-by shooting;

22 (xiii) Vehicular assault, when caused by the operation or driving  
23 of a vehicle by a person while under the influence of intoxicating  
24 liquor or any drug or by the operation or driving of a vehicle in a  
25 reckless manner; and

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

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

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

36 (55) "Work crew" means a program of partial confinement  
37 consisting of civic improvement tasks for the benefit of the  
38 community that complies with RCW 9.94A.725.

39 (56) "Work ethic camp" means an alternative incarceration program  
40 as provided in RCW 9.94A.690 designed to reduce recidivism and lower

1 the cost of corrections by requiring offenders to complete a  
2 comprehensive array of real-world job and vocational experiences,  
3 character-building work ethics training, life management skills  
4 development, substance abuse rehabilitation, counseling, literacy  
5 training, and basic adult education.

6 (57) "Work release" means a program of partial confinement  
7 available to offenders who are employed or engaged as a student in a  
8 regular course of study at school.

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

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

- 14 (a) A violent offense;
- 15 (b) Any sex offense;
- 16 (c) Any drug offense;
- 17 (d) Reckless burning in the first or second degree as defined in  
18 RCW 9A.48.040 or 9A.48.050;
- 19 (e) Assault in the third degree as defined in RCW 9A.36.031;
- 20 (f) Assault of a child in the third degree;
- 21 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or
- 22 (h) Harassment as defined in RCW 9A.46.020.

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

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

- 32 (a) Successfully completing twenty-one days in a work release  
33 program;
- 34 (b) Having no convictions for burglary in the second degree or  
35 residential burglary during the preceding two years and not more than  
36 two prior convictions for burglary or residential burglary;
- 37 (c) Having no convictions for a violent felony offense during the  
38 preceding two years and not more than two prior convictions for a  
39 violent felony offense;

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

2 (e) Fulfilling the other conditions of the home detention  
3 program.

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

9 (a) Having no convictions for taking a motor vehicle without  
10 permission, theft of a motor vehicle or possession of a stolen motor  
11 vehicle during the preceding five years and not more than two prior  
12 convictions for taking a motor vehicle without permission, theft of a  
13 motor vehicle or possession of a stolen motor vehicle;

14 (b) Having no convictions for a violent felony offense during the  
15 preceding two years and not more than two prior convictions for a  
16 violent felony offense;

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

18 (d) Fulfilling the other conditions of the home detention  
19 program.

20 (4) Participation in a home detention program shall be  
21 conditioned upon:

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

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

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

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

37 (6) Home detention may not be imposed for an offender if the  
38 sentencing court finds that the offender has previously violated the  
39 terms of a home detention program.



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

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

5       (1) A monitoring agency shall:

6       (a) Provide notification within twenty-four hours to local law  
7 enforcement, the court(s) that ordered home detention, the probation  
8 department, the prosecuting attorney, and, if applicable, the  
9 department or the local detention facility when a monitored  
10 individual is unaccounted for, or is beyond an approved location, for  
11 twenty-four consecutive hours;

12       (b) Provide weekly notification to the court(s) that ordered home  
13 detention, and the law enforcement agency and prosecuting attorney  
14 for the counties or cities that have jurisdiction over the monitored  
15 individual, the probation department, and, if applicable, the  
16 department or the local detention facility, of any violations of the  
17 court order or terms of the home detention program as set by the  
18 monitoring agency;

19       (c) Verify and document the monitored individual's attendance at  
20 employment, school, or other court-ordered activities;

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

24       (e) Ensure compliance with any other conditions ordered by the  
25 court or otherwise required by law.

26       (2) Additionally, a 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 (3) A monitoring agency that fails to comply with any of the  
10 conditions in subsection (2) of this section may be subject to a  
11 civil penalty, as determined by a court of competent jurisdiction, in  
12 an amount of not more than one thousand dollars for every violation,  
13 in addition to any penalties imposed by contract.

14 (4) For the purposes of RCW 9.94A.030, 9.94A.734, and this  
15 section, "monitoring agency" means an entity, private or public,  
16 which supervises a monitored offender, pursuant to a home detention  
17 program, including a sheriff's office, the department of corrections,  
18 a local detention facility, a police department, or a private entity.

19 (5) A court that receives notice of a violation of the terms of  
20 home detention must maintain a record of violations in the court  
21 file.

22 (6)(a) The presiding judge of a court must notify the  
23 administrative office of the courts if:

24 (i) The court decides it will not allow use of a particular  
25 monitoring agency by persons ordered to comply with a home detention  
26 program; and

27 (ii) The court, after previously deciding not to allow use of a  
28 particular monitoring agency, decides to resume allowing use of the  
29 monitoring agency by persons ordered to comply with a home detention  
30 program.

31 (b) In either case, the court must include in its notice the  
32 reasons for the decision.

33 (7) The administrative office of the courts must, after receiving  
34 notice pursuant to subsection (6) of this section, transmit the  
35 notice to all superior courts and courts of limited jurisdiction in  
36 the state.

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

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

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

6        (2) The form order shall include the following:

7        (a) In a conspicuous location, a notice of criminal penalties  
8    resulting for a violation of the terms of a home detention program;  
9    and

10       (b) Language permitting a person to leave his or her residence  
11    for specific purposes only as ordered by the court, with a list of  
12    common purposes, such as school and employment, from which a court  
13    may select.

14       (3) When a court orders a person to comply with the terms of a  
15    home detention program, the court must, in addition to its order,  
16    complete the form order created pursuant to this section to notify  
17    the person of criminal penalties associated with violation of the  
18    terms of the program and of any permission granted for absence from  
19    the residence.

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

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

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

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

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

34       (c) The defendant may be required to comply with a specified  
35    curfew;

36       (d) The defendant may be required to return to custody during  
37    specified hours or to be placed on electronic monitoring, if  
38    available. The defendant, if convicted, may not have the period of

1 incarceration reduced by the number of days spent on electronic  
2 monitoring;

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

5 (f) The defendant may be prohibited from approaching or  
6 communicating in any manner with particular persons or classes of  
7 persons;

8 (~~(f)~~) (g) The defendant may be prohibited from going to certain  
9 geographical areas or premises;

10 (~~(g)~~) (h) The defendant may be prohibited from possessing any  
11 dangerous weapons or firearms;

12 (~~(h)~~) (i) The defendant may be prohibited from possessing or  
13 consuming any intoxicating liquors or drugs not prescribed to the  
14 defendant. The defendant may be required to submit to testing to  
15 determine the defendant's compliance with this condition;

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

18 (~~(j)~~) (k) The defendant may be required to report regularly to  
19 and remain under the supervision of an officer of the court or other  
20 person or agency; and

21 (~~(k)~~) (l) The defendant may be prohibited from committing any  
22 violations of criminal law.

23 NEW SECTION. Sec. 6. A new section is added to chapter 10.21  
24 RCW to read as follows:

25 (1) Under this chapter, "home detention" means any program  
26 meeting the definition of home detention in RCW 9.94A.030, and  
27 complying with the requirements of section 3 of this act.

28 (2) Defendants who have a prior conviction for a violent offense  
29 or a sex offense, as both are defined in RCW 9.94A.030, and  
30 defendants who have a prior conviction for escape in the first,  
31 second, or third degree are ineligible for home detention while  
32 awaiting trial.

33 (3) No defendant may be released to home detention unless the  
34 defendant's release before trial is secured with a payment of bail.  
35 If bail is revoked by the court, or the bail bond agency, the court  
36 shall note the reason for the revocation in the court file.

37 **Sec. 7.** RCW 9.94A.505 and 2010 c 224 s 4 are each amended to  
38 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 a home detention  
14 program prior to sentencing if the offender was convicted of one of  
15 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. 8.** 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

39 (b) Knowingly violates the terms of a home detention program.

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

3 (3) If the person has one prior conviction for escape in the  
4 third degree, escape in the third degree is a gross misdemeanor. If  
5 the person has two or more prior convictions for escape in the third  
6 degree, escape in the third degree is a class C felony.

7 NEW SECTION. Sec. 9. If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

11 NEW SECTION. Sec. 10. This act is necessary for the immediate  
12 preservation of the public peace, health, or safety, or support of  
13 the state government and its existing public institutions, and takes  
14 effect immediately.

--- END ---