
HOUSE BILL 2966

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By Representatives Irwin, Barkis, Graves, Young, Wilcox, Stambaugh, Walsh, Maycumber, Kraft, Muri, Griffey, Manweller, Johnson, and McDonald

Read first time 01/30/18. Referred to Committee on Public Safety.

1 AN ACT Relating to establishing a special allegation and
2 sentencing enhancement for wearing body armor during the commission
3 of any violent offense; amending RCW 9.94A.030, 9.94A.533, and
4 9.94A.729; and adding a new section to chapter 9.94A RCW.

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

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

8 In any criminal case where the defendant has been convicted of
9 any violent offense and there has been a special allegation pleaded
10 and proven beyond a reasonable doubt that the defendant or an
11 accomplice was wearing body armor as defined in RCW 9.94A.030 at the
12 time of the commission of the offense, the court shall make a finding
13 of fact of the special allegation, or if a jury trial is had, the
14 jury shall, if it finds the defendant guilty, also find a special
15 verdict as to the special allegation.

16 **Sec. 2.** RCW 9.94A.030 and 2016 c 81 s 16 are each amended to
17 read as follows:

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout this chapter.

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

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

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

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

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

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

25 (7) "Community restitution" means compulsory service, without
26 compensation, performed for the benefit of the community by the
27 offender.

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

29 (9) "Conviction" means an adjudication of guilt pursuant to Title
30 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
31 and acceptance of a plea of guilty.

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

1 (11) "Criminal history" means the list of a defendant's prior
2 convictions and juvenile adjudications, whether in this state, in
3 federal court, or elsewhere, and any issued certificates of
4 restoration of opportunity pursuant to RCW 9.97.020.

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

9 (b) A conviction may be removed from a defendant's criminal
10 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
11 9.95.240, or a similar out-of-state statute, or if the conviction has
12 been vacated pursuant to a governor's pardon.

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

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

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

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

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

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

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

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

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

8 (f) To provide the gang with any advantage in, or any control or
9 dominance over any criminal market sector, including, but not limited
10 to, manufacturing, delivering, or selling any controlled substance
11 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
12 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
13 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
14 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
15 9.68 RCW).

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

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

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

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

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

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

6 (20) "Domestic violence" has the same meaning as defined in RCW
7 10.99.020 and 26.50.010.

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

12 (22) "Drug offense" means:

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

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

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

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

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

29 (a) Radio frequency signaling technology, which detects if the
30 monitored individual is or is not at an approved location and
31 notifies the monitoring agency of the time that the monitored
32 individual either leaves the approved location or tampers with or
33 removes the monitoring device; or

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

37 (25) "Escape" means:

38 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
39 the first degree (RCW 9A.76.110), escape in the second degree (RCW
40 9A.76.120), willful failure to return from furlough (RCW 72.66.060),

1 willful failure to return from work release (RCW 72.65.070), or
2 willful failure to be available for supervision by the department
3 while in community custody (RCW 72.09.310); or

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

7 (26) "Felony traffic offense" means:

8 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
9 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
10 run injury-accident (RCW 46.52.020(4)), felony driving while under
11 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
12 or felony physical control of a vehicle while under the influence of
13 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

23 (29) "Home detention" is a subset of electronic monitoring and
24 means a program of partial confinement available to offenders wherein
25 the offender is confined in a private residence twenty-four hours a
26 day, unless an absence from the residence is approved, authorized, or
27 otherwise permitted in the order by the court or other supervising
28 agency that ordered home detention, and the offender is subject to
29 electronic monitoring.

30 (30) "Homelessness" or "homeless" means a condition where an
31 individual lacks a fixed, regular, and adequate nighttime residence
32 and who has a primary nighttime residence that is:

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

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

37 (c) A private residence where the individual stays as a transient
38 invitee.

39 (31) "Legal financial obligation" means a sum of money that is
40 ordered by a superior court of the state of Washington for legal

1 financial obligations which may include restitution to the victim,
2 statutorily imposed crime victims' compensation fees as assessed
3 pursuant to RCW 7.68.035, court costs, county or interlocal drug
4 funds, court-appointed attorneys' fees, and costs of defense, fines,
5 and any other financial obligation that is assessed to the offender
6 as a result of a felony conviction. Upon conviction for vehicular
7 assault while under the influence of intoxicating liquor or any drug,
8 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
9 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
10 financial obligations may also include payment to a public agency of
11 the expense of an emergency response to the incident resulting in the
12 conviction, subject to RCW 38.52.430.

13 (32) "Minor child" means a biological or adopted child of the
14 offender who is under age eighteen at the time of the offender's
15 current offense.

16 (33) "Most serious offense" means any of the following felonies
17 or a felony attempt to commit any of the following felonies:

18 (a) Any felony defined under any law as a class A felony or
19 criminal solicitation of or criminal conspiracy to commit a class A
20 felony;

21 (b) Assault in the second degree;

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

23 (d) Child molestation in the second degree;

24 (e) Controlled substance homicide;

25 (f) Extortion in the first degree;

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

27 (h) Indecent liberties;

28 (i) Kidnapping in the second degree;

29 (j) Leading organized crime;

30 (k) Manslaughter in the first degree;

31 (l) Manslaughter in the second degree;

32 (m) Promoting prostitution in the first degree;

33 (n) Rape in the third degree;

34 (o) Robbery in the second degree;

35 (p) Sexual exploitation;

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

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

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

7 (t) Any other felony with a deadly weapon verdict under RCW
8 9.94A.825;

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

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

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

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

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

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

1 13.40.110. In addition, for the purpose of community custody
2 requirements under this chapter, "offender" also means a misdemeanor
3 or gross misdemeanor probationer ordered by a superior court to
4 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
5 supervised by the department pursuant to RCW 9.94A.501 and
6 9.94A.5011. Throughout this chapter, the terms "offender" and
7 "defendant" are used interchangeably.

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

18 (37) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (xii) Burglary 2 (RCW 9A.52.030);
2 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
3 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
4 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
5 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
6 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
7 9A.56.070);
8 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
9 9A.56.075);
10 (xix) Extortion 1 (RCW 9A.56.120);
11 (xx) Extortion 2 (RCW 9A.56.130);
12 (xxi) Intimidating a Witness (RCW 9A.72.110);
13 (xxii) Tampering with a Witness (RCW 9A.72.120);
14 (xxiii) Reckless Endangerment (RCW 9A.36.050);
15 (xxiv) Coercion (RCW 9A.36.070);
16 (xxv) Harassment (RCW 9A.46.020); or
17 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

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

20 (c) That the most recent committed offense listed in (a) of this
21 subsection occurred within three years of a prior offense listed in
22 (a) of this subsection; and

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

26 (38) "Persistent offender" is an offender who:

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

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

37 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
38 of a child in the first degree, child molestation in the first
39 degree, rape in the second degree, rape of a child in the second
40 degree, or indecent liberties by forcible compulsion; (B) any of the

1 following offenses with a finding of sexual motivation: Murder in the
2 first degree, murder in the second degree, homicide by abuse,
3 kidnapping in the first degree, kidnapping in the second degree,
4 assault in the first degree, assault in the second degree, assault of
5 a child in the first degree, assault of a child in the second degree,
6 or burglary in the first degree; or (C) an attempt to commit any
7 crime listed in this subsection (38)(b)(i); and

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

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

1 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
2 in authority" does not include the parent or legal guardian of the
3 victim.

4 (40) "Private school" means a school regulated under chapter
5 28A.195 or 28A.205 RCW.

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

7 (42) "Repetitive domestic violence offense" means any:

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

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

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

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

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

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

23 (43) "Restitution" means a specific sum of money ordered by the
24 sentencing court to be paid by the offender to the court over a
25 specified period of time as payment of damages. The sum may include
26 both public and private costs.

27 (44) "Risk assessment" means the application of the risk
28 instrument recommended to the department by the Washington state
29 institute for public policy as having the highest degree of
30 predictive accuracy for assessing an offender's risk of reoffense.

31 (45) "Serious traffic offense" means:

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

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

1 (46) "Serious violent offense" is a subcategory of violent
2 offense and means:

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

4 (ii) Homicide by abuse;

5 (iii) Murder in the second degree;

6 (iv) Manslaughter in the first degree;

7 (v) Assault in the first degree;

8 (vi) Kidnapping in the first degree;

9 (vii) Rape in the first degree;

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

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

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

16 (47) "Sex offense" means:

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

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

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

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

25 (v) A felony violation of RCW 9A.44.132(1) (failure to register
26 as a sex offender) if the person has been convicted of violating RCW
27 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
28 prior to June 10, 2010, on at least one prior occasion;

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

32 (c) A felony with a finding of sexual motivation under RCW
33 9.94A.835 or 13.40.135; or

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

37 (48) "Sexual motivation" means that one of the purposes for which
38 the defendant committed the crime was for the purpose of his or her
39 sexual gratification.

1 (49) "Standard sentence range" means the sentencing court's
2 discretionary range in imposing a nonappealable sentence.

3 (50) "Statutory maximum sentence" means the maximum length of
4 time for which an offender may be confined as punishment for a crime
5 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
6 defining the crime, or other statute defining the maximum penalty for
7 a crime.

8 (51) "Stranger" means that the victim did not know the offender
9 twenty-four hours before the offense.

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

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

20 (54) "Victim" means any person who has sustained emotional,
21 psychological, physical, or financial injury to person or property as
22 a direct result of the crime charged.

23 (55) "Violent offense" means:

24 (a) Any of the following felonies:

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

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

29 (iii) Manslaughter in the first degree;

30 (iv) Manslaughter in the second degree;

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

32 (vi) Kidnapping in the second degree;

33 (vii) Arson in the second degree;

34 (viii) Assault in the second degree;

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

36 (x) Extortion in the first degree;

37 (xi) Robbery in the second degree;

38 (xii) Drive-by shooting;

39 (xiii) Vehicular assault, when caused by the operation or driving
40 of a vehicle by a person while under the influence of intoxicating

1 liquor or any drug or by the operation or driving of a vehicle in a
2 reckless manner; and

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

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

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

13 (56) "Work crew" means a program of partial confinement
14 consisting of civic improvement tasks for the benefit of the
15 community that complies with RCW 9.94A.725.

16 (57) "Work ethic camp" means an alternative incarceration program
17 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
18 the cost of corrections by requiring offenders to complete a
19 comprehensive array of real-world job and vocational experiences,
20 character-building work ethics training, life management skills
21 development, substance abuse rehabilitation, counseling, literacy
22 training, and basic adult education.

23 (58) "Work release" means a program of partial confinement
24 available to offenders who are employed or engaged as a student in a
25 regular course of study at school.

26 (59) "Body armor" means any clothing or devices designed
27 primarily to prevent penetration by a projectile fired from a firearm
28 or by a knife, sword, or other cutting or stabbing instrument, and
29 which is worn by an individual for that specific purpose in the
30 commission of an offense.

31 **Sec. 3.** RCW 9.94A.533 and 2016 c 203 s 7 are each amended to
32 read as follows:

33 (1) The provisions of this section apply to the standard sentence
34 ranges determined by RCW 9.94A.510 or 9.94A.517.

35 (2) For persons convicted of the anticipatory offenses of
36 criminal attempt, solicitation, or conspiracy under chapter 9A.28
37 RCW, the standard sentence range is determined by locating the
38 sentencing grid sentence range defined by the appropriate offender

1 score and the seriousness level of the completed crime, and
2 multiplying the range by seventy-five percent.

3 (3) The following additional times shall be added to the standard
4 sentence range for felony crimes committed after July 23, 1995, if
5 the offender or an accomplice was armed with a firearm as defined in
6 RCW 9.41.010 and the offender is being sentenced for one of the
7 crimes listed in this subsection as eligible for any firearm
8 enhancements based on the classification of the completed felony
9 crime. If the offender is being sentenced for more than one offense,
10 the firearm enhancement or enhancements must be added to the total
11 period of confinement for all offenses, regardless of which
12 underlying offense is subject to a firearm enhancement. If the
13 offender or an accomplice was armed with a firearm as defined in RCW
14 9.41.010 and the offender is being sentenced for an anticipatory
15 offense under chapter 9A.28 RCW to commit one of the crimes listed in
16 this subsection as eligible for any firearm enhancements, the
17 following additional times shall be added to the standard sentence
18 range determined under subsection (2) of this section based on the
19 felony crime of conviction as classified under RCW 9A.28.020:

20 (a) Five years for any felony defined under any law as a class A
21 felony or with a statutory maximum sentence of at least twenty years,
22 or both, and not covered under (f) of this subsection;

23 (b) Three years for any felony defined under any law as a class B
24 felony or with a statutory maximum sentence of ten years, or both,
25 and not covered under (f) of this subsection;

26 (c) Eighteen months for any felony defined under any law as a
27 class C felony or with a statutory maximum sentence of five years, or
28 both, and not covered under (f) of this subsection;

29 (d) If the offender is being sentenced for any firearm
30 enhancements under (a), (b), and/or (c) of this subsection and the
31 offender has previously been sentenced for any deadly weapon
32 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
33 subsection or subsection (4)(a), (b), and/or (c) of this section, or
34 both, all firearm enhancements under this subsection shall be twice
35 the amount of the enhancement listed;

36 (e) Notwithstanding any other provision of law, all firearm
37 enhancements under this section are mandatory, shall be served in
38 total confinement, and shall run consecutively to all other
39 sentencing provisions, including other firearm or deadly weapon
40 enhancements, for all offenses sentenced under this chapter. However,

1 whether or not a mandatory minimum term has expired, an offender
2 serving a sentence under this subsection may be:

3 (i) Granted an extraordinary medical placement when authorized
4 under RCW 9.94A.728(1)(c); or

5 (ii) Released under the provisions of RCW 9.94A.730;

6 (f) The firearm enhancements in this section shall apply to all
7 felony crimes except the following: Possession of a machine gun,
8 possessing a stolen firearm, drive-by shooting, theft of a firearm,
9 unlawful possession of a firearm in the first and second degree, and
10 use of a machine gun in a felony;

11 (g) If the standard sentence range under this section exceeds the
12 statutory maximum sentence for the offense, the statutory maximum
13 sentence shall be the presumptive sentence unless the offender is a
14 persistent offender. If the addition of a firearm enhancement
15 increases the sentence so that it would exceed the statutory maximum
16 for the offense, the portion of the sentence representing the
17 enhancement may not be reduced.

18 (4) The following additional times shall be added to the standard
19 sentence range for felony crimes committed after July 23, 1995, if
20 the offender or an accomplice was armed with a deadly weapon other
21 than a firearm as defined in RCW 9.41.010 and the offender is being
22 sentenced for one of the crimes listed in this subsection as eligible
23 for any deadly weapon enhancements based on the classification of the
24 completed felony crime. If the offender is being sentenced for more
25 than one offense, the deadly weapon enhancement or enhancements must
26 be added to the total period of confinement for all offenses,
27 regardless of which underlying offense is subject to a deadly weapon
28 enhancement. If the offender or an accomplice was armed with a deadly
29 weapon other than a firearm as defined in RCW 9.41.010 and the
30 offender is being sentenced for an anticipatory offense under chapter
31 9A.28 RCW to commit one of the crimes listed in this subsection as
32 eligible for any deadly weapon enhancements, the following additional
33 times shall be added to the standard sentence range determined under
34 subsection (2) of this section based on the felony crime of
35 conviction as classified under RCW 9A.28.020:

36 (a) Two years for any felony defined under any law as a class A
37 felony or with a statutory maximum sentence of at least twenty years,
38 or both, and not covered under (f) of this subsection;

1 (b) One year for any felony defined under any law as a class B
2 felony or with a statutory maximum sentence of ten years, or both,
3 and not covered under (f) of this subsection;

4 (c) Six months for any felony defined under any law as a class C
5 felony or with a statutory maximum sentence of five years, or both,
6 and not covered under (f) of this subsection;

7 (d) If the offender is being sentenced under (a), (b), and/or (c)
8 of this subsection for any deadly weapon enhancements and the
9 offender has previously been sentenced for any deadly weapon
10 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
11 subsection or subsection (3)(a), (b), and/or (c) of this section, or
12 both, all deadly weapon enhancements under this subsection shall be
13 twice the amount of the enhancement listed;

14 (e) Notwithstanding any other provision of law, all deadly weapon
15 enhancements under this section are mandatory, shall be served in
16 total confinement, and shall run consecutively to all other
17 sentencing provisions, including other firearm or deadly weapon
18 enhancements, for all offenses sentenced under this chapter. However,
19 whether or not a mandatory minimum term has expired, an offender
20 serving a sentence under this subsection may be:

21 (i) Granted an extraordinary medical placement when authorized
22 under RCW 9.94A.728(1)(c); or

23 (ii) Released under the provisions of RCW 9.94A.730;

24 (f) The deadly weapon enhancements in this section shall apply to
25 all felony crimes except the following: Possession of a machine gun,
26 possessing a stolen firearm, drive-by shooting, theft of a firearm,
27 unlawful possession of a firearm in the first and second degree, and
28 use of a machine gun in a felony;

29 (g) If the standard sentence range under this section exceeds the
30 statutory maximum sentence for the offense, the statutory maximum
31 sentence shall be the presumptive sentence unless the offender is a
32 persistent offender. If the addition of a deadly weapon enhancement
33 increases the sentence so that it would exceed the statutory maximum
34 for the offense, the portion of the sentence representing the
35 enhancement may not be reduced.

36 (5) The following additional times shall be added to the standard
37 sentence range if the offender or an accomplice committed the offense
38 while in a county jail or state correctional facility and the
39 offender is being sentenced for one of the crimes listed in this
40 subsection. If the offender or an accomplice committed one of the

1 crimes listed in this subsection while in a county jail or state
2 correctional facility, and the offender is being sentenced for an
3 anticipatory offense under chapter 9A.28 RCW to commit one of the
4 crimes listed in this subsection, the following additional times
5 shall be added to the standard sentence range determined under
6 subsection (2) of this section:

7 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
8 (a) or (b) or 69.50.410;

9 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
10 (c), (d), or (e);

11 (c) Twelve months for offenses committed under RCW 69.50.4013.

12 For the purposes of this subsection, all of the real property of
13 a state correctional facility or county jail shall be deemed to be
14 part of that facility or county jail.

15 (6) An additional twenty-four months shall be added to the
16 standard sentence range for any ranked offense involving a violation
17 of chapter 69.50 RCW if the offense was also a violation of RCW
18 69.50.435 or 9.94A.827. All enhancements under this subsection shall
19 run consecutively to all other sentencing provisions, for all
20 offenses sentenced under this chapter.

21 (7) An additional two years shall be added to the standard
22 sentence range for vehicular homicide committed while under the
23 influence of intoxicating liquor or any drug as defined by RCW
24 46.61.502 for each prior offense as defined in RCW 46.61.5055.

25 Notwithstanding any other provision of law, all impaired driving
26 enhancements under this subsection are mandatory, shall be served in
27 total confinement, and shall run consecutively to all other
28 sentencing provisions, including other impaired driving enhancements,
29 for all offenses sentenced under this chapter.

30 An offender serving a sentence under this subsection may be
31 granted an extraordinary medical placement when authorized under RCW
32 9.94A.728(1)(c).

33 (8)(a) The following additional times shall be added to the
34 standard sentence range for felony crimes committed on or after July
35 1, 2006, if the offense was committed with sexual motivation, as that
36 term is defined in RCW 9.94A.030. If the offender is being sentenced
37 for more than one offense, the sexual motivation enhancement must be
38 added to the total period of total confinement for all offenses,
39 regardless of which underlying offense is subject to a sexual
40 motivation enhancement. If the offender committed the offense with

1 sexual motivation and the offender is being sentenced for an
2 anticipatory offense under chapter 9A.28 RCW, the following
3 additional times shall be added to the standard sentence range
4 determined under subsection (2) of this section based on the felony
5 crime of conviction as classified under RCW 9A.28.020:

6 (i) Two years for any felony defined under the law as a class A
7 felony or with a statutory maximum sentence of at least twenty years,
8 or both;

9 (ii) Eighteen months for any felony defined under any law as a
10 class B felony or with a statutory maximum sentence of ten years, or
11 both;

12 (iii) One year for any felony defined under any law as a class C
13 felony or with a statutory maximum sentence of five years, or both;

14 (iv) If the offender is being sentenced for any sexual motivation
15 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
16 the offender has previously been sentenced for any sexual motivation
17 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or
18 (iii) of this subsection, all sexual motivation enhancements under
19 this subsection shall be twice the amount of the enhancement listed;

20 (b) Notwithstanding any other provision of law, all sexual
21 motivation enhancements under this subsection are mandatory, shall be
22 served in total confinement, and shall run consecutively to all other
23 sentencing provisions, including other sexual motivation
24 enhancements, for all offenses sentenced under this chapter. However,
25 whether or not a mandatory minimum term has expired, an offender
26 serving a sentence under this subsection may be:

27 (i) Granted an extraordinary medical placement when authorized
28 under RCW 9.94A.728(1)(c); or

29 (ii) Released under the provisions of RCW 9.94A.730;

30 (c) The sexual motivation enhancements in this subsection apply
31 to all felony crimes;

32 (d) If the standard sentence range under this subsection exceeds
33 the statutory maximum sentence for the offense, the statutory maximum
34 sentence shall be the presumptive sentence unless the offender is a
35 persistent offender. If the addition of a sexual motivation
36 enhancement increases the sentence so that it would exceed the
37 statutory maximum for the offense, the portion of the sentence
38 representing the enhancement may not be reduced;

1 (e) The portion of the total confinement sentence which the
2 offender must serve under this subsection shall be calculated before
3 any earned early release time is credited to the offender;

4 (f) Nothing in this subsection prevents a sentencing court from
5 imposing a sentence outside the standard sentence range pursuant to
6 RCW 9.94A.535.

7 (9) An additional one-year enhancement shall be added to the
8 standard sentence range for the felony crimes of RCW 9A.44.073,
9 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
10 or after July 22, 2007, if the offender engaged, agreed, or offered
11 to engage the victim in the sexual conduct in return for a fee. If
12 the offender is being sentenced for more than one offense, the
13 one-year enhancement must be added to the total period of total
14 confinement for all offenses, regardless of which underlying offense
15 is subject to the enhancement. If the offender is being sentenced for
16 an anticipatory offense for the felony crimes of RCW 9A.44.073,
17 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
18 offender attempted, solicited another, or conspired to engage, agree,
19 or offer to engage the victim in the sexual conduct in return for a
20 fee, an additional one-year enhancement shall be added to the
21 standard sentence range determined under subsection (2) of this
22 section. For purposes of this subsection, "sexual conduct" means
23 sexual intercourse or sexual contact, both as defined in chapter
24 9A.44 RCW.

25 (10)(a) For a person age eighteen or older convicted of any
26 criminal street gang-related felony offense for which the person
27 compensated, threatened, or solicited a minor in order to involve the
28 minor in the commission of the felony offense, the standard sentence
29 range is determined by locating the sentencing grid sentence range
30 defined by the appropriate offender score and the seriousness level
31 of the completed crime, and multiplying the range by one hundred
32 twenty-five percent. If the standard sentence range under this
33 subsection exceeds the statutory maximum sentence for the offense,
34 the statutory maximum sentence is the presumptive sentence unless the
35 offender is a persistent offender.

36 (b) This subsection does not apply to any criminal street gang-
37 related felony offense for which involving a minor in the commission
38 of the felony offense is an element of the offense.

39 (c) The increased penalty specified in (a) of this subsection is
40 unavailable in the event that the prosecution gives notice that it

1 will seek an exceptional sentence based on an aggravating factor
2 under RCW 9.94A.535.

3 (11) An additional twelve months and one day shall be added to
4 the standard sentence range for a conviction of attempting to elude a
5 police vehicle as defined by RCW 46.61.024, if the conviction
6 included a finding by special allegation of endangering one or more
7 persons under RCW 9.94A.834.

8 (12) An additional twelve months shall be added to the standard
9 sentence range for an offense that is also a violation of RCW
10 9.94A.831.

11 (13) An additional twelve months shall be added to the standard
12 sentence range for vehicular homicide committed while under the
13 influence of intoxicating liquor or any drug as defined by RCW
14 46.61.520 or for vehicular assault committed while under the
15 influence of intoxicating liquor or any drug as defined by RCW
16 46.61.522, or for any felony driving under the influence (RCW
17 46.61.502(6)) or felony physical control under the influence (RCW
18 46.61.504(6)) for each child passenger under the age of sixteen who
19 is an occupant in the defendant's vehicle. These enhancements shall
20 be mandatory, shall be served in total confinement, and shall run
21 consecutively to all other sentencing provisions. If the addition of
22 a minor child enhancement increases the sentence so that it would
23 exceed the statutory maximum for the offense, the portion of the
24 sentence representing the enhancement may not be reduced.

25 (14) An additional twelve months shall be added to the standard
26 sentence range for an offense that is also a violation of RCW
27 9.94A.832.

28 (15) An additional twelve months shall be added to the standard
29 range for a conviction of a violent offense committed on or after the
30 effective date of this section, if the conviction included a finding
31 by special allegation of wearing body armor under section 1 of this
32 act. All enhancements under this subsection are mandatory, shall be
33 served in total confinement, and shall run consecutively to all other
34 sentencing provisions, including other enhancements under this
35 subsection, for all offenses sentenced under this chapter.

36 **Sec. 4.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to
37 read as follows:

38 (1)(a) The term of the sentence of an offender committed to a
39 correctional facility operated by the department may be reduced by

1 earned release time in accordance with procedures that shall be
2 developed and adopted by the correctional agency having jurisdiction
3 in which the offender is confined. The earned release time shall be
4 for good behavior and good performance, as determined by the
5 correctional agency having jurisdiction. The correctional agency
6 shall not credit the offender with earned release credits in advance
7 of the offender actually earning the credits.

8 (b) Any program established pursuant to this section shall allow
9 an offender to earn early release credits for presentence
10 incarceration. If an offender is transferred from a county jail to
11 the department, the administrator of a county jail facility shall
12 certify to the department the amount of time spent in custody at the
13 facility and the number of days of early release credits lost or not
14 earned. The department may approve a jail certification from a
15 correctional agency that calculates early release time based on the
16 actual amount of confinement time served by the offender before
17 sentencing when an erroneous calculation of confinement time served
18 by the offender before sentencing appears on the judgment and
19 sentence. The department must adjust an offender's rate of early
20 release listed on the jail certification to be consistent with the
21 rate applicable to offenders in the department's facilities. However,
22 the department is not authorized to adjust the number of presentence
23 early release days that the jail has certified as lost or not earned.

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

30 (b) An offender who has been convicted of a felony committed on
31 or after the effective date of this section, that involves any
32 applicable body armor enhancements under RCW 9.94A.533(15), may not
33 receive any good time credits or earned release time for the portion
34 of his or her sentence that results from those enhancements.

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

36 (a) In the case of an offender sentenced pursuant to RCW
37 10.95.030(3) or 10.95.035, the offender may not receive any earned
38 early release time during the minimum term of confinement imposed by
39 the court; for any remaining portion of the sentence served by the

1 offender, the aggregate earned release time may not exceed ten
2 percent of the sentence.

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

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

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

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

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

16 (A) A sex offense;

17 (B) A violent offense;

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

19 (D) A felony that is domestic violence as defined in RCW
20 10.99.020;

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

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

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

28 (iii) Has no prior conviction for the offenses listed in (d)(ii)
29 of this subsection;

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

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

36 (e) In no other case shall the aggregate earned release time
37 exceed one-third of the total sentence.

38 (4) The department shall perform a risk assessment of each
39 offender who may qualify for earned early release under subsection
40 (3)(d) of this section utilizing the risk assessment tool recommended

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

4 (5)(a) A person who is eligible for earned early release as
5 provided in this section and who will be supervised by the department
6 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
7 community custody in lieu of earned release time;

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

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

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

27 (i) Transfer an offender to partial confinement in lieu of earned
28 early release for a period not to exceed three months. The three
29 months in partial confinement is in addition to that portion of the
30 offender's term of confinement that may be served in partial
31 confinement as provided in RCW 9.94A.728(~~(+5)~~) (1)(e);

32 (ii) Provide rental vouchers to the offender for a period not to
33 exceed three months if rental assistance will result in an approved
34 release plan.

35 A voucher must be provided in conjunction with additional
36 transition support programming or services that enable an offender to
37 participate in services including, but not limited to, substance
38 abuse treatment, mental health treatment, sex offender treatment,
39 educational programming, or employment programming;

1 (e) The department shall maintain a list of housing providers
2 that meets the requirements of RCW 72.09.285. If more than two
3 voucher recipients will be residing per dwelling unit, as defined in
4 RCW 59.18.030, rental vouchers for those recipients may only be paid
5 to a housing provider on the department's list;

6 (f) For each offender who is the recipient of a rental voucher,
7 the department shall gather data as recommended by the Washington
8 state institute for public policy in order to best demonstrate
9 whether rental vouchers are effective in reducing recidivism.

10 (6) An offender serving a term of confinement imposed under RCW
11 9.94A.670(5)(a) is not eligible for earned release credits under this
12 section.

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