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**SENATE BILL 5573**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators Lovick, Dhingra, Wellman, and C. Wilson

Prefiled 12/21/21. Read first time 01/10/22. Referred to Committee on Law & Justice.

1 AN ACT Relating to drug offender sentencing alternatives for  
2 offenders convicted of driving or control of a vehicle while under  
3 the influence; amending RCW 9.94A.190, 9.94A.501, 9.94A.505,  
4 9.94A.633, 9.94A.6332, 9.94A.660, and 9.94A.701; reenacting and  
5 amending RCW 9.94A.030; adding a new section to chapter 9.94A RCW;  
6 and providing an effective date.

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

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

10 (1) An offender is eligible for the special drug offender  
11 sentencing alternative for driving under the influence if the  
12 offender:

13 (a) Does not have a prior conviction under RCW 46.61.520,  
14 46.61.522, 46.61.502(6), or 46.61.504(6); and either

15 (b) Is convicted of felony driving while under the influence of  
16 intoxicating liquor, marijuana, or any drug under RCW  
17 46.61.502(6) (a); or

18 (c) Is convicted of felony physical control of a vehicle while  
19 under the influence of intoxicating liquor or any drug under RCW  
20 46.61.504(6) (a).

1 (2) A motion for a special drug offender sentencing alternative  
2 for driving under the influence may be made by the court, the  
3 offender, or the state if the midpoint of the standard sentence range  
4 is 26 months or less. If an offender has a higher midpoint, a motion  
5 for a special drug offender sentencing alternative for driving under  
6 the influence can only be made by joint agreement of the state and  
7 offender.

8 (3) If the sentencing court determines that the offender is  
9 eligible for an alternative sentence under this section and that the  
10 alternative sentence is appropriate, the court shall waive imposition  
11 of a sentence within the standard sentence range and:

12 (a) Impose a sentence equivalent to a prison-based alternative  
13 under RCW 9.94A.662, and subject to the same requirements and  
14 restrictions as are established in that section, if the low end of  
15 the standard sentence range is greater than 24 months; or

16 (b) Impose a sentence consisting of a residential treatment-based  
17 alternative consistent with this section if the low end of the  
18 standard sentence range is 24 months or less.

19 (4) (a) To assist the court in making its determination, the court  
20 may order the department to complete either a risk assessment report  
21 or a substance use disorder screening report as provided in RCW  
22 9.94A.500, or both.

23 (b) If the court is considering imposing a sentence under the  
24 residential substance use disorder treatment-based alternative, the  
25 court may order an examination of the offender by the department. The  
26 examination shall, at a minimum, address the following issues:

27 (i) Whether the offender suffers from a substance use disorder;

28 (ii) Whether the substance use disorder is such that there is a  
29 probability that criminal behavior will occur in the future;

30 (iii) Whether effective treatment for the offender's substance  
31 use disorder is available from a provider that has been licensed or  
32 certified by the department of health; and

33 (iv) Whether the offender and the community will benefit from the  
34 use of the alternative.

35 (5) An offender who is eligible for a residential treatment-based  
36 alternative under this section shall be sentenced as follows:

37 (a) If necessary, an indeterminate term of confinement of no more  
38 than 30 days in a facility operated, licensed, or utilized under  
39 contract, by the county in order to facilitate direct transfer to a  
40 residential substance use disorder treatment facility;

1 (b) Treatment in a residential substance use disorder treatment  
2 program certified by the department of health for a period set by the  
3 court up to six months with treatment completion and continued care  
4 delivered in accordance with rules established by the department of  
5 health. In establishing rules pursuant to this subsection, the  
6 department of health must consider criteria established by the  
7 American society of addiction medicine;

8 (c) Twenty-four months of partial confinement to consist of 12  
9 months work release followed by 12 months of home detention with  
10 electronic monitoring; and

11 (d) Twelve months of community custody.

12 (6)(a) During any period of partial confinement or community  
13 custody, the court shall impose treatment and other conditions as  
14 provided in RCW 9.94A.703 or as the court considers appropriate.

15 (b) The department may impose conditions and sanctions as  
16 authorized in RCW 9.94A.704 and 9.94A.737.

17 (c) The department shall, within available resources, make  
18 substance use disorder assessment and treatment services available to  
19 the offender.

20 (d) An offender sentenced to community custody under subsection  
21 (3)(a) of this section as part of the prison-based alternative or  
22 under subsection (3)(b) of this section as part of the residential  
23 treatment-based alternative may be required to pay \$30 per month  
24 while on community custody to offset the cost of monitoring for  
25 alcohol or controlled substances.

26 (7)(a) If the court imposes a sentence under subsection (3)(b) of  
27 this section, the treatment provider must send the treatment plan to  
28 the court within 30 days of the offender's arrival to the residential  
29 substance use disorder treatment program.

30 (b) Upon receipt of the plan, the court shall schedule a progress  
31 hearing during the period of treatment and schedule a treatment  
32 termination hearing for three months before the expiration of the  
33 term of community custody.

34 (c) Before the progress hearing and treatment termination  
35 hearing, the treatment provider and the department shall submit  
36 written reports to the court and parties regarding the offender's  
37 compliance with treatment and monitoring requirements and  
38 recommendations regarding termination from treatment.

39 (8) At a progress hearing or treatment termination hearing, the  
40 court may:

1 (a) Authorize the department to terminate the offender's  
2 community custody status on the expiration date determined under  
3 subsection (7) of this section;

4 (b) Continue the hearing to a date before the expiration date of  
5 community custody, with or without modifying the conditions of  
6 partial confinement or community custody; or

7 (c) Impose a term of total confinement equal to one-half the  
8 midpoint of the standard sentence range, followed by a term of  
9 community custody under RCW 9.94A.701.

10 (9) (a) The court may bring any offender sentenced under  
11 subsection (3) (a) or (b) of this section back into court at any time  
12 on its own initiative to evaluate the offender's progress in  
13 treatment or to determine if any violations of the conditions of the  
14 sentence have occurred.

15 (b) If the offender is brought back to court, the court may  
16 modify the conditions of partial confinement or community custody or  
17 order the offender to serve a term of total confinement within the  
18 standard sentence range of the offender's current offense at any time  
19 during the period of partial confinement or community custody if the  
20 offender violates the conditions or requirements of the sentence or  
21 if the offender is failing to make satisfactory progress in  
22 treatment.

23 (c) An offender ordered to serve a term of total confinement  
24 under (b) of this subsection shall receive credit for any time  
25 previously served in total confinement or residential treatment under  
26 this section and shall receive 50 percent credit for any time  
27 previously served in partial confinement or community custody under  
28 this section.

29 (10) In serving a term of community custody imposed upon failure  
30 to complete, or administrative termination from, the special drug  
31 offender sentencing alternative program for driving under the  
32 influence under this section, the offender shall receive no credit  
33 for time served in community custody prior to termination of the  
34 offender's participation in the program.

35 (11) An offender sentenced under this section shall be subject to  
36 all rules relating to earned release time with respect to any period  
37 served in total or partial confinement.

38 (12) Costs of examinations and preparing the recommended service  
39 delivery plans under a special drug offender sentencing alternative  
40 for driving under the influence may be paid, at the option of the

1 county, from funds provided to the county from the criminal justice  
2 treatment account under RCW 71.24.580.

3 **Sec. 2.** RCW 9.94A.030 and 2021 c 237 s 1 and 2021 c 215 s 97 are  
4 each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

35 (9) "Conviction" means an adjudication of guilt pursuant to Title  
36 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,  
37 and acceptance of a plea of guilty.

38 (10) "Crime-related prohibition" means an order of a court  
39 prohibiting conduct that directly relates to the circumstances of the

1 crime for which the offender has been convicted, and shall not be  
2 construed to mean orders directing an offender affirmatively to  
3 participate in rehabilitative programs or to otherwise perform  
4 affirmative conduct. However, affirmative acts necessary to monitor  
5 compliance with the order of a court may be required by the  
6 department.

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

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

15 (b) A conviction may be removed from a defendant's criminal  
16 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
17 9.95.240, or a similar out-of-state statute, or if the conviction has  
18 been vacated pursuant to a governor's pardon. However, when a  
19 defendant is charged with a recidivist offense, "criminal history"  
20 includes a vacated prior conviction for the sole purpose of  
21 establishing that such vacated prior conviction constitutes an  
22 element of the present recidivist offense as provided in RCW  
23 9.94A.640(4)(b) and 9.96.060(7)(c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (b) "Domestic violence" also means: (i) Physical harm, bodily  
20 injury, assault, or the infliction of fear of imminent physical harm,  
21 bodily injury, or assault, sexual assault, or stalking, as defined in  
22 RCW 9A.46.110, of one intimate partner by another intimate partner as  
23 defined in RCW 10.99.020; or (ii) physical harm, bodily injury,  
24 assault, or the infliction of fear of imminent physical harm, bodily  
25 injury, or assault, sexual assault, or stalking, as defined in RCW  
26 9A.46.110, of one family or household member by another family or  
27 household member as defined in RCW 10.99.020.

28 (21) "Drug offender sentencing alternative" is a sentencing  
29 option available to persons convicted of a felony offense who are  
30 eligible for the option under RCW 9.94A.660.

31 (22) "Drug offense" means:

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

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

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



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

3 (24) "Electronic monitoring" means tracking the location of an  
4 individual through the use of technology that is capable of  
5 determining or identifying the monitored individual's presence or  
6 absence at a particular location including, but not limited to:

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

12 (b) Active or passive global positioning system technology, which  
13 detects the location of the monitored individual and notifies the  
14 monitoring agency of the monitored individual's location and which  
15 may also include electronic monitoring with victim notification  
16 technology that is capable of notifying a victim or protected party,  
17 either directly or through a monitoring agency, if the monitored  
18 individual enters within the restricted distance of a victim or  
19 protected party, or within the restricted distance of a designated  
20 location.

21 (25) "Escape" means:

22 (a) Sexually violent predator escape (RCW 9A.76.115), escape in  
23 the first degree (RCW 9A.76.110), escape in the second degree (RCW  
24 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
25 willful failure to return from work release (RCW 72.65.070), or  
26 willful failure to be available for supervision by the department  
27 while in community custody (RCW 72.09.310); or

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

31 (26) "Felony traffic offense" means:

32 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
33 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
34 run injury-accident (RCW 46.52.020(4)), felony driving while under  
35 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),  
36 or felony physical control of a vehicle while under the influence of  
37 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

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

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

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

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

21 (c) A private residence where the individual stays as a transient  
22 invitee.

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

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

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

1 (ii) A prior conviction for indecent liberties under RCW  
2 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
3 if: (A) The crime was committed against a child under the age of  
4 fourteen; or (B) the relationship between the victim and perpetrator  
5 is included in the definition of indecent liberties under RCW  
6 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,  
7 1997, or RCW 9A.44.100(1)(d) or (e) as it existed from July 25,  
8 1993, through July 27, 1997;

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

15 (33) "Nonviolent offense" means an offense which is not a violent  
16 offense.

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

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

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

1 (a) The commission, attempt, conspiracy, or solicitation of, or  
2 any prior juvenile adjudication of or adult conviction of, two or  
3 more of the following criminal street gang-related offenses:  
4 (i) Any "serious violent" felony offense as defined in this  
5 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a  
6 Child 1 (RCW 9A.36.120);  
7 (ii) Any "violent" offense as defined by this section, excluding  
8 Assault of a Child 2 (RCW 9A.36.130);  
9 (iii) Deliver or Possession with Intent to Deliver a Controlled  
10 Substance (chapter 69.50 RCW);  
11 (iv) Any violation of the firearms and dangerous weapon act  
12 (chapter 9.41 RCW);  
13 (v) Theft of a Firearm (RCW 9A.56.300);  
14 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);  
15 (vii) Hate Crime (RCW 9A.36.080);  
16 (viii) Harassment where a subsequent violation or deadly threat  
17 is made (RCW 9A.46.020(2)(b));  
18 (ix) Criminal Gang Intimidation (RCW 9A.46.120);  
19 (x) Any felony conviction by a person eighteen years of age or  
20 older with a special finding of involving a juvenile in a felony  
21 offense under RCW 9.94A.833;  
22 (xi) Residential Burglary (RCW 9A.52.025);  
23 (xii) Burglary 2 (RCW 9A.52.030);  
24 (xiii) Malicious Mischief 1 (RCW 9A.48.070);  
25 (xiv) Malicious Mischief 2 (RCW 9A.48.080);  
26 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);  
27 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);  
28 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW  
29 9A.56.070);  
30 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
31 9A.56.075);  
32 (xix) Extortion 1 (RCW 9A.56.120);  
33 (xx) Extortion 2 (RCW 9A.56.130);  
34 (xxi) Intimidating a Witness (RCW 9A.72.110);  
35 (xxii) Tampering with a Witness (RCW 9A.72.120);  
36 (xxiii) Reckless Endangerment (RCW 9A.36.050);  
37 (xxiv) Coercion (RCW 9A.36.070);  
38 (xxv) Harassment (RCW 9A.46.020); or  
39 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

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

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

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

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

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

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

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

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

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

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

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

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

30 (41) "Recidivist offense" means a felony offense where a prior  
31 conviction of the same offense or other specified offense is an  
32 element of the crime including, but not limited to:

33 (a) Assault in the fourth degree where domestic violence is  
34 pleaded and proven, RCW 9A.36.041(3);

35 (b) Cyberstalking, RCW 9.61.260(3)(a);

36 (c) Harassment, RCW 9A.46.020(2)(b)(i);

37 (d) Indecent exposure, RCW 9A.88.010(2)(c);

38 (e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);

39 (f) Telephone harassment, RCW 9.61.230(2)(a); and

1 (g) Violation of a no-contact or protection order, RCW 7.105.450  
2 or former RCW 26.50.110(5).

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

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

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

8 (iii) Domestic violence violation of a protection order under  
9 chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or  
10 violation of a domestic violence protection order under chapter 7.105  
11 RCW, that is not a felony offense;

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

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

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

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

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

28 (45) "Serious traffic offense" means:

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

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

37 (46) "Serious violent offense" is a subcategory of violent  
38 offense and means:

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

40 (ii) Homicide by abuse;



1 (iii) Murder in the second degree;  
2 (iv) Manslaughter in the first degree;  
3 (v) Assault in the first degree;  
4 (vi) Kidnapping in the first degree;  
5 (vii) Rape in the first degree;  
6 (viii) Assault of a child in the first degree; or  
7 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
8 commit one of these felonies; or

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

12 (47) "Sex offense" means:

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

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

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

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

21 (v) A felony violation of RCW 9A.44.132(1) (failure to register  
22 as a sex offender) if the person has been convicted of violating RCW  
23 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130  
24 prior to June 10, 2010, on at least one prior occasion;

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

28 (c) A felony with a finding of sexual motivation under RCW  
29 9.94A.835 or 13.40.135; or

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

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

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

38 (50) "Statutory maximum sentence" means the maximum length of  
39 time for which an offender may be confined as punishment for a crime  
40 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute

1 defining the crime, or other statute defining the maximum penalty for  
2 a crime.

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

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

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

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

18 (55) "Victim of domestic violence" means an intimate partner or  
19 household member who has been subjected to the infliction of physical  
20 harm or sexual and psychological abuse by an intimate partner or  
21 household member as part of a pattern of assaultive, coercive, and  
22 controlling behaviors directed at achieving compliance from or  
23 control over that intimate partner or household member. Domestic  
24 violence includes, but is not limited to, the offenses listed in RCW  
25 10.99.020 and 26.50.010 committed by an intimate partner or household  
26 member against a victim who is an intimate partner or household  
27 member.

28 (56) "Victim of sex trafficking, prostitution, or commercial  
29 sexual abuse of a minor" means a person who has been forced or  
30 coerced to perform a commercial sex act including, but not limited  
31 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,  
32 9.68A.101, and the trafficking victims protection act of 2000, 22  
33 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a  
34 commercial sex act when they were less than 18 years of age including  
35 but not limited to the offenses defined in chapter 9.68A RCW.

36 (57) "Victim of sexual assault" means any person who is a victim  
37 of a sexual assault offense, nonconsensual sexual conduct, or  
38 nonconsensual sexual penetration and as a result suffers physical,  
39 emotional, financial, or psychological impacts. Sexual assault

1 offenses include, but are not limited to, the offenses defined in  
2 chapter 9A.44 RCW.

3 (58) "Violent offense" means:

4 (a) Any of the following felonies:

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

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

9 (iii) Manslaughter in the first degree;

10 (iv) Manslaughter in the second degree;

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

12 (vi) Kidnapping in the second degree;

13 (vii) Arson in the second degree;

14 (viii) Assault in the second degree;

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

16 (x) Extortion in the first degree;

17 (xi) Robbery in the second degree;

18 (xii) Drive-by shooting;

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

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

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

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

33 (59) "Work crew" means a program of partial confinement  
34 consisting of civic improvement tasks for the benefit of the  
35 community that complies with RCW 9.94A.725.

36 (60) "Work ethic camp" means an alternative incarceration program  
37 as provided in RCW 9.94A.690 designed to reduce recidivism and lower  
38 the cost of corrections by requiring offenders to complete a  
39 comprehensive array of real-world job and vocational experiences,  
40 character-building work ethics training, life management skills

1 development, substance abuse rehabilitation, counseling, literacy  
2 training, and basic adult education.

3 (61) "Work release" means a program of partial confinement  
4 available to offenders who are employed or engaged as a student in a  
5 regular course of study at school.

6 (62) "Drug offender sentencing alternative for driving under the  
7 influence" is a sentencing option available to persons convicted of  
8 felony driving while under the influence of intoxicating liquor or  
9 any drug under RCW 46.61.502(6), or felony physical control of a  
10 vehicle while under the influence of intoxicating liquor or any drug  
11 under RCW 46.61.504(6) who are eligible under section 1 of this act.

12 **Sec. 3.** RCW 9.94A.190 and 2018 c 166 s 5 are each amended to  
13 read as follows:

14 (1) A sentence that includes a term or terms of confinement  
15 totaling more than one year shall be served in a facility or  
16 institution operated, or utilized under contract, by the state, or in  
17 home detention pursuant to RCW 9.94A.6551 or the graduated reentry  
18 program under RCW 9.94A.733. Except as provided in subsection (3) or  
19 (5) of this section, a sentence of not more than one year of  
20 confinement shall be served in a facility operated, licensed, or  
21 utilized under contract, by the county, or if home detention or work  
22 crew has been ordered by the court, in the residence of either the  
23 offender or a member of the offender's immediate family.

24 (2) If a county uses a state partial confinement facility for the  
25 partial confinement of a person sentenced to confinement for not more  
26 than one year, the county shall reimburse the state for the use of  
27 the facility as provided in this subsection. The office of financial  
28 management shall set the rate of reimbursement based upon the average  
29 per diem cost per offender in the facility. The office of financial  
30 management shall determine to what extent, if any, reimbursement  
31 shall be reduced or eliminated because of funds provided by the  
32 legislature to the department for the purpose of covering the cost of  
33 county use of state partial confinement facilities. The office of  
34 financial management shall reestablish reimbursement rates each even-  
35 numbered year.

36 (3) A person who is sentenced for a felony to a term of not more  
37 than one year, and who is committed or returned to incarceration in a  
38 state facility on another felony conviction, either under the  
39 indeterminate sentencing laws, chapter 9.95 RCW, or under this

1 chapter shall serve all terms of confinement, including a sentence of  
2 not more than one year, in a facility or institution operated, or  
3 utilized under contract, by the state, consistent with the provisions  
4 of RCW 9.94A.589.

5 (4) Notwithstanding any other provision of this section, a  
6 sentence imposed pursuant to RCW 9.94A.660 or section 1 of this act  
7 which has a standard sentence range of over one year, regardless of  
8 length, shall be served in a facility or institution operated, or  
9 utilized under contract, by the state.

10 (5) Sentences imposed pursuant to RCW 9.94A.507 shall be served  
11 in a facility or institution operated, or utilized under contract, by  
12 the state.

13 **Sec. 4.** RCW 9.94A.501 and 2021 c 242 s 2 are each amended to  
14 read as follows:

15 (1) The department shall supervise the following offenders who  
16 are sentenced to probation in superior court, pursuant to RCW  
17 9.92.060, 9.95.204, or 9.95.210:

18 (a) Offenders convicted of:

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

20 (ii) Custodial sexual misconduct second degree;

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

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

23 (b) Offenders who have:

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

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

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

33 (3) The department shall supervise every felony offender  
34 sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702  
35 whose risk assessment classifies the offender as one who is at a high  
36 risk to reoffend.

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

1 (a) Has a current conviction for a sex offense or a serious  
2 violent offense and was sentenced to a term of community custody  
3 pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

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

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

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

11 (e) (i) Has a current conviction for a domestic violence felony  
12 offense where domestic violence has been pleaded and proven after  
13 August 1, 2011, and a prior conviction for a repetitive domestic  
14 violence offense or domestic violence felony offense where domestic  
15 violence was pleaded and proven after August 1, 2011. This subsection  
16 (4) (e) (i) applies only to offenses committed prior to July 24, 2015;

17 (ii) Has a current conviction for a domestic violence felony  
18 offense where domestic violence was pleaded and proven. The state and  
19 its officers, agents, and employees shall not be held criminally or  
20 civilly liable for its supervision of an offender under this  
21 subsection (4) (e) (ii) unless the state and its officers, agents, and  
22 employees acted with gross negligence;

23 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660,  
24 9.94A.670, 9.94A.711, ~~((or))~~ 9.94A.695, or section 1 of this act;

25 (g) Is subject to supervision pursuant to RCW 9.94A.745; or

26 (h) Was convicted and sentenced under RCW 46.61.520 (vehicular  
27 homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6)  
28 (felony DUI), or RCW 46.61.504(6) (felony physical control).

29 (5) The department shall supervise any offender who is released  
30 by the indeterminate sentence review board and who was sentenced to  
31 community custody or subject to community custody under the terms of  
32 release.

33 (6) The department is not authorized to, and may not, supervise  
34 any offender sentenced to a term of community custody or any  
35 probationer unless the offender or probationer is one for whom  
36 supervision is required under this section or RCW 9.94A.5011.

37 (7) The department shall conduct a risk assessment for every  
38 felony offender sentenced to a term of community custody who may be  
39 subject to supervision under this section or RCW 9.94A.5011.

1 (8) The period of time the department is authorized to supervise  
2 an offender under this section may not exceed the duration of  
3 community custody specified under RCW 9.94B.050, 9.94A.701 (1)  
4 through (9), or 9.94A.702, except in cases where the court has  
5 imposed an exceptional term of community custody under RCW 9.94A.535.

6 (9) The period of time the department is authorized to supervise  
7 an offender under this section may be reduced by the earned award of  
8 supervision compliance credit pursuant to RCW 9.94A.717.

9 **Sec. 5.** RCW 9.94A.505 and 2021 c 242 s 3 are each amended to  
10 read as follows:

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

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

15 (i) Unless another term of confinement applies, a sentence within  
16 the standard sentence range established in RCW 9.94A.510 or  
17 9.94A.517;

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

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

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

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

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

24 (vii) Section 1 of this act, relating to the drug offender  
25 sentencing alternative for driving under the influence;

26 (viii) RCW 9.94A.670, relating to the special sex offender  
27 sentencing alternative;

28 (~~(viii)~~) (ix) RCW 9.94A.655, relating to the parenting  
29 sentencing alternative;

30 (~~(ix)~~) (x) RCW 9.94A.695, relating to the mental health  
31 sentencing alternative;

32 (~~(x)~~) (xi) RCW 9.94A.507, relating to certain sex offenses;

33 (~~(xi)~~) (xii) RCW 9.94A.535, relating to exceptional sentences;

34 (~~(xii)~~) (xiii) RCW 9.94A.589, relating to consecutive and  
35 concurrent sentences;

36 (~~(xiii)~~) (xiv) RCW 9.94A.603, relating to felony driving while  
37 under the influence of intoxicating liquor or any drug and felony  
38 physical control of a vehicle while under the influence of  
39 intoxicating liquor or any drug;

1       (~~(xiv)~~) (xv) RCW 9.94A.711, relating to the theft or taking of  
2 a motor vehicle.

3       (b) If a standard sentence range has not been established for the  
4 offender's crime, the court shall impose a determinate sentence which  
5 may include not more than one year of confinement; community  
6 restitution work; a term of community custody under RCW 9.94A.702 not  
7 to exceed one year; and/or other legal financial obligations. The  
8 court may impose a sentence which provides more than one year of  
9 confinement and a community custody term under RCW 9.94A.701 if the  
10 court finds reasons justifying an exceptional sentence as provided in  
11 RCW 9.94A.535.

12       (3) If the court imposes a sentence requiring confinement of  
13 thirty days or less, the court may, in its discretion, specify that  
14 the sentence be served on consecutive or intermittent days. A  
15 sentence requiring more than thirty days of confinement shall be  
16 served on consecutive days. Local jail administrators may schedule  
17 court-ordered intermittent sentences as space permits.

18       (4) If a sentence imposed includes payment of a legal financial  
19 obligation, it shall be imposed as provided in RCW 9.94A.750,  
20 9.94A.753, 9.94A.760, and 43.43.7541.

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

25       (6) The sentencing court shall give the offender credit for all  
26 confinement time served before the sentencing if that confinement was  
27 solely in regard to the offense for which the offender is being  
28 sentenced.

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

33       (a) A violent offense;

34       (b) Any sex offense;

35       (c) Any drug offense;

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

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

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

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



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

2 (8) The court shall order restitution as provided in RCW  
3 9.94A.750 and 9.94A.753.

4 (9) As a part of any sentence, the court may impose and enforce  
5 crime-related prohibitions and affirmative conditions as provided in  
6 this chapter. "Crime-related prohibitions" may include a prohibition  
7 on the use or possession of alcohol or controlled substances if the  
8 court finds that any chemical dependency or substance abuse  
9 contributed to the offense.

10 (10) In any sentence of partial confinement, the court may  
11 require the offender to serve the partial confinement in work  
12 release, in a program of home detention, on work crew, or in a  
13 combined program of work crew and home detention.

14 **Sec. 6.** RCW 9.94A.633 and 2021 c 242 s 4 are each amended to  
15 read as follows:

16 (1) (a) An offender who violates any condition or requirement of a  
17 sentence may be sanctioned by the court with up to sixty days'  
18 confinement for each violation or by the department with up to thirty  
19 days' confinement as provided in RCW 9.94A.737.

20 (b) In lieu of confinement, an offender may be sanctioned with  
21 work release, home detention with electronic monitoring, work crew,  
22 community restitution, inpatient treatment, daily reporting, curfew,  
23 educational or counseling sessions, supervision enhanced through  
24 electronic monitoring, or any other community-based sanctions.

25 (2) If an offender was under community custody pursuant to one of  
26 the following statutes, the offender may be sanctioned as follows:

27 (a) If the offender was transferred to community custody in lieu  
28 of earned early release in accordance with RCW 9.94A.728, the  
29 offender may be transferred to a more restrictive confinement status  
30 to serve up to the remaining portion of the sentence, less credit for  
31 any period actually spent in community custody or in detention  
32 awaiting disposition of an alleged violation.

33 (b) If the offender was sentenced under the drug offender  
34 sentencing alternative set out in RCW 9.94A.660, the offender may be  
35 sanctioned in accordance with that section.

36 (c) If the offender was sentenced under the drug offender  
37 sentencing alternative for driving under the influence set out in  
38 section 1 of this act, the offender may be sanctioned in accordance  
39 with that section.

1        (d) If the offender was sentenced under the parenting sentencing  
2 alternative set out in RCW 9.94A.655, the offender may be sanctioned  
3 in accordance with that section.

4        ~~((d))~~ (e) If the offender was sentenced under the special sex  
5 offender sentencing alternative set out in RCW 9.94A.670, the  
6 suspended sentence may be revoked and the offender committed to serve  
7 the original sentence of confinement.

8        ~~((e))~~ (f) If the offender was sentenced under the mental health  
9 sentencing alternative set out in RCW 9.94A.695, the offender may be  
10 sanctioned in accordance with that section.

11        ~~((f))~~ (g) If the offender was sentenced to a work ethic camp  
12 pursuant to RCW 9.94A.690, the offender may be reclassified to serve  
13 the unexpired term of his or her sentence in total confinement.

14        ~~((g))~~ (h) If a sex offender was sentenced pursuant to RCW  
15 9.94A.507, the offender may be transferred to a more restrictive  
16 confinement status to serve up to the remaining portion of the  
17 sentence, less credit for any period actually spent in community  
18 custody or in detention awaiting disposition of an alleged violation.

19        (3) If a probationer is being supervised by the department  
20 pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may  
21 be sanctioned pursuant to subsection (1) of this section. The  
22 department shall have authority to issue a warrant for the arrest of  
23 an offender who violates a condition of community custody, as  
24 provided in RCW 9.94A.716. Any sanctions shall be imposed by the  
25 department pursuant to RCW 9.94A.737. Nothing in this subsection is  
26 intended to limit the power of the sentencing court to respond to a  
27 probationer's violation of conditions.

28        (4) The parole or probation of an offender who is charged with a  
29 new felony offense may be suspended and the offender placed in total  
30 confinement pending disposition of the new criminal charges if:

31        (a) The offender is on parole pursuant to RCW 9.95.110(1); or

32        (b) The offender is being supervised pursuant to RCW 9.94A.745  
33 and is on parole or probation pursuant to the laws of another state.

34        **Sec. 7.** RCW 9.94A.6332 and 2021 c 242 s 5 are each amended to  
35 read as follows:

36        The procedure for imposing sanctions for violations of sentence  
37 conditions or requirements is as follows:

1 (1) If the offender was sentenced under the drug offender  
2 sentencing alternative, any sanctions shall be imposed by the  
3 department or the court pursuant to RCW 9.94A.660.

4 (2) If the offender was sentenced under the drug offender  
5 sentencing alternative for driving under the influence, any sanctions  
6 shall be imposed by the department or the court pursuant to section 1  
7 of this act.

8 (3) If the offender was sentenced under the special sex offender  
9 sentencing alternative, any sanctions shall be imposed by the  
10 department or the court pursuant to RCW 9.94A.670.

11 (~~(3)~~) (4) If the offender was sentenced under the parenting  
12 sentencing alternative, any sanctions shall be imposed by the  
13 department or by the court pursuant to RCW 9.94A.655.

14 (~~(4)~~) (5) If the offender was sentenced under the mental health  
15 sentencing alternative, any sanctions shall be imposed by the  
16 department or the court pursuant to RCW 9.94A.695.

17 (~~(5)~~) (6) If a sex offender was sentenced pursuant to RCW  
18 9.94A.507, any sanctions shall be imposed by the board pursuant to  
19 RCW 9.95.435.

20 (~~(6)~~) (7) If the offender was released pursuant to RCW  
21 9.94A.730, any sanctions shall be imposed by the board pursuant to  
22 RCW 9.95.435.

23 (~~(7)~~) (8) If the offender was sentenced pursuant to RCW  
24 10.95.030(3) or 10.95.035, any sanctions shall be imposed by the  
25 board pursuant to RCW 9.95.435.

26 (~~(8)~~) (9) In any other case, if the offender is being  
27 supervised by the department, any sanctions shall be imposed by the  
28 department pursuant to RCW 9.94A.737. If a probationer is being  
29 supervised by the department pursuant to RCW 9.92.060, 9.95.204, or  
30 9.95.210, upon receipt of a violation hearing report from the  
31 department, the court retains any authority that those statutes  
32 provide to respond to a probationer's violation of conditions.

33 (~~(9)~~) (10) If the offender is not being supervised by the  
34 department, any sanctions shall be imposed by the court pursuant to  
35 RCW 9.94A.6333.

36 **Sec. 8.** RCW 9.94A.660 and 2021 c 215 s 102 are each amended to  
37 read as follows:

38 (1) An offender is eligible for the special drug offender  
39 sentencing alternative if:

1 (a) The offender is convicted of a felony that is not a violent  
2 offense and the violation does not involve a sentence enhancement  
3 under RCW 9.94A.533 (3) or (4);

4 (b) The offender is convicted of a felony that is not a felony  
5 driving while under the influence of intoxicating liquor or any drug  
6 under RCW 46.61.502(6) or felony physical control of a vehicle while  
7 under the influence of intoxicating liquor or any drug under RCW  
8 46.61.504(6);

9 (c) The offender has no current or prior convictions for a sex  
10 offense for which the offender is currently or may be required to  
11 register pursuant to RCW 9A.44.130;

12 (d) The offender has no prior convictions in this state, and no  
13 prior convictions for an equivalent out-of-state or federal offense,  
14 for the following offenses during the following time frames:

15 (i) Robbery in the second degree that did not involve the use of  
16 a firearm and was not reduced from robbery in the first degree within  
17 seven years before conviction of the current offense; or

18 (ii) Any other violent offense within ten years before conviction  
19 of the current offense;

20 (e) For a violation of the uniform controlled substances act  
21 under chapter 69.50 RCW or a criminal solicitation to commit such a  
22 violation under chapter 9A.28 RCW, the offense involved only a small  
23 quantity of the particular controlled substance as determined by the  
24 judge upon consideration of such factors as the weight, purity,  
25 packaging, sale price, and street value of the controlled substance;

26 (f) The offender has not been found by the United States attorney  
27 general to be subject to a deportation detainer or order and does not  
28 become subject to a deportation order during the period of the  
29 sentence; and

30 (g) The offender has not received a drug offender sentencing  
31 alternative under this section, or a drug offender sentencing  
32 alternative for driving under the influence under section 1 of this  
33 act, more than once in the prior ten years before the current  
34 offense.

35 (2) A motion for a special drug offender sentencing alternative  
36 may be made by the court, the offender, or the state.

37 (3) If the sentencing court determines that the offender is  
38 eligible for an alternative sentence under this section and that the  
39 alternative sentence is appropriate, the court shall waive imposition  
40 of a sentence within the standard sentence range and impose a

1 sentence consisting of either a prison-based alternative under RCW  
2 9.94A.662 or a residential substance use disorder treatment-based  
3 alternative under RCW 9.94A.664. The residential substance use  
4 disorder treatment-based alternative is only available if the  
5 midpoint of the standard sentence range is twenty-six months or less.

6 (4) (a) To assist the court in making its determination, the court  
7 may order the department to complete either or both a risk assessment  
8 report and a substance use disorder screening report as provided in  
9 RCW 9.94A.500.

10 (b) To assist the court in making its determination in domestic  
11 violence cases, the court shall order the department to complete a  
12 presentence investigation and a chemical dependency screening report  
13 as provided in RCW 9.94A.500, unless otherwise specifically waived by  
14 the court.

15 (5) If the court is considering imposing a sentence under the  
16 residential substance use disorder treatment-based alternative, the  
17 court may order an examination of the offender by the department. The  
18 examination must be performed by an agency certified by the  
19 department of health to provide substance use disorder services. The  
20 examination shall, at a minimum, address the following issues:

21 (a) Whether the offender suffers from a substance use disorder;

22 (b) Whether the substance use disorder is such that there is a  
23 probability that criminal behavior will occur in the future;

24 (c) Whether effective treatment for the offender's substance use  
25 disorder is available from a provider that has been licensed or  
26 certified by the department of health, and where applicable, whether  
27 effective domestic violence perpetrator treatment is available from a  
28 state-certified domestic violence treatment provider pursuant to RCW  
29 43.20A.735; and

30 (d) Whether the offender and the community will benefit from the  
31 use of the alternative.

32 (6) When a court imposes a sentence of community custody under  
33 this section:

34 (a) The court may impose conditions as provided in RCW 9.94A.703  
35 and may impose other affirmative conditions as the court considers  
36 appropriate. In addition, an offender may be required to pay thirty  
37 dollars per month while on community custody to offset the cost of  
38 monitoring for alcohol or controlled substances, or in cases of  
39 domestic violence for monitoring with global positioning system  
40 technology for compliance with a no-contact order.

1 (b) The department may impose conditions and sanctions as  
2 authorized in RCW 9.94A.704 and 9.94A.737.

3 (7) (a) The court may bring any offender sentenced under this  
4 section back into court at any time on its own initiative to evaluate  
5 the offender's progress in treatment or to determine if any  
6 violations of the conditions of the sentence have occurred.

7 (b) If the offender is brought back to court, the court may  
8 modify the conditions of the community custody or impose sanctions  
9 under (c) of this subsection.

10 (c) The court may order the offender to serve a term of total  
11 confinement within the standard sentence range of the offender's  
12 current offense at any time during the period of community custody if  
13 the offender violates the conditions or requirements of the sentence  
14 or if the offender is failing to make satisfactory progress in  
15 treatment.

16 (d) An offender ordered to serve a term of total confinement  
17 under (c) of this subsection shall receive credit for time previously  
18 served in total or partial confinement and inpatient treatment under  
19 this section, and shall receive fifty percent credit for time  
20 previously served in community custody under this section.

21 (8) In serving a term of community custody imposed upon failure  
22 to complete, or administrative termination from, the special drug  
23 offender sentencing alternative program, the offender shall receive  
24 no credit for time served in community custody prior to termination  
25 of the offender's participation in the program.

26 (9) An offender sentenced under this section shall be subject to  
27 all rules relating to earned release time with respect to any period  
28 served in total confinement.

29 (10) The Washington state institute for public policy shall  
30 submit a report to the governor and the appropriate committees of the  
31 legislature by November 1, 2022, analyzing the effectiveness of the  
32 drug offender sentencing alternative in reducing recidivism among  
33 various offender populations. An additional report is due November 1,  
34 2028, and every five years thereafter. The Washington state institute  
35 for public policy may coordinate with the department and the caseload  
36 forecast council in tracking data and preparing the report.

37 **Sec. 9.** RCW 9.94A.701 and 2021 c 242 s 6 are each amended to  
38 read as follows:

1 (1) If an offender is sentenced to the custody of the department  
2 for one of the following crimes, the court shall, in addition to the  
3 other terms of the sentence, sentence the offender to community  
4 custody for three years:

5 (a) A sex offense not sentenced under RCW 9.94A.507; or

6 (b) A serious violent offense.

7 (2) A court shall, in addition to the other terms of the  
8 sentence, sentence an offender to community custody for eighteen  
9 months when the court sentences the person to the custody of the  
10 department for a violent offense that is not considered a serious  
11 violent offense.

12 (3) A court shall, in addition to the other terms of the  
13 sentence, sentence an offender to community custody for one year when  
14 the court sentences the person to the custody of the department for:

15 (a) Any crime against persons under RCW 9.94A.411(2);

16 (b) An offense involving the unlawful possession of a firearm  
17 under RCW 9.41.040, where the offender is a criminal street gang  
18 member or associate;

19 (c) A felony offense under chapter 69.50 or 69.52 RCW, committed  
20 on or after July 1, 2000; or

21 (d) A felony violation of RCW 9A.44.132(1) (failure to register)  
22 that is the offender's first violation for a felony failure to  
23 register.

24 (4) If an offender is sentenced under the drug offender  
25 sentencing alternative, the court shall impose community custody as  
26 provided in:

27 (a) RCW 9.94A.660 and 9.94A.662 for a prison-based drug offender  
28 sentencing alternative;

29 (b) RCW 9.94A.660 and 9.94A.664 for a residential-based drug  
30 offender sentencing alternative;

31 (c) RCW 9.94A.662 and section 1(6) of this act for a prison-based  
32 drug offender sentencing alternative for driving under the influence;  
33 and

34 (d) Section 1 (5) and (6) of this act for a residential-based  
35 drug offender sentencing alternative for driving under the influence.

36 (5) If an offender is sentenced under the special sex offender  
37 sentencing alternative, the court shall impose community custody as  
38 provided in RCW 9.94A.670.

39 (6) If an offender is sentenced to a work ethic camp, the court  
40 shall impose community custody as provided in RCW 9.94A.690.

1 (7) If an offender is sentenced under the parenting sentencing  
2 alternative, the court shall impose a term of community custody as  
3 provided in RCW 9.94A.655.

4 (8) If the offender is sentenced under the mental health  
5 sentencing alternative, the court shall impose a term of community  
6 custody as provided in RCW 9.94A.695.

7 (9) If a sex offender is sentenced as a nonpersistent offender  
8 pursuant to RCW 9.94A.507, the court shall impose community custody  
9 as provided in that section.

10 (10) The term of community custody specified by this section  
11 shall be reduced by the court whenever an offender's standard  
12 sentence range term of confinement in combination with the term of  
13 community custody exceeds the statutory maximum for the crime as  
14 provided in RCW 9A.20.021.

15 NEW SECTION. **Sec. 10.** This act takes effect July 1, 2022.

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