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**SUBSTITUTE HOUSE BILL 1282**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Simmons, J. Johnson, Hansen, Ramel, Frame, Dolan, Bateman, Fitzgibbon, Ryu, Berry, Peterson, Davis, Hackney, Fey, Thai, Gregerson, Macri, Callan, Ormsby, Pollet, Senn, and Ramos; by request of Department of Corrections)

AN ACT Relating to allowed earned time for certain offenses; amending RCW 9.94A.729, 9.94A.729, 9.94A.540, 10.01.210, and 72.01.410; reenacting and amending RCW 9.94A.533; creating new sections; providing an effective date; and providing an expiration date.

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

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

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

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

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

~~(3) An offender may earn early release time as follows:~~)) Except as provided in (a) through (c) of this subsection, an offender may earn up to one-third of the offender's total sentence in aggregated earned release time.

(a) In the case of an offender sentenced pursuant to RCW 10.95.030(3) or 10.95.035, the offender may not receive any earned early release time during the minimum term of confinement imposed by the court; for any remaining portion of the sentence served by the offender, the aggregate earned release time may not exceed ((~~ten percent~~)) one-third of the sentence.

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

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

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

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

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

~~(A) A sex offense;~~

~~(B) A violent offense;~~

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

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

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

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

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

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

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

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

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

~~(4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection (3)(d) of this section utilizing the risk assessment tool recommended by the Washington state institute for public policy. Subsection (3)(d) of this section does not apply to offenders convicted after July 1, 2010.~~

~~(5)~~)) In the case of an offender subject to a mandatory minimum term of confinement pursuant to RCW 9.94A.540, the offender may accrue earned time throughout the entire sentence, including the portion of the sentence attributable to the mandatory minimum term, but the offender may not be released before serving the entire mandatory minimum term.

(c) An offender sentenced to total confinement for life without the possibility of release, or who was sentenced under RCW 9.94A.670(5)(a), is not eligible for earned release credits under this section.

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

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 9.94A.729 and 2020 c 330 s 2 are each amended to read as follows:

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

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

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

~~(b) An offender whose sentence includes any impaired driving enhancements under RCW 9.94A.533(7), minor child enhancements under RCW 9.94A.533(13), or both, shall not receive any good time credits or earned release time for any portion of his or her sentence that results from those enhancements.~~

~~(3) An offender may earn early release time as follows:~~)) Except as provided in (a) through (c) of this subsection, an offender may earn up to one-third of the offender's total sentence in aggregated earned release time.

(a) In the case of an offender sentenced pursuant to RCW 10.95.030(3) or 10.95.035, the offender may not receive any earned early release time during the minimum term of confinement imposed by the court; for any remaining portion of the sentence served by the offender, the aggregate earned release time may not exceed ((~~ten percent~~)) one-third of the sentence.

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

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

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

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

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

~~(A) A sex offense;~~

~~(B) A violent offense;~~

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

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

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

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

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

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

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

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

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

~~(4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection (3)(d) of this section utilizing the risk assessment tool recommended by the Washington state institute for public policy. Subsection (3)(d) of this section does not apply to offenders convicted after July 1, 2010.~~

~~(5)~~)) In the case of an offender subject to a mandatory minimum term of confinement pursuant to RCW 9.94A.540, the offender may accrue earned time throughout the entire sentence, including the portion of the sentence attributable to the mandatory minimum term, but the offender may not be released before serving the entire mandatory minimum term.

(c) An offender sentenced to total confinement for life without the possibility of release, or who was sentenced under RCW 9.94A.670(5)(a), is not eligible for earned release credits under this section.

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

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

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

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

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

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

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

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

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

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

NEW SECTION. **Sec.**  Pursuant to RCW 9.94A.729, the department of corrections shall recalculate the earned release date for any offender currently serving a term in a facility or institution either operated by the state or utilized under contract. The earned release date shall be recalculated whether the offender is currently incarcerated or is sentenced after the effective date of this section, and regardless of the offender's date of offense. For offenders whose offense was committed prior to the effective date of this section, the recalculation shall not extend a term of incarceration beyond that to which an offender is currently subject. This act applies retroactively and prospectively, regardless of the date of an offender's underlying offense.

NEW SECTION. **Sec.**  The department of corrections' recalculations of earned time pursuant to sections 1 and 2 of this act do not create any expectations that the percentage of earned release time will be revised before the effective date of this section, and offenders have no reason to conclude that the maximum percentage of earned release time is an entitlement or creates any liberty interest. The department of corrections has discretion to implement the retroactive changes to earned early release for qualifying offenders over a period of time not to exceed 12 months following the effective date of this section.

**Sec.**  RCW 9.94A.533 and 2020 c 330 s 1 and 2020 c 141 s 1 are each reenacted and amended to read as follows:

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

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The increased penalty specified in (a) of this subsection is unavailable in the event that the prosecution gives notice that it will seek an exceptional sentence based on an aggravating factor under RCW 9.94A.535.

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

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

(13) An additional twelve months shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)) or felony physical control under the influence (RCW 46.61.504(6)) for each child passenger under the age of sixteen who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other minor child enhancements, for all offenses sentenced under this chapter. If the addition of a minor child enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions.

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

(15) Regardless of any provisions in this section, if a person is being sentenced in adult court for a crime committed under age eighteen, the court has full discretion to depart from mandatory sentencing enhancements and to take the particular circumstances surrounding the defendant's youth into account.

(16) All sentencing enhancements in this section are subject to the earned early release provisions of RCW 9.94A.729.

**Sec.**  RCW 9.94A.540 and 2014 c 130 s 2 are each amended to read as follows:

(1) Except to the extent provided in subsection (3) of this section, the following minimum terms of total confinement are mandatory and shall not be varied or modified under RCW 9.94A.535:

(a) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years.

(b) An offender convicted of the crime of assault in the first degree or assault of a child in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years.

(c) An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than five years.

(d) An offender convicted of the crime of sexually violent predator escape shall be sentenced to a minimum term of total confinement not less than sixty months.

(e) An offender convicted of the crime of aggravated first degree murder for a murder that was committed prior to the offender's eighteenth birthday shall be sentenced to a term of total confinement not less than twenty-five years.

(2) During such minimum terms of total confinement, no offender subject to the provisions of this section is eligible for community custody, early release through accrual of earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (a) In the case of an offender in need of emergency medical treatment; (b) for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree; or (c) for an extraordinary medical placement when authorized under RCW 9.94A.728((~~(3)~~)) (1)(c).

(3)(a) Subsection (1)(a) through (d) of this section shall not be applied in sentencing of juveniles tried as adults pursuant to RCW 13.04.030(1)(e)(i).

(b) This subsection (3) applies only to crimes committed on or after July 24, 2005.

**Sec.**  RCW 10.01.210 and 2002 c 290 s 23 are each amended to read as follows:

Any and all law enforcement agencies and personnel, criminal justice attorneys, sentencing judges, and state and local correctional facilities and personnel may, but are not required to, give any and all offenders either written or oral notice, or both, of the sanctions imposed and criminal justice changes regarding armed offenders, including but not limited to the subjects of:

(1) Felony crimes involving any deadly weapon special verdict under RCW ((~~9.94A.602~~)) 9.94A.825;

(2) Any and all deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, as well as any federal firearm, ammunition, or other deadly weapon enhancements;

(3) Any and all felony crimes requiring the possession, display, or use of any deadly weapon as well as the many increased penalties for these crimes including the creation of theft of a firearm and possessing a stolen firearm;

(4) New prosecuting standards established for filing charges for all crimes involving any deadly weapons; and

(5) ((~~Removal of good time for any and all deadly weapon enhancements; and~~

~~(6)~~)) Providing the death penalty for those who commit first degree murder: (a) To join, maintain, or advance membership in an identifiable group; (b) as part of a drive-by shooting; or (c) to avoid prosecution as a persistent offender as defined in RCW 9.94A.030.

**Sec.**  RCW 72.01.410 and 2019 c 322 s 2 are each amended to read as follows:

(1) Whenever any person is convicted as an adult in the courts of this state of a felony offense committed under the age of eighteen, and is committed for a term of confinement, that person shall be initially placed in a facility operated by the department of children, youth, and families. The department of corrections shall determine the person's earned release date.

(a) While in the custody of the department of children, youth, and families, the person must have the same treatment, housing options, transfer, and access to program resources as any other person committed to that juvenile correctional facility or institution pursuant to chapter 13.40 RCW. Except as provided under (d) of this subsection, treatment, placement, and program decisions shall be at the sole discretion of the department of children, youth, and families. The person shall not be transferred to the custody of the department of corrections without the approval of the department of children, youth, and families until the person reaches the age of twenty-five.

(b) If the person's sentence includes a term of community custody, the department of children, youth, and families shall not release the person to community custody until the department of corrections has approved the person's release plan pursuant to RCW 9.94A.729((~~(5)~~)) (3)(b). If a person is held past his or her earned release date pending release plan approval, the department of children, youth, and families shall retain custody until a plan is approved or the person completes the ordered term of confinement prior to age twenty-five.

(c) If the department of children, youth, and families determines that retaining custody of the person in a facility of the department of children, youth, and families presents a significant safety risk, the department of children, youth, and families may transfer the person to the custody of the department of corrections.

(d) The department of corrections must retain authority over custody decisions relating to a person whose earned release date is on or after the person's twenty-fifth birthday and who is placed in a facility operated by the department of children, youth, and families under this section, unless the person qualifies for partial confinement under RCW 72.01.412, and must approve any leave from the facility. When the person turns age twenty-five, he or she must be transferred to the department of corrections, except as described under RCW 72.01.412. The department of children, youth, and families has all routine and day-to-day operations authority for the person while the person is in its custody.

(2)(a) Except as provided in (b) and (c) of this subsection, a person under the age of eighteen who is transferred to the custody of the department of corrections must be placed in a housing unit, or a portion of a housing unit, that is separated from other persons in custody who are eighteen years of age or older, until the person reaches the age of eighteen.

(b) A person who is transferred to the custody of the department of corrections and reaches eighteen years of age may remain in a housing unit for persons under the age of eighteen if the secretary of corrections determines that: (i) The person's needs and the rehabilitation goals for the person could continue to be better met by the programs and housing environment that is separate from other persons in custody who are eighteen years of age and older; and (ii) the programs or housing environment for persons under the age of eighteen will not be substantially affected by the continued placement of the person in that environment. The person may remain placed in a housing unit for persons under the age of eighteen until such time as the secretary of corrections determines that the person's needs and goals are no longer better met in that environment but in no case past the person's twenty-fifth birthday.

(c) A person transferred to the custody of the department of corrections who is under the age of eighteen may be housed in an intensive management unit or administrative segregation unit containing offenders eighteen years of age or older if it is necessary for the safety or security of the offender or staff. In these cases, the offender must be kept physically separate from other offenders at all times.

(3) The department of children, youth, and families must review the placement of a person over age twenty-one in the custody of the department of children, youth, and families under this section to determine whether the person should be transferred to the custody of the department of corrections. The department of children, youth, and families may determine the frequency of the review required under this subsection, but the review must occur at least once before the person reaches age twenty-three if the person's commitment period in a juvenile institution extends beyond the person's twenty-third birthday.

NEW SECTION. **Sec.**  Section 1 of this act expires January 1, 2022.

NEW SECTION. **Sec.**  Section 2 of this act takes effect January 1, 2022.

**--- END ---**