H-3293.2

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**HOUSE BILL 2504**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** Representative Goodman

AN ACT Relating to sentencing of felony offenses; amending RCW 9.94A.518, 9.94A.525, 9.94A.537, 9.94A.585, 9.94A.030, 9.68A.040, 46.61.504, 69.55.010, 18.64.046, 9.94A.470, 9.94A.475, 9.94A.505, 9.94A.510, 9.94A.517, 9.94A.530, 9.94A.660, 9.94A.729, 9.94A.833, and 10.01.210; reenacting and amending RCW 9.94A.533 and 9.94A.515; adding new sections to chapter 9.94A RCW; creating a new section; repealing RCW 9.94A.506; providing an effective date; and providing an expiration date.

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

**PART I: NEW SENTENCING GRID, FELONY SERIOUSNESS LEVELS, AND RELATED PROVISIONS**

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

TABLE 1

Sentencing Grid - Offenses Committed On or After

August 1, 2028

|  |
| --- |
| OFFENDER SCORE |
| SERIOUSNESSLEVEL | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9+ | AGGRAVATED DEPARTURE CAP | REPEAT SV/VIOLENT, SEX, OR DV |
| XVIII | Life sentence without parole/death penalty for offenders at or over the age of 18. For offenders under the age of 18, a term of 25 years to life. | N/A | N/A |
| XVII | 240- | 249- | 260- | 274- | 289- | 306- | 327- | 350- | 377- | 407- | 54 | 15% |
|  | 320*Zone 4* | 332*Zone 4* | 347*Zone 4* | 365*Zone 4* | 385*Zone 4* | 409*Zone 4* | 436*Zone 4* | 467*Zone 4* | 502*Zone 4* | 543*Zone 4* |  |  |
| XVI | 128- | 141- | 155- | 171- | 188- | 208- | 230- | 255- | 282- | 285- | 38 | 15% |
|  | 171*Zone 4* | 188*Zone 4* | 207*Zone 4* | 228*Zone 4* | 251*Zone 4* | 278*Zone 4* | 307*Zone 4* | 340*Zone 4* | 376*Zone 4* | 380*Zone 4* |  |  |
| XV | 114- | 126- | 138- | 153- | 169- | 186- | 206- | 228- | 252- | 255- | 34 | 15% |
|  | 153*Zone 4* | 168*Zone 4* | 185*Zone 4* | 204*Zone 4* | 225*Zone 4* | 248*Zone 4* | 275*Zone 4* | 304*Zone 4* | 336*Zone 4* | 340*Zone 4* |  |  |
| XIV | 101- | 111- | 122- | 135- | 149- | 164- | 182- | 201- | 222- | 225- | 30 | 15% |
|  | 135*Zone 4* | 148*Zone 4* | 163*Zone 4* | 180*Zone 4* | 198*Zone 4* | 219*Zone 4* | 242*Zone 4* | 268*Zone 4* | 297*Zone 4* | 300*Zone 4* |  |  |
| XIII | 70- | 77- | 84- | 93- | 102- | 113- | 124- | 136- | 150- | 156- | 26 | 15% |
|  | 117*Zone 4* | 128*Zone 4* | 141*Zone 4* | 155*Zone 4* | 171*Zone 4* | 188*Zone 4* | 207*Zone 4* | 227*Zone 4* | 250*Zone 4* | 260*Zone 4* |  |  |
| XII | 60- | 66- | 73- | 80- | 88- | 97- | 107- | 118- | 130- | 135- | 22 | 15% |
|  | 101*Zone 4* | 111*Zone 4* | 122*Zone 4* | 134*Zone 4* | 148*Zone 4* | 163*Zone 4* | 179*Zone 4* | 197*Zone 4* | 217Zone 4 | 225*Zone 4* |  |  |
| XI | 51- | 56- | 62- | 68- | 75- | 82- | 90- | 99- | 109- | 114- | 19 | 15% |
|  | 85*Zone 4* | 94*Zone 4* | 103*Zone 4* | 113*Zone 4* | 125*Zone 4* | 137*Zone 4* | 151*Zone 4* | 166*Zone 4* | 183*Zone 4* | 190*Zone 4* |  |  |
| X | 41- | 46- | 50- | 55- | 61- | 67- | 74- | 81- | 89- | 93- | 15 | 20% |
|  | 69*Zone 4* | 76*Zone 4* | 84*Zone 4* | 92*Zone 4* | 102*Zone 4* | 112*Zone 4* | 123*Zone 4* | 135*Zone 4* | 149*Zone 4* | 155*Zone 4* |  |  |
| IX | 19- | 22- | 26- | 30- | 34- | 39- | 45- | 52- | 60- | 72- | 12 | 20% |
|  | 33*Zone 3* | 37*Zone 3* | 43*Zone 3* | 50*Zone 3* | 57*Zone 3* | 66*Zone 3* | 76*Zone 3* | 87*Zone 4* | 100*Zone 4* | 120*Zone 4* |  |  |
| VIII | 17- | 19- | 22- | 26- | 30- | 34- | 40- | 46- | 52- | 63- | 10 | 20% |
|  | 28*Zone 3* | 33*Zone 3* | 38*Zone 3* | 43*Zone 3* | 50*Zone 3* | 58*Zone 3* | 66*Zone 3* | 76*Zone 3* | 88*Zone 4* | 105*Zone 4* |  |  |
| VII | 14- | 17- | 19- | 22- | 25- | 29- | 34- | 39- | 45- | 54- | 9 | 20% |
|  | 24*Zone 3* | 28*Zone 3* | 32*Zone 3* | 37*Zone 3* | 43*Zone 3* | 49*Zone 3* | 57*Zone 3* | 65*Zone 3* | 75*Zone 3* | 90*Zone 4* |  |  |
| VI | 12- | 14- | 16- | 18- | 21- | 24- | 28- | 32- | 37- | 45- | 7 | 20% |
|  | 20*Zone 2* | 23*Zone 3* | 27*Zone 3* | 31*Zone 3* | 36*Zone 3* | 41*Zone 3* | 47*Zone 3* | 54*Zone 3* | 63*Zone 3* | 75*Zone 3* |  |  |
| V | 3- | 4- | 5- | 6- | 7- | 8- | 10- | 12- | 15- | 18- | 6 | 25% |
|  | 12*Zone 2* | 14*Zone 2* | 17*Zone 2* | 20*Zone 2* | 24*Zone 2* | 29*Zone 2* | 35*Zone 2* | 42*Zone 2* | 51*Zone 3* | 60*Zone 3* |  |  |
| IV | 2- | 3- | 4- | 5- | 6- | 7- | 8- | 10- | 12- | 14- | 4 | 25% |
|  | 9*Zone 1* | 11*Zone 1* | 14*Zone 2* | 17*Zone 2* | 20*Zone 2* | 24*Zone 2* | 29*Zone 2* | 35*Zone 2* | 42*Zone 2* | 49*Zone 3* |  |  |
| III | 2- | 2- | 3- | 4- | 4- | 5- | 6- | 8- | 10- | 11- | 3 | 25% |
|  | 7*Zone 1* | 9*Zone 1* | 11*Zone 1* | 13*Zone 2* | 16*Zone 2* | 19*Zone 2* | 23*Zone 2* | 27*Zone 2* | 33*Zone 2* | 39*Zone 2* |  |  |
| II | 0- | 1- | 2- | 2- | 3- | 3- | 4- | 5- | 6- | 8- | 2 | 25% |
|  | 3*Zone 1* | 6*Zone 1* | 7*Zone 1* | 8*Zone 1* | 11*Zone 1* | 12*Zone 1* | 14*Zone 2* | 17*Zone 2* | 21*Zone 2* | 28*Zone 2* |  |  |
| I | 0- | 0- | 1- | 1- | 2- | 2- | 3- | 3- | 4- | 5- | 1 | 25% |
|  | 2*Zone 1* | 3*Zone 1* | 5*Zone 1* | 6*Zone 1* | 7*Zone 1* | 8*Zone 1* | 10*Zone 1* | 12*Zone 1* | 14*Zone 2* | 18*Zone 2* |  |  |

(1) Numbers on the vertical axis of the grid under the column titled "SERIOUSNESS LEVEL" represent the seriousness level of the offense, according to section 2 of this act. Numbers on the horizontal axis of the grid under the column titled "OFFENDER SCORE" represent the offender score as determined by RCW 9.94A.525.

(2) The following rules apply to the rows extending from the vertical axis of the sentencing grid:

(a) The row representing seriousness level 18 is reserved for the crime of aggravated murder in the first degree.

(b) No offense except for a class A felony may be sentenced according to the rows representing seriousness levels 10 and higher.

(c) No offense except for a class A or class B felony may be sentenced according to the rows representing seriousness levels six through nine.

(3) Numbers in the cells occupying the rows of each seriousness level category represent the minimum and maximum number of months of the standard range sentence for each offender score. The values in each cell are calculated using the following formulas:

(a) For the row representing seriousness level 17: The minimum standard range sentence for an offender score of zero is 240 months. The minimum standard range sentence is 75 percent of the maximum standard range sentence for each cell. The maximum standard range sentence increases by 104 percent for each additional criminal history score point.

(b) For the rows representing seriousness levels 14 through 16:

(i) The maximum standard range sentence for a seriousness level 16 offense at an offender score of nine or more is 340 months. For each seriousness level from 14 through 16, the maximum standard range sentence for an offender score of nine or more is 40 months higher than the maximum standard range sentence for an offender score of nine or more for each seriousness level directly below.

(ii) The maximum standard range sentence for an offender score of zero is 45 percent of the maximum standard range sentence for an offender score of nine or more. The maximum standard range sentence increases by 110 percent for each additional criminal history score point.

(iii) The minimum standard range sentence is 75 percent of the maximum standard range sentence for each cell.

(c) For the rows representing seriousness levels 10 through 13:

(i) The maximum standard range sentence for a seriousness level 13 offense at an offender score of nine or more is 220 months. For each seriousness level from 10 through 13, the maximum standard range sentence for an offender score of nine or more is 25 months higher than the maximum standard range sentence for an offender score of nine or more for each seriousness level directly below.

(ii) The maximum standard range sentence for an offender score of zero is 45 percent of the maximum standard range sentence for an offender score of nine or more. The maximum standard sentence increases by 110 percent for each additional criminal history score point.

(iii) The minimum standard sentence is 60 percent of the maximum standard sentence for each cell.

(d) For the rows representing seriousness levels six through nine:

(i) The maximum standard range sentence for a seriousness level nine offense at an offender score of nine or more is 120 months. For each seriousness level from six through nine, the maximum standard range sentence for an offender score of nine or more is 15 months higher than the maximum standard range sentence for an offender score of nine or more for each seriousness level directly below.

(ii) The maximum standard range sentence for an offender score of zero is 27.5 percent of the maximum standard range sentence for an offender score of nine or more. The maximum standard range sentence increases by 115 percent for each additional criminal history score point.

(iii) The minimum standard sentence is 60 percent of the maximum standard sentence for each cell.

(e) For the rows representing seriousness levels one through five:

(i) The maximum standard range sentence for a seriousness level five offense at an offender score of nine or more is 60 months. For each decrease in seriousness level from five to one, the maximum standard sentence for an offender score of nine or more decreases by 10.5 months rounded down to the nearest whole number.

(ii) The maximum standard range sentence for an offender score of zero is 20 percent of the maximum standard range sentence for an offender score of nine or more. The maximum standard range sentence increases by 120 percent for each additional criminal history score point.

(iii) The minimum standard range sentence is 30 percent of the maximum standard range sentence for each cell.

(4) The numbers in the column titled "AGGRAVATED DEPARTURE CAP" represent the number of months equal to 10 percent of the maximum standard range sentence in each seriousness level, rounded down to the nearest whole number. Exceptional sentences that exceed the maximum standard range sentence plus the number of months signified in this column are presumed to be clearly excessive under RCW 9.94A.585.

(5) As depicted by the column titled "REPEAT SV/VIOLENT, SEX, OR DV," the maximum standard range sentence for any person whose present conviction is for a violent offense or serious violent offense and who has one or more prior adult convictions for a violent offense or serious violent offense conviction, whose present conviction is for a sex offense and who has one or more prior adult convictions for a sex offense, or whose present conviction is for an offense where domestic violence as defined in RCW 9.94A.030 was pleaded and proven and who has one or more prior adult convictions for an offense where domestic violence as defined in RCW 9.94A.030 was pleaded and proven, increases as follows:

(a) If the present conviction is for a seriousness level one through five offense, the maximum standard range sentence is increased by 25 percent or one month, whichever is greater;

(b) If the present conviction is for a seriousness level six through 10 offense, the maximum standard range sentence is increased by 20 percent or one month, whichever is greater; or

(c) If the present conviction is for a seriousness level 11 through 17 offense, the maximum standard range sentence is increased by 15 percent or one month, whichever is greater.

(6) Each cell on the grid includes a zone number underneath the minimum and maximum number of months of the standard range sentence. The zone numbers, which include zone 1, zone 2, zone 3, and zone 4, represent the following nonexhaustive list of available sentencing options depending on the zone of the present conviction:

(a) If the present conviction is for a zone 1 offense, the available sentencing options may include, but are not limited to:

(i) An intermediate sanctions sentencing alternative;

(ii) A residential substance use disorder treatment-based alternative under RCW 9.94A.664, if applicable; or

(iii) Confinement in a county jail.

(b) If the present conviction is for a zone 2 offense, the available sentencing options may include, but are not limited to:

(i) An intermediate sanctions sentencing alternative;

(ii) A residential substance use disorder treatment-based alternative under RCW 9.94A.664, or a prison-based drug offender sentencing alternative under RCW 9.94A.662, if applicable;

(iii) A parenting sentencing alternative under RCW 9.94A.655, if applicable; or

(iv) Confinement in a county jail or state correctional facility, depending on the length of the sentence.

(c) If the present conviction is for a zone 3 offense, the available sentencing options may include but are not limited to:

(i) A prison-based drug offender sentencing alternative under RCW 9.94A.662, if applicable;

(ii) A parenting sentencing alternative under RCW 9.94A.655, if applicable; or

(iii) Confinement in a state correctional facility.

(d) If the present conviction is for a zone 4 offense, the available sentencing option is confinement in a state correctional facility.

(7) The maximum term of confinement in a sentence range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.021.

(8) This section applies to offenses that were committed on or after August 1, 2028, that are assigned a seriousness level under section 2 of this act.

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

|  |  |  |
| --- | --- | --- |
|  | TABLE 2 |  |
|  | CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL - OFFENSES COMMITTED ON OR AFTER AUGUST 1, 2028 |  |
| XVIII | Aggravated Murder 1 (RCW 10.95.020) |  |
| XVII | Homicide by abuse (RCW 9A.32.055) |  |
|  | Murder 1 (RCW 9A.32.030) |  |
| XVI | Murder 2 (RCW 9A.32.050) |  |
| XV | Malicious explosion 1 (RCW 70.74.280(1)) |  |
|  | Trafficking 1 (RCW 9A.40.100(1)) |  |
| XIV | Assault 1 (RCW 9A.36.011) |  |
|  | Assault of a Child 1 (RCW 9A.36.120) |  |
|  | Malicious placement of an explosive 1 (RCW 70.74.270(1)) |  |
|  | Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101) |  |
|  | Rape 1 (RCW 9A.44.040) |  |
|  | Rape of a Child 1 (RCW 9A.44.073) |  |
| XIII | Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050(1)(a)) |  |
|  | Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050(1)(b)) |  |
|  | Manslaughter 1 (RCW 9A.32.060) |  |
|  | Rape 2 (RCW 9A.44.050) |  |
|  | Rape of a Child 2 (RCW 9A.44.076) |  |
|  | Trafficking 2 (RCW 9A.40.100(3)) |  |
|  | Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520(1)(a)) |  |
|  | Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520(1)(b)) |  |
| XII | Child Molestation 1 (RCW 9A.44.083) |  |
|  | Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) |  |
|  | Kidnapping 1 (RCW 9A.40.020) |  |
| XI | Leading Organized Crime (RCW 9A.82.060(1)(a)) |  |
| X | Sexual Exploitation (RCW 9.68A.040) |  |
|  | Sexually Violent Predator Escape (RCW 9A.76.115) |  |
| IX | Abandonment of Dependent Person 1 (RCW 9A.42.060) |  |
|  | Arson 1 (RCW 9A.48.020) |  |
|  | Assault of a Child 2 (RCW 9A.36.130) |  |
|  | Criminal Mistreatment 1 (RCW 9A.42.020) |  |
|  | Explosive devices prohibited (RCW 70.74.180) |  |
|  | Hit and Run—Death (RCW 46.52.020(4)(a)) |  |
|  | Inciting Criminal Profiteering (RCW 9A.82.060(1)(b)) |  |
|  | Malicious explosion 2 (RCW 70.74.280(2)) |  |
|  | Malicious explosion 3 (RCW 70.74.280(3)) |  |
|  | Malicious placement of an explosive 2 (RCW 70.74.270(2)) |  |
|  | Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) |  |
|  | Robbery 1 (RCW 9A.56.200) |  |
| VIII | Child Molestation 2 (RCW 9A.44.086) |  |
|  | Commercial Sexual Abuse of a Minor (RCW 9.68A.100) |  |
|  | Custodial Sexual Misconduct 1 (RCW 9A.44.160) |  |
|  | Manslaughter 2 (RCW 9A.32.070) |  |
|  | Promoting Prostitution 1 (RCW 9A.88.070) |  |
| VII | Burglary 1 (RCW 9A.52.020) |  |
|  | Civil Disorder Training (RCW 9A.48.120) |  |
|  | Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1)) |  |
|  | Drive-by Shooting (RCW 9A.36.045) |  |
|  | False Reporting 1 (RCW 9A.84.040(2)(a)) |  |
|  | Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050(1)(c)) |  |
|  | Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c)) |  |
|  | Intimidating a Judge (RCW 9A.72.160) |  |
|  | Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130) |  |
|  | Introducing Contraband 1 (RCW 9A.76.140) |  |
|  | Malicious placement of an explosive 3 (RCW 70.74.270(3)) |  |
|  | Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675) |  |
|  | Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)) |  |
|  | Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225) |  |
|  | Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520) |  |
| VI | Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a)) |  |
|  | Bribery (RCW 9A.68.010) |  |
|  | Driving While Under the Influence (RCW 46.61.502(6)) |  |
|  | Incest 1 (RCW 9A.64.020(1)) |  |
|  | Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6)) |  |
|  | Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1)) |  |
|  | Rendering Criminal Assistance 1 (RCW 9A.76.070) |  |
|  | Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2)) |  |
|  | Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1)) |  |
|  | Theft of a Firearm (RCW 9A.56.300) |  |
|  | Theft of Ammonia (RCW 69.55.010) |  |
| V | Abandonment of Dependent Person 2 (RCW 9A.42.070) |  |
|  | Advancing money or property for extortionate extension of credit (RCW 9A.82.030) |  |
|  | Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b)) |  |
|  | Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b)) |  |
|  | Arson 2 (RCW 9A.48.030) |  |
|  | Assault 2 (RCW 9A.36.021) |  |
|  | Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h)) |  |
|  | Assault 4 (third domestic violence offense) (RCW 9A.36.041(3)) |  |
|  | Assault by Watercraft (RCW 79A.60.060) |  |
|  | Assault of a Child 3 (RCW 9A.36.140) |  |
|  | Bail Jumping with class A Felony (RCW 9A.76.170(3)(b)) |  |
|  | Coercion of Involuntary Servitude (RCW 9A.40.110) |  |
|  | Criminal Mistreatment 2 (RCW 9A.42.030) |  |
|  | Custodial Sexual Misconduct 2 (RCW 9A.44.170) |  |
|  | Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2)) |  |
|  | Domestic Violence Court Order Violation (RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070) |  |
|  | Escape 1 (RCW 9A.76.110) |  |
|  | Extortion 1 (RCW 9A.56.120) |  |
|  | Extortionate Extension of Credit (RCW 9A.82.020) |  |
|  | Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040) |  |
|  | Hate Crime (RCW 9A.36.080) |  |
|  | Hit and Run—Injury (RCW 46.52.020(4)(b)) |  |
|  | Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3)) |  |
|  | Identity Theft 1 (RCW 9.35.020(2)) |  |
|  | Incest 2 (RCW 9A.64.020(2)) |  |
|  | Indecent Exposure to Person Under Age 14 (subsequent sex offense) (RCW 9A.88.010) |  |
|  | Kidnapping 2 (RCW 9A.40.030) |  |
|  | Luring of a Child or Developmentally Disabled Person (RCW 9A.40.090) |  |
|  | Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b)) |  |
|  | Manufacture of Untraceable Firearm with Intent to Sell (RCW 9.41.190) |  |
|  | Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b)) |  |
|  | Perjury 1 (RCW 9A.72.020) |  |
|  | Persistent prison misbehavior (RCW 9.94.070) |  |
|  | Possession of a Stolen Firearm (RCW 9A.56.310) |  |
|  | Rape 3 (RCW 9A.44.060) |  |
|  | Rape of a Child 3 (RCW 9A.44.079) |  |
|  | Residential Burglary (RCW 9A.52.025) |  |
|  | Robbery 2 (RCW 9A.56.210) |  |
|  | Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b)) |  |
|  | Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2)) |  |
|  | Sexual Misconduct with a Minor 1 (RCW 9A.44.093) |  |
|  | Sexually Violating Human Remains (RCW 9A.44.105) |  |
|  | Stalking (RCW 9A.46.110) |  |
|  | Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070) |  |
|  | Threats to Bomb (RCW 9.61.160) |  |
|  | Unlawful Storage of Ammonia (RCW 69.55.020) |  |
|  | Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3)) |  |
|  | Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522(1)(a) and (b)) |  |
| IV | Air bag diagnostic systems (RCW 46.37.660(2)(c)) |  |
|  | Air bag replacement requirements (RCW 46.37.660(1)(c)) |  |
|  | Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h)) |  |
|  | Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100) |  |
|  | Cheating 1 (RCW 9.46.1961) |  |
|  | Child Molestation 3 (RCW 9A.44.089) |  |
|  | Commercial Bribery (RCW 9A.68.060) |  |
|  | Counterfeiting (RCW 9.16.035(4)) |  |
|  | Custodial Assault (RCW 9A.36.100) |  |
|  | Disarming a Law Enforcement or Corrections Officer (RCW 9A.76.023(2)(a)) |  |
|  | Disarming a Law Enforcement or Corrections Officer (Firearm is Discharged) (RCW 9A.76.023(2)(b)) |  |
|  | Endangerment with a Controlled Substance (RCW 9A.42.100) |  |
|  | False Reporting 2 (RCW 9A.84.040(2)(b)) |  |
|  | Influencing Outcome of Sporting Event (RCW 9A.82.070) |  |
|  | Manufacture or Assembly of an Undetectable Firearm or Untraceable Firearm (RCW 9.41.325) |  |
|  | Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c)) |  |
|  | Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2)) |  |
|  | Possession of Machine Gun, Bump-Fire Stock, Undetectable Firearm, or Short-Barreled Shotgun or Rifle (RCW 9.41.190) |  |
|  | Promoting a Suicide Attempt (RCW 9A.36.060) |  |
|  | Promoting Prostitution 2 (RCW 9A.88.080) |  |
|  | Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c)) |  |
|  | Tampering with a Witness (RCW 9A.72.120) |  |
|  | Theft of Livestock 1 (RCW 9A.56.080) |  |
|  | Threats Against Governor or Family (RCW 9A.36.090) |  |
|  | Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b)) |  |
|  | Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3)) |  |
|  | Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3)) |  |
|  | Unlawful transaction of insurance business (RCW 48.15.023(3)) |  |
|  | Unlicensed practice as an insurance professional (RCW 48.17.063(2)) |  |
|  | Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2)) |  |
|  | Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522(1)(c)) |  |
|  | Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1)) |  |
| III | Animal Cruelty 1 (RCW 16.52.205) |  |
|  | Animal Fighting (RCW 16.52.117(2)(a)) |  |
|  | Animal Fighting (Mutilation) (RCW 16.52.117(2)(b)) |  |
|  | Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c)) |  |
|  | Burglary 2 (RCW 9A.52.030) |  |
|  | Control of Real Property Resulting from Mortgage Fraud Activities (RCW 19.144.100(2)) |  |
|  | Criminal Gang Intimidation (RCW 9A.46.120) |  |
|  | Cyber Harassment (RCW 9A.90.120(2)(b)) |  |
|  | Escape 2 (RCW 9A.76.120) |  |
|  | Extortion 2 (RCW 9A.56.130) |  |
|  | Harassment (RCW 9A.46.020) |  |
|  | Hazing (RCW 28B.10.901(2)(b)) |  |
|  | Identity Theft 2 (RCW 9.35.020(3)) |  |
|  | Intimidating a Public Servant (RCW 9A.76.180) |  |
|  | Introducing Contraband 2 (RCW 9A.76.150) |  |
|  | Malicious Injury to Railroad Property (RCW 81.60.070) |  |
|  | Mortgage Fraud (RCW 19.144.080) |  |
|  | Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674) |  |
|  | Organized Retail Theft 1 (RCW 9A.56.350(2)) |  |
|  | Perjury 2 (RCW 9A.72.030) |  |
|  | Possession of Incendiary Device (RCW 9.40.120) |  |
|  | Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2)) |  |
|  | Securities Act violation (RCW 21.20.400) |  |
|  | Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2)) |  |
|  | Theft of Livestock 2 (RCW 9A.56.083) |  |
|  | Theft with the Intent to Resell 1 (RCW 9A.56.340(2)) |  |
|  | Trafficking in Stolen Property 1 (RCW 9A.82.050) |  |
|  | Trafficking in Stolen Property 2 (RCW 9A.82.055) |  |
|  | Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a)) |  |
|  | Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b)) |  |
|  | Unlawful Imprisonment (RCW 9A.40.040) |  |
|  | Unlawful Misbranding of Fish or Shellfish 1 (RCW 77.140.060(3)) |  |
|  | Unlawful possession of firearm in the second degree (RCW 9.41.040(2)) |  |
|  | Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b)) |  |
|  | Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b)) |  |
|  | Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4)) |  |
|  | Use or Investment of Proceeds from Mortgage Fraud Activities (RCW 19.144.100(1)) |  |
| II | Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024) |  |
|  | Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b)) |  |
|  | Communication with a Minor for Immoral Purposes (RCW 9.68A.090) |  |
|  | Computer Trespass 1 (RCW 9A.90.040) |  |
|  | Counterfeiting (RCW 9.16.035(3)) |  |
|  | Custodial Interference 1 (RCW 9A.40.060) |  |
|  | Electronic Data Service Interference (RCW 9A.90.060) |  |
|  | Electronic Data Tampering 1 (RCW 9A.90.080) |  |
|  | Electronic Data Theft (RCW 9A.90.100) |  |
|  | Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3)) |  |
|  | Equity Skimming (RCW 61.34.030) |  |
|  | Escape from Community Custody (RCW 72.09.310) |  |
|  | False Verification for Welfare (RCW 74.08.055) |  |
|  | Health Care False Claims (RCW 48.80.030) |  |
|  | Improperly Obtaining Financial Information (RCW 9.35.010) |  |
|  | Malicious Mischief 1 (RCW 9A.48.070) |  |
|  | Malicious Mischief 2 (RCW 9A.48.080) |  |
|  | Organized Retail Theft 2 (RCW 9A.56.350(3)) |  |
|  | Possession of a Stolen Vehicle (RCW 9A.56.068) |  |
|  | Possession of Stolen Property 1 (RCW 9A.56.150) |  |
|  | Reckless Burning 1 (RCW 9A.48.040) |  |
|  | Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3)) |  |
|  | Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100) |  |
|  | Theft 1 (RCW 9A.56.030) |  |
|  | Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2)) |  |
|  | Theft of a Motor Vehicle (RCW 9A.56.065) |  |
|  | Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at $5,000 or more) (RCW 9A.56.096(5)(a)) |  |
|  | Theft with the Intent to Resell 2 (RCW 9A.56.340(3)) |  |
|  | Trafficking in Insurance Claims (RCW 48.30A.015) |  |
|  | Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2)) |  |
|  | Unlawful Practice of Law (RCW 2.48.180) |  |
|  | Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b)) |  |
|  | Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a)) |  |
|  | Unlicensed Practice of a Profession or Business (RCW 18.130.190(7)) |  |
|  | Vehicle Prowl 1 (RCW 9A.52.095) |  |
|  | Voyeurism 1 (RCW 9A.44.115) |  |
| I | Forgery (RCW 9A.60.020) |  |
|  | Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060) |  |
|  | Mineral Trespass (RCW 78.44.330) |  |
|  | Possession of Stolen Property 2 (RCW 9A.56.160) |  |
|  | Spotlighting Big Game 1 (RCW 77.15.450(3)(b)) |  |
|  | Suspension of Department Privileges 1 (RCW 77.15.670(3)(b)) |  |
|  | Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075) |  |
|  | Theft 2 (RCW 9A.56.040) |  |
|  | Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at $750 or more but less than $5,000) (RCW 9A.56.096(5)(b)) |  |
|  | Transaction of insurance business beyond the scope of licensure (RCW 48.17.063) |  |
|  | Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b)) |  |
|  | Unlawful Issuance of Checks or Drafts (RCW 9A.56.060) |  |
|  | Unlawful Possession of a Personal Identification Device (RCW 9A.56.320) |  |
|  | Unlawful Possession of Fictitious Identification (RCW 9A.56.320) |  |
|  | Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320) |  |
|  | Unlawful Possession of Payment Instruments (RCW 9A.56.320) |  |
|  | Unlawful Production of Payment Instruments (RCW 9A.56.320) |  |
|  | Unlawful Use of Food Stamps (RCW 9.91.144) |  |
|  | Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b)) |  |
|  | Unlawful Trafficking in Food Stamps (RCW 9.91.142) |  |
|  | Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b)) |  |
|  | Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b)) |  |

**Sec.**  RCW 9.94A.518 and 2023 c 66 s 2 are each amended to read as follows:

|  |  |  |
| --- | --- | --- |
|  | TABLE ((~~4~~)) 6 |  |
|  | DRUG OFFENSESINCLUDED WITHIN EACH SERIOUSNESS LEVEL |  |
| III | Any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.825 |  |
|  | Controlled Substance Homicide (RCW 69.50.415) |  |
|  | Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2)) |  |
|  | Involving a minor in drug dealing (RCW 69.50.4015) |  |
|  | Manufacture of methamphetamine (RCW 69.50.401(2)(b)) |  |
|  | Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406) |  |
|  | Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406) |  |
|  | Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (RCW 69.50.440) |  |
|  | Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410) |  |
|  | Unlawful selling of ephedrine, pseudoephedrine, or phenylpropanolamine by a wholesaler (RCW 18.64.046(7)) |  |
| II | Create or deliver a counterfeit controlled substance (RCW 69.50.4011(1)(a)) |  |
|  | Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(2)(b)) |  |
|  | Delivery of a material in lieu of a controlled substance (RCW 69.50.4012) |  |
|  | Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(1)(f)) |  |
|  | Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(2)(b)) |  |
|  | Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(2)(a)) |  |
|  | Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except cannabis as defined in RCW 69.50.101, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(2) (c) through (e)) |  |
|  | Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1)) |  |
|  | Possess, purchase, deliver, sell, or possess with intent to sell a tableting machine or encapsulating machine (RCW 69.50.418) |  |
| I | Forged Prescription (RCW 69.41.020) |  |
|  | Forged Prescription for a Controlled Substance (RCW 69.50.403) |  |
|  | Manufacture, deliver, or possess with intent to deliver cannabis as defined in RCW 69.50.101 (RCW 69.50.401(2)(c)) |  |
|  | Unlawful Use of Building for Drug Purposes (RCW 69.53.010) |  |

**Sec.**  RCW 9.94A.525 and 2023 c 415 s 2 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1)(a) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.589.

(b) For the purposes of this section, adjudications of guilt pursuant to Title 13 RCW which are not murder in the first or second degree or class A felony sex offenses may not be included in the offender score.

(2)(a) Class A and sex prior felony convictions shall always be included in the offender score.

(b) Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction. For sentencing pursuant to section 1 of this act, confinement due to a violation of community custody conditions does not qualify as confinement for purposes of calculating time since the last date of release from confinement under this subsection. For sentencing pursuant to section 1 of this act, convictions for simple misdemeanor offenses do not qualify as crimes subsequently resulting in a conviction for purposes of this subsection, unless the offender has three or more simple misdemeanor convictions during the 10-year period.

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction. For sentencing pursuant to section 1 of this act, confinement due to a violation of community custody conditions does not qualify as confinement for purposes of calculating time since the last date of release from confinement under this subsection. For sentencing pursuant to section 1 of this act, convictions for simple misdemeanor offenses do not qualify as crimes subsequently resulting in a conviction for purposes of this subsection, unless the offender has three or more simple misdemeanor convictions during the five-year period.

(d) Except as provided in (e) of this subsection, serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without committing any crime that subsequently results in a conviction. For sentencing pursuant to section 1 of this act, confinement due to a violation of community custody conditions does not qualify as confinement for purposes of calculating time since the last date of release from confinement under this subsection. For sentencing pursuant to section 1 of this act, convictions for simple misdemeanor offenses do not qualify as crimes subsequently resulting in a conviction for purposes of this subsection, unless the offender has three or more simple misdemeanor convictions during the five-year period.

(e) If the present conviction is felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate crimes for the offense as defined by RCW 46.61.5055(14) shall be included in the offender score except that any nonfelony predicate crimes shall not be included for purposes of sentencing pursuant to section 1 of this act, and prior convictions for felony driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug (RCW 46.61.504(6)) shall always be included in the offender score. All other convictions of the defendant shall be scored according to this section.

(f) Prior convictions for a repetitive domestic violence offense, as defined in RCW 9.94A.030, shall not be included in the offender score if, since the last date of release from confinement or entry of judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction. For sentencing pursuant to section 1 of this act, confinement due to a violation of community custody conditions does not qualify as confinement for purposes of calculating time since the last date of release from confinement under this subsection. For sentencing pursuant to section 1 of this act, convictions for simple misdemeanor offenses do not qualify as crimes subsequently resulting in a conviction for purposes of this subsection, unless the offender has three or more simple misdemeanor convictions during the 10-year period.

(g) This subsection applies to both prior adult convictions and prior juvenile adjudications.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Neither out-of-state or federal convictions which would have been presumptively adjudicated in juvenile court under Washington law may be included in the offender score unless they are comparable to murder in the first or second degree or a class A felony sex offense. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(4) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(5)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all convictions or adjudications served concurrently as one offense. Use the conviction for the offense that yields the highest offender score.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(6) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense. When these convictions are used as criminal history, score them the same as a completed crime.

(7) When calculating the offender score for offenses sentenced according to section 1 of this act:

(a) Except as provided in (b) through (e) of this subsection, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction which is scorable under subsection (1)(b) of this section.

(b) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only adult prior escape convictions in the offender score. Count prior escape convictions as one point.

(c) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions which are scorable under subsection (1)(b) of this section as 1/2 point.

(d) If the present conviction is for a felony traffic offense other than felony driving while under the influence of intoxicating liquor or any drug, RCW 46.61.502(6), or felony physical control of a vehicle while under the influence of intoxicating liquor or any drug, RCW 46.61.504(6), count one point for each adult prior felony conviction and 1/2 point for each juvenile prior violent felony conviction which is scorable under subsection (1)(b) of this section; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult prior conviction and 1/2 point for each juvenile prior conviction which is scorable under subsection (1)(b) of this section.

(e) If the present conviction is for homicide by watercraft or assault by watercraft count one point for each adult prior felony conviction and 1/2 point for each juvenile prior violent felony conviction which is scorable under subsection (1)(b) of this section; count one point for each adult prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

(8) When calculating the offender score for offenses sentenced according to RCW 9.94A.510:

(a) If the present conviction is for a nonviolent offense and not covered by (e), (f), or (g) of this subsection ((~~(11), (12), or (13) of this section~~)), count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction which is scorable under subsection (1)(b) of this section.

((~~(8)~~)) (b) If the present conviction is for a violent offense and not covered in (c), (d), (e), (f), or (g) of this subsection ((~~(9), (10), (11), (12), or (13) of this section~~)), count two points for each prior adult violent felony conviction and juvenile violent felony conviction which is scorable under subsection (1)(b) of this section, and one point for each prior adult nonviolent felony conviction.

((~~(9)~~)) (c) If the present conviction is for a serious violent offense, count three points for prior adult convictions and juvenile convictions which are scorable under subsection (1)(b) of this section for crimes in this category, two points for each prior adult and scorable juvenile violent conviction (not already counted), and one point for each prior adult nonviolent felony conviction.

((~~(10)~~)) (d) If the present conviction is for Burglary 1, count prior convictions as in (b) of this subsection ((~~(8) of this section~~)); however count two points for each prior Burglary 2 or residential burglary conviction.

((~~(11)~~)) (e) If the present conviction is for a felony traffic offense count two points for each prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult prior conviction and 1/2 point for each juvenile prior conviction which is scorable under subsection (1)(b) of this section; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult prior conviction and 1/2 point for each juvenile prior conviction which is scorable under subsection (1)(b) of this section; count one point for each adult prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug.

((~~(12)~~)) (f) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count one point for each adult prior conviction and 1/2 point for each juvenile prior conviction which would be scorable under subsection (1)(b) of this section; count one point for each adult prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

((~~(13)~~)) (g) If the present conviction is for manufacture of methamphetamine count three points for each adult prior manufacture of methamphetamine conviction. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction. All other felonies are scored as in (b) of this subsection ((~~(8) of this section~~)) if the current drug offense is violent, or as in (a) of this subsection ((~~(7) of this section~~)) if the current drug offense is nonviolent.

((~~(14)~~)) (h) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only adult prior escape convictions in the offender score. Count prior escape convictions as one point.

((~~(15)~~)) (i) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions which are scorable under subsection (1)(b) of this section as 1/2 point.

((~~(16)~~)) (j) If the present conviction is for Burglary 2 or residential burglary, count priors as in (a) of this subsection ((~~(7) of this section~~)); however, count two points for each prior Burglary 1 conviction, and two points for each prior Burglary 2 or residential burglary conviction.

((~~(17)~~)) (k) If the present conviction is for a sex offense, count priors as in ((~~subsections (7)~~)) (a) through ((~~(11)~~)) (e) and ((~~(13)~~)) (g) through ((~~(16)~~)) (j) of this ((~~section~~)) subsection; however count three points for each adult prior sex offense conviction and juvenile prior class A felony sex offense adjudication.

((~~(18)~~)) (l) If the present conviction is for failure to register as a sex offender under RCW 9A.44.130 or 9A.44.132, count priors as in ((~~subsections (7)~~)) (a) through ((~~(11)~~)) (e) and ((~~(13)~~)) (g) through ((~~(16)~~)) (j) of this ((~~section~~)) subsection; however count three points for each adult prior sex offense conviction and juvenile prior sex offense conviction which is scorable under subsection (1)(b) of this section, excluding adult prior convictions for failure to register as a sex offender under RCW 9A.44.130 or 9A.44.132, which shall count as one point.

((~~(19)~~)) (m) If the present conviction is for an offense committed while the offender was under community custody, add one point. For purposes of this subsection, community custody includes community placement or postrelease supervision, as defined in chapter 9.94B RCW.

((~~(20)~~)) (n) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2, count priors as in ((~~subsections (7)~~)) (a) through ((~~(18)~~)) (l) of this ((~~section~~)) subsection; however count one point for prior convictions of Vehicle Prowling 2, and three points for each adult prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

((~~(21)~~)) (o) If the present conviction is for a felony domestic violence offense where domestic violence as defined in RCW 9.94A.030 was pleaded and proven, count priors as in ((~~subsections (7)~~)) (a) through ((~~(20)~~)) (n) of this ((~~section~~)) subsection; however, count points as follows:

((~~(a)~~)) (i) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after August 1, 2011, for any of the following offenses: A felony violation of a no‑contact or protection order (RCW 7.105.450 or former RCW 26.50.110), felony Harassment (RCW 9A.46.020(2)(b)), felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020), Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or Arson 2 (RCW 9A.48.030);

((~~(b)~~)) (ii) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after July 23, 2017, for any of the following offenses: Assault of a child in the first degree, RCW 9A.36.120; Assault of a child in the second degree, RCW 9A.36.130; Assault of a child in the third degree, RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW 9A.42.020; or Criminal Mistreatment in the second degree, RCW 9A.42.030; and

((~~(c)~~)) (iii) Count one point for each adult prior conviction for a repetitive domestic violence offense as defined in RCW 9.94A.030, where domestic violence as defined in RCW 9.94A.030, was pleaded and proven after August 1, 2011.

((~~(22)~~)) (p) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence.

**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 section 1 of this act, 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)(a) For sentences pursuant to section 1 of this act, the maximum standard range sentence is determined by locating the maximum sentencing grid standard sentence as defined by the appropriate offender score and the seriousness level of the completed crime and multiplying that sentence by 125, 120, or 115 percent depending on the seriousness level of the current offense as provided under section 1(5) of this act, or adding one month to the sentence, whichever results in the greater sentence, when the present conviction is for any of the following qualifying offenses:

(i) A violent offense or serious violent offense, if the person has one or more prior adult convictions for a violent offense or serious violent offense;

(ii) A sex offense, if the person has one or more prior adult convictions for a sex offense; or

(iii) A felony domestic violence offense where domestic violence as defined in RCW 9.94A.030 was pleaded and proven, if the person has one or more prior adult convictions for a felony domestic violence offense where domestic violence as defined in RCW 9.94A.030 was pleaded and proven.

(b) If the present conviction is for multiple qualifying offenses, the increase described in (a) of this subsection is applied to all the qualifying offenses.

(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 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)~~)) (5)(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)~~)) (5) 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)~~)) (4)(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)~~)) (6) 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)~~)) (7) 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)~~)) (8) 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)~~)) (9)(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)~~)) (10) 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)~~)) (11)(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)~~)) (12) 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)~~)) (13) 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)~~)) (14) 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)~~)) (15) 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)~~)) (16) 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.

**Sec.**  RCW 9.94A.537 and 2007 c 205 s 2 are each amended to read as follows:

(1) At any time prior to trial or entry of the guilty plea if substantial rights of the defendant are not prejudiced, the state may give notice that it is seeking a sentence above the standard sentencing range. The notice shall state aggravating circumstances upon which the requested sentence will be based.

(2) In any case where an exceptional sentence above the standard range was imposed and where a new sentencing hearing is required, the superior court may impanel a jury to consider any alleged aggravating circumstances listed in RCW 9.94A.535(3), that were relied upon by the superior court in imposing the previous sentence, at the new sentencing hearing.

(3) The facts supporting aggravating circumstances shall be proved to a jury beyond a reasonable doubt. The jury's verdict on the aggravating factor must be unanimous, and by special interrogatory. If a jury is waived, proof shall be to the court beyond a reasonable doubt, unless the defendant stipulates to the aggravating facts.

(4) Evidence regarding any facts supporting aggravating circumstances under RCW 9.94A.535(3) (a) through (y) shall be presented to the jury during the trial of the alleged crime, unless the jury has been impaneled solely for resentencing, or unless the state alleges the aggravating circumstances listed in RCW 9.94A.535(3) (e)(iv), (h)(i), (o), or (t). If one of these aggravating circumstances is alleged, the trial court may conduct a separate proceeding if the evidence supporting the aggravating fact is not part of the res geste of the charged crime, if the evidence is not otherwise admissible in trial of the charged crime, and if the court finds that the probative value of the evidence to the aggravated fact is substantially outweighed by its prejudicial effect on the jury's ability to determine guilt or innocence for the underlying crime.

(5) If the superior court conducts a separate proceeding to determine the existence of aggravating circumstances listed in RCW 9.94A.535(3) (e)(iv), (h)(i), (o), or (t), the proceeding shall immediately follow the trial on the underlying conviction, if possible. If any person who served on the jury is unable to continue, the court shall substitute an alternate juror.

(6) If the jury finds, unanimously and beyond a reasonable doubt, one or more of the facts alleged by the state in support of an aggravated sentence, the court may sentence the offender pursuant to RCW 9.94A.535 to a term of confinement up to the maximum allowed under RCW 9A.20.021 for the underlying conviction if it finds, considering the purposes of this chapter, that the facts found are substantial and compelling reasons justifying an exceptional sentence. In imposing a sentence above the standard sentence range for an offense committed on or after August 1, 2028, the court shall consider the threshold at which the sentence is presumed to be clearly excessive as indicated by the standard range sentence plus the maximum number of months in the column titled "aggravated departure cap" in the sentencing grid under section 1 of this act and under RCW 9.94A.585(4).

**Sec.**  RCW 9.94A.585 and 2002 c 290 s 19 are each amended to read as follows:

(1) A sentence within the standard sentence range, under section 1 of this act, RCW 9.94A.510, or 9.94A.517, for an offense shall not be appealed. For purposes of this section, a sentence imposed on a first-time offender under RCW 9.94A.650 shall also be deemed to be within the standard sentence range for the offense and shall not be appealed.

(2) A sentence outside the standard sentence range for the offense is subject to appeal by the defendant or the state. The appeal shall be to the court of appeals in accordance with rules adopted by the supreme court.

(3) Pending review of the sentence, the sentencing court or the court of appeals may order the defendant confined or placed on conditional release, including bond.

(4) To reverse a sentence which is outside the standard sentence range, the reviewing court must find: (a) Either that the reasons supplied by the sentencing court are not supported by the record which was before the judge or that those reasons do not justify a sentence outside the standard sentence range for that offense; or (b) that the sentence imposed was clearly excessive or clearly too lenient. A sentence imposed for an offense committed on or after August 1, 2028, that exceeds the standard range sentence plus the maximum number of months in the column titled "aggravated departure cap" on the sentencing grid under section 1 of this act is presumed to be clearly excessive.

(5) A review under this section shall be made solely upon the record that was before the sentencing court. Written briefs shall not be required and the review and decision shall be made in an expedited manner according to rules adopted by the supreme court.

(6) The court of appeals shall issue a written opinion in support of its decision whenever the judgment of the sentencing court is reversed and may issue written opinions in any other case where the court believes that a written opinion would provide guidance to sentencing courts and others in implementing this chapter and in developing a common law of sentencing within the state.

(7) The department may petition for a review of a sentence committing an offender to the custody or jurisdiction of the department. The review shall be limited to errors of law. Such petition shall be filed with the court of appeals no later than ninety days after the department has actual knowledge of terms of the sentence. The petition shall include a certification by the department that all reasonable efforts to resolve the dispute at the superior court level have been exhausted.

**PART II: INTERMEDIATE SANCTIONS AND REHABILITATIVE AND REINTEGRATION SERVICES**

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

(1) The sentencing guidelines commission and the department of commerce shall collaborate to develop a community-based intermediate sanctions sentencing alternative option for persons convicted of certain felony offenses. This alternative must be served at and operated on the county level with state funding and in compliance with state standards, and must include both intermediate sanctions as well as access to rehabilitative and reintegration services and programs. In developing the sentencing alternative, the sentencing guidelines commission and the department of commerce must consult with counties, the department of corrections, victim advocacy groups, and other interested stakeholders.

(2) The sentencing guidelines commission and the department of commerce must create a framework for the structure, implementation, and operation of the intermediate sanctions sentencing alternative, which must, at a minimum, include a description of all of the following components:

(a) The operational structure of intermediate sanctions sentencing alternative programs, with a requirement that programs must be developed and operated at the county level;

(b) Which offenses qualify for an intermediate sanctions sentencing alternative sentence including, but not necessarily limited to, sentences occupying cells on the sentencing grid with standard ranges that include both local and state confinement sentences;

(c) The way in which this alternative would relate to other options already in place, such as existing sentencing alternatives and partial confinement programs;

(d) Parameters for sentence length and the extent of judicial discretion in fashioning an intermediate sanctions alternative sentence;

(e) Requirements regarding needs assessments and what entity should complete the assessments;

(f) The type and severity of sanctions that may be included in the intermediate sanctions sentencing alternative programs, and whether certain sanctions should be reserved for certain circumstances or offenses. Sanctions may include, for example:

(i) Intensive supervision probation;

(ii) Day reporting;

(iii) House arrest;

(iv) Electronic home monitoring;

(v) Community service;

(vi) Intermittent confinement;

(vii) Mandatory treatment for behavioral health conditions; and

(viii) Residential community corrections;

(g) The reintegration services that may be included in the intermediate sanctions sentencing alternative programs, which may include, for example:

(i) Education programs;

(ii) Employment or job training;

(iii) Assistance with housing and transportation;

(iv) Mentorship and credible messenger services; and

(v) Life skills classes and use of technology training;

(h) The rehabilitative services that may be included in intermediate sanctions sentencing alternative programs, which may include, for example:

(i) Substance use disorder treatment;

(ii) Mental health counseling;

(iii) Cognitive behavioral training; and

(iv) Other evidence-based programs;

(i) Reporting requirements to which the person undergoing an intermediate sanctions sentencing alternative program must adhere, with a foundational requirement that programs are consistent in requiring reporting to just one jurisdiction, whether at the county level or the department;

(j) The revocation process for the intermediate sanctions sentencing alternative, including consistent standards for conduct and circumstances that warrant revocation and return to incarceration;

(k) Statewide standards for intermediate sanctions sentencing alternative program operation;

(l) The method by which state funding is provided to the counties to operate their intermediate sanctions sentencing alternative programs, taking into consideration the juvenile block grant model;

(m) Requirements that must be met in order for counties' intermediate sanctions sentencing alternative programs to be approved for state funding, and a review process to ensure statewide standards are adhered to over time;

(n) Requirements for regular data collection to ensure equitable application of the program, utilizing a centralized database, if possible, and regular evaluation of the data to ensure that state funding is being appropriately used;

(o) Recommendations for mitigating concerns related to tort liability for counties and the department;

(p) Recommendations for an implementation structure that most equitably serves individuals who do not reside in their county of conviction and court oversight;

(q) Recommendations for incorporating victim services and programs, including services and programs that respond to the emotional and physical needs of victims, such as: Support services throughout the criminal legal process, counseling, crisis intervention, shelter services, trauma and therapeutic services, and restorative justice; and

(r) Any other requirement that the sentencing guidelines commission and the department of commerce deem necessary for the success of the intermediate sanctions sentencing alternative system and programs.

(3) The sentencing guidelines commission and the department of commerce must produce a report to the appropriate committees of the legislature containing the framework for the intermediate sanctions sentencing alternative as described in this section. The report is due November 1, 2026.

(4) This section expires August 1, 2028.

**Sec.**  RCW 9.94A.030 and 2022 c 231 s 11 are each amended to read as follows:

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

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

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

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

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

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

(6) "Community protection zone" means the area within 880 feet of the facilities and grounds of a public or private school.

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

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

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

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

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

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

(b) A conviction may be removed from a defendant's criminal history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or a similar out-of-state statute, or if the conviction has been vacated pursuant to a governor's pardon. However, when a defendant is charged with a recidivist offense, "criminal history" includes a vacated prior conviction for the sole purpose of establishing that such vacated prior conviction constitutes an element of the present recidivist offense as provided in RCW 9.94A.640(4)(b) and 9.96.060((~~(7)~~)) (8)(c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(22) "Drug offense" means:

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

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

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

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

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

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

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

(25) "Escape" means:

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

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

(26) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

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

(31) "Intermediate sanctions sentencing alternative" means the sentencing alternative established under section 8 of this act, which includes, but is not limited to, the following community-based sentencing options for persons convicted of qualifying offenses:

(a) Intermediate sanctions, including:

(i) Intensive supervision probation;

(ii) Day reporting centers;

(iii) House arrest;

(iv) Electronic home monitoring;

(v) Community service;

(vi) Intermittent confinement;

(vii) Mandatory treatment for conditions; and

(viii) Residential community corrections;

(b) Reintegration services, including:

(i) Education programs;

(ii) Employment and job training;

(iii) Assistance with housing and transportation;

(iv) Mentorship and credible messenger services; and

(v) Life skills classes and training in the use of technology; and

(c) Rehabilitative services, including:

(i) Substance use disorder treatment;

(ii) Mental health counseling;

(iii) Cognitive behavioral training; and

(iv) Other evidence-based programs.

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

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

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

(b) Assault in the second degree;

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

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age 14;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Sexual exploitation;

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

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

(r) Any other class B felony offense with a finding of sexual motivation;

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

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

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

(ii) A prior conviction for indecent liberties under RCW 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988, if: (A) The crime was committed against a child under the age of 14; or (B) the relationship between the victim and perpetrator is included in the definition of indecent liberties under RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993, through July 27, 1997;

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

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

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

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

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

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

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

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

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

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

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

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

(vii) Hate Crime (RCW 9A.36.080);

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

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

(x) Any felony conviction by a person 18 years of age or older with a special finding of involving a juvenile in a felony offense under RCW 9.94A.833;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

((~~(37)~~)) (38) "Persistent offender" is an offender who:

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

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

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

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

((~~(38)~~)) (39) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

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

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

((~~(41)~~)) (42) "Recidivist offense" means a felony offense where a prior conviction of the same offense or other specified offense is an element of the crime including, but not limited to:

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

(b) Cyber harassment, RCW 9A.90.120(2)(b)(i);

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

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

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

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

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

((~~(42)~~)) (43) "Repetitive domestic violence offense" means any:

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

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

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

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

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

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

((~~(43)~~)) (44) "Restitution" means a specific sum of money ordered by the sentencing court to be paid by the offender to the court over a specified period of time as payment of damages. The sum may include both public and private costs.

((~~(44)~~)) (45) "Risk assessment" means the application of the risk instrument recommended to the department by the Washington state institute for public policy as having the highest degree of predictive accuracy for assessing an offender's risk of reoffense.

((~~(45)~~)) (46) "Serious traffic offense" means:

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

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

((~~(46)~~)) (47) "Serious violent offense" is a subcategory of violent offense and means:

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

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

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

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

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

((~~(47)~~)) (48) "Sex offense" means:

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

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

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

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

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

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

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

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

((~~(48)~~)) (49) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

((~~(49)~~)) (50) "Standard sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

((~~(50)~~)) (51) "Statutory maximum sentence" means the maximum length of time for which an offender may be confined as punishment for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the crime, or other statute defining the maximum penalty for a crime.

((~~(51)~~)) (52) "Stranger" means that the victim did not know the offender 24 hours before the offense.

((~~(52)~~)) (53) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for 24 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

((~~(53)~~)) (54) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

((~~(54)~~)) (55) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

((~~(55)~~)) (56) "Victim of domestic violence" means an intimate partner or household member who has been subjected to the infliction of physical harm or sexual and psychological abuse by an intimate partner or household member as part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that intimate partner or household member. Domestic violence includes, but is not limited to, the offenses listed in RCW 10.99.020 and 26.50.010 committed by an intimate partner or household member against a victim who is an intimate partner or household member.

((~~(56)~~)) (57) "Victim of sex trafficking, prostitution, or commercial sexual abuse of a minor" means a person who has been forced or coerced to perform a commercial sex act including, but not limited to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070, 9.68A.101, and the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a commercial sex act when they were less than 18 years of age including but not limited to the offenses defined in chapter 9.68A RCW.

((~~(57)~~)) (58) "Victim of sexual assault" means any person who is a victim of a sexual assault offense, nonconsensual sexual conduct, or nonconsensual sexual penetration and as a result suffers physical, emotional, financial, or psychological impacts. Sexual assault offenses include, but are not limited to, the offenses defined in chapter 9A.44 RCW.

((~~(58)~~)) (59) "Violent offense" means:

(a) Any of the following felonies:

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

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

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

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

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

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

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

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

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

((~~(59)~~)) (60) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.

((~~(60)~~)) (61) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

((~~(61)~~)) (62) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

**PART III: RECLASSIFICATION OF FELONY OFFENSES**

**Sec.**  RCW 9.68A.040 and 1989 c 32 s 2 are each amended to read as follows:

(1) A person is guilty of sexual exploitation of a minor if the person:

(a) Compels a minor by threat or force to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance;

(b) Aids, invites, employs, authorizes, or causes a minor to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance; or

(c) Being a parent, legal guardian, or person having custody or control of a minor, permits the minor to engage in sexually explicit conduct, knowing that the conduct will be photographed or part of a live performance.

(2) Sexual exploitation of a minor is a class ((~~B~~)) A felony punishable under chapter 9A.20 RCW.

**Sec.**  RCW 46.61.504 and 2022 c 16 s 42 are each amended to read as follows:

(1) A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after being in actual physical control of a vehicle, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section and it is an affirmative defense to any action pursuant to RCW 46.20.308 to suspend, revoke, or deny the privilege to drive if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3)(a) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of cannabis after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after being in control of the vehicle. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in control of the vehicle, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by cannabis in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class ((~~C~~)) B felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has three or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.502(6).

**Sec.**  RCW 69.55.010 and 2002 c 133 s 1 are each amended to read as follows:

(1) A person who, with intent to deprive the owner or owner's agent, wrongfully obtains pressurized ammonia gas or pressurized ammonia gas solution, is guilty of theft of ammonia.

(2) Theft of ammonia is a class ((~~C~~)) B felony.

**Sec.**  RCW 18.64.046 and 2023 c 195 s 3 are each amended to read as follows:

(1) Except as provided in subsection (6)(b) of this section, the owner of each place of business which sells legend drugs and nonprescription drugs, or nonprescription drugs at wholesale shall pay a license fee to be determined by the secretary, and thereafter, on or before a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280, a like fee to be determined by the secretary, for which the owner shall receive a license of location from the department, which shall entitle such owner to either sell legend drugs and nonprescription drugs or nonprescription drugs at wholesale at the location specified for the period ending on a date to be determined by the secretary, and each such owner shall at the time of payment of such fee file with the department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the department of any change of location and ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business.

(2) Failure to conform with this section is a misdemeanor, and each day that the failure continues is a separate offense.

(3) In event the license fee remains unpaid on the date due, no renewal or new license shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280.

(4) No wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products to persons within the state of Washington exceed five percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state in March through October. In November through February, no wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers if the total monthly sales of these products to persons within the state of Washington exceed ten percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state. For purposes of this section, monthly sales means total dollars paid by buyers. The commission may suspend or revoke the license of any wholesaler that violates this section.

(5) The commission may exempt a wholesaler from the limitations of subsection (4) of this section if it finds that the wholesaler distributes nonprescription drugs only through transactions between divisions, subsidiaries, or related companies when the wholesaler and the retailer are related by common ownership, and that neither the wholesaler nor the retailer has a history of suspicious transactions in precursor drugs as defined in RCW 69.43.035.

(6)(a) The requirements for a license apply to all persons, in Washington and outside of Washington, who sell both legend drugs and nonprescription drugs and to those who sell only nonprescription drugs, at wholesale to pharmacies, practitioners, and shopkeepers in Washington.

(b) For purposes of the actions authorized by section 1, chapter 195, Laws of 2023, the department of corrections is exempt from obtaining a wholesaler license as required by this section.

(7)(a) No wholesaler may sell any product containing any detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, to any person in Washington other than a pharmacy licensed under this chapter, a shopkeeper or itinerant vendor registered under this chapter, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner as defined in RCW 69.43.105.

(b) A violation of this subsection is punishable as a class ((~~C~~)) B felony according to chapter 9A.20 RCW, and each sale in violation of this subsection constitutes a separate offense.

**PART IV: AMENDATORY PROVISIONS**

**Sec.**  RCW 9.94A.470 and 2002 c 290 s 14 are each amended to read as follows:

Notwithstanding the current placement or listing of crimes in categories or classifications of prosecuting standards for deciding to prosecute under RCW 9.94A.411(2), any and all felony crimes involving any deadly weapon special verdict under RCW ((~~9.94A.602~~)) 9.94A.825, any deadly weapon enhancements under RCW 9.94A.533 ((~~(3) or~~)) (4) or (5), or both, and any and all felony crimes as defined in RCW 9.94A.533 ((~~(3)(f) or~~)) (4)(f) or (5)(f), or both, which are excluded from the deadly weapon enhancements shall all be treated as crimes against a person and subject to the prosecuting standards for deciding to prosecute under RCW 9.94A.411(2) as crimes against persons.

**Sec.**  RCW 9.94A.475 and 2018 c 7 s 6 are each amended to read as follows:

Any and all recommended sentencing agreements or plea agreements and the sentences for any and all felony crimes shall be made and retained as public records if the felony crime involves:

(1) Any violent offense as defined in this chapter;

(2) Any most serious offense as defined in this chapter;

(3) Any felony with a deadly weapon special verdict under RCW 9.94A.825;

(4) Any felony with any deadly weapon enhancements under RCW 9.94A.533 ((~~(3) or~~)) (4) or (5), or both;

(5) The felony crimes of 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 or second degree, and/or use of a machine gun or bump-fire stock in a felony; or

(6) The felony crime of driving a motor vehicle while under the influence of intoxicating liquor or any drug as defined in RCW 46.61.502, and felony physical control of a motor vehicle while under the influence of intoxicating liquor or any drug as defined in RCW 46.61.504.

**Sec.**  RCW 9.94A.505 and 2022 c 260 s 23 are each amended to read as follows:

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

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

(i) Unless another term of confinement applies, a sentence within the standard sentence range established in section 1 of this act, RCW 9.94A.510, or 9.94A.517;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) If the court imposes a sentence requiring confinement of 30 days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than 30 days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

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

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

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

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

(a) A violent offense;

(b) Any sex offense;

(c) Any drug offense;

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

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

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

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

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

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

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

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

**Sec.**  RCW 9.94A.510 and 2014 c 130 s 1 are each amended to read as follows:

TABLE ((~~1~~)) 3

Sentencing Grid - Offenses Not Sentenced According To Section 1 Of This Act

|  |  |
| --- | --- |
| SERIOUSNESSLEVEL | OFFENDER SCORE |
|  | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 ormore |
| XVI |  Life sentence without parole/death penalty for offenders at or over the age of eighteen. For offenders under the age of eighteen, a term of twenty-five years to life. |
| XV | 23y4m | 24y4m | 25y4m | 26y4m | 27y4m | 28y4m | 30y4m | 32y10m | 36y | 40y |
|  | 240- | 250- | 261- | 271- | 281- | 291- | 312- | 338- | 370- | 411- |
|  | 320  | 333  | 347  | 361  | 374  | 388  | 416  | 450  | 493 | 548 |
| XIV | 14y4m | 15y4m | 16y2m | 17y | 17y11m | 18y9m | 20y5m | 22y2m | 25y7m | 29y |
|  | 123- | 134- | 144- | 154- | 165- | 175- | 195- | 216- | 257- | 298- |
|  | 220 | 234 | 244 | 254 | 265 | 275 | 295 | 316 | 357 | 397 |
| XIII | 12y | 13y | 14y | 15y | 16y | 17y | 19y | 21y | 25y | 29y |
|  | 123- | 134- | 144- | 154- | 165- | 175- | 195- | 216- | 257- | 298- |
|  | 164 | 178 | 192 | 205 | 219 | 233 | 260 | 288 | 342 | 397 |
| XII | 9y | 9y11m | 10y9m | 11y8m | 12y6m | 13y5m | 15y9m | 17y3m | 20y3m | 23y3m |
|  | 93- | 102- | 111- | 120- | 129- | 138- | 162- | 178- | 209- | 240- |
|  | 123 | 136  | 147  | 160  | 171  | 184  | 216  | 236  | 277  | 318 |
| XI | 7y6m | 8y4m | 9y2m | 9y11m | 10y9m | 11y7m | 14y2m | 15y5m | 17y11m | 20y5m |
|  | 78- | 86- | 95- | 102- | 111- | 120- | 146- | 159- | 185- | 210- |
|  | 102  | 114  | 125  | 136  | 147  | 158  | 194  | 211  | 245  | 280 |
| X | 5y | 5y6m | 6y | 6y6m | 7y | 7y6m | 9y6m | 10y6m | 12y6m | 14y6m |
|  | 51- | 57- | 62- | 67- | 72- | 77- | 98- | 108- | 129- | 149- |
|  | 68 | 75 | 82 | 89 | 96 | 102 | 130 | 144 | 171 | 198 |
| IX | 3y | 3y6m | 4y | 4y6m | 5y | 5y6m | 7y6m | 8y6m | 10y6m | 12y6m |
|  | 31- | 36- | 41- | 46- | 51- | 57- | 77- | 87- | 108- | 129- |
|  | 41 | 48 | 54 | 61 | 68 | 75 | 102 | 116 | 144 | 171 |
| VIII | 2y | 2y6m | 3y | 3y6m | 4y | 4y6m | 6y6m | 7y6m | 8y6m | 10y6m |
|  | 21- | 26- | 31- | 36- | 41- | 46- | 67- | 77- | 87- | 108- |
|  | 27 | 34 | 41 | 48 | 54 | 61 | 89 | 102 | 116 | 144 |
| VII | 18m | 2y | 2y6m | 3y | 3y6m | 4y | 5y6m | 6y6m | 7y6m | 8y6m |
|  | 15- | 21- | 26- | 31- | 36- | 41- | 57- | 67- | 77- | 87- |
|  | 20 | 27 | 34 | 41 | 48 | 54 | 75 | 89 | 102 | 116 |
| VI | 13m | 18m | 2y | 2y6m | 3y | 3y6m | 4y6m | 5y6m | 6y6m | 7y6m |
|  | 12+- | 15- | 21- | 26- | 31- | 36- | 46- | 57- | 67- | 77- |
|  | 14  | 20 | 27 | 34 | 41 | 48 | 61 | 75 | 89 | 102 |
| V | 9m | 13m | 15m | 18m | 2y2m | 3y2m | 4y | 5y | 6y | 7y |
|  | 6- | 12+- | 13- | 15- | 22- | 33- | 41- | 51- | 62- | 72- |
|  | 12 | 14 | 17 | 20 | 29 | 43 | 54 | 68 | 82 | 96 |
| IV | 6m | 9m | 13m | 15m | 18m | 2y2m | 3y2m | 4y2m | 5y2m | 6y2m |
|  | 3- | 6- | 12+- | 13- | 15- | 22- | 33- | 43- | 53- | 63- |
|  | 9 | 12 | 14 | 17 | 20 | 29 | 43 | 57 | 70 | 84 |
| III | 2m | 5m | 8m | 11m | 14m | 20m | 2y2m | 3y2m | 4y2m | 5y |
|  | 1- | 3- | 4- | 9- | 12+- | 17- | 22- | 33- | 43- | 51- |
|  | 3  | 8  | 12 | 12 | 16 | 22 | 29 | 43 | 57 | 68 |
| II |  | 4m | 6m | 8m | 13m | 16m | 20m | 2y2m | 3y2m | 4y2m |
|  | 0-90 | 2- | 3- | 4- | 12+- | 14- | 17- | 22- | 33- | 43- |
|  | Days | 6  | 9  | 12 | 14 | 18 | 22 | 29 | 43 | 57 |
| I |  |  | 3m | 4m | 5m | 8m | 13m | 16m | 20m | 2y2m |
|  | 0-60 | 0-90 | 2- | 2- | 3- | 4- | 12+- | 14- | 17- | 22- |
|  | Days | Days | 5  | 6  | 8  | 12 | 14  | 18 | 22 | 29 |

Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent standard sentence ranges in months, or in days if so designated. 12+ equals one year and one day.

**Sec.**  RCW 9.94A.515 and 2023 c 196 s 3 and 2023 c 7 s 3 are each reenacted and amended to read as follows:

|  |  |  |
| --- | --- | --- |
|  | TABLE ((~~2~~)) 4 |  |
|  | CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL - SENTENCED ACCORDING TO RCW 9.94A.510 |  |
| XVI | Aggravated Murder 1 (RCW 10.95.020) |  |
| XV | Homicide by abuse (RCW 9A.32.055) |  |
|  | Malicious explosion 1 (RCW 70.74.280(1)) |  |
|  | Murder 1 (RCW 9A.32.030) |  |
| XIV | Murder 2 (RCW 9A.32.050) |  |
|  | Trafficking 1 (RCW 9A.40.100(1)) |  |
| XIII | Malicious explosion 2 (RCW 70.74.280(2)) |  |
|  | Malicious placement of an explosive 1 (RCW 70.74.270(1)) |  |
| XII | Assault 1 (RCW 9A.36.011) |  |
|  | Assault of a Child 1 (RCW 9A.36.120) |  |
|  | Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) |  |
|  | Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101) |  |
|  | Rape 1 (RCW 9A.44.040) |  |
|  | Rape of a Child 1 (RCW 9A.44.073) |  |
|  | Trafficking 2 (RCW 9A.40.100(3)) |  |
| XI | Manslaughter 1 (RCW 9A.32.060) |  |
|  | Rape 2 (RCW 9A.44.050) |  |
|  | Rape of a Child 2 (RCW 9A.44.076) |  |
|  | Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520) |  |
|  | Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520) |  |
| X | Child Molestation 1 (RCW 9A.44.083) |  |
|  | Criminal Mistreatment 1 (RCW 9A.42.020) |  |
|  | Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) |  |
|  | Kidnapping 1 (RCW 9A.40.020) |  |
|  | Leading Organized Crime (RCW 9A.82.060(1)(a)) |  |
|  | Malicious explosion 3 (RCW 70.74.280(3)) |  |
|  | Sexually Violent Predator Escape (RCW 9A.76.115) |  |
| IX | Abandonment of Dependent Person 1 (RCW 9A.42.060) |  |
|  | Assault of a Child 2 (RCW 9A.36.130) |  |
|  | Explosive devices prohibited (RCW 70.74.180) |  |
|  | Hit and Run—Death (RCW 46.52.020(4)(a)) |  |
|  | Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050) |  |
|  | Inciting Criminal Profiteering (RCW 9A.82.060(1)(b)) |  |
|  | Malicious placement of an explosive 2 (RCW 70.74.270(2)) |  |
|  | Robbery 1 (RCW 9A.56.200) |  |
|  | Sexual Exploitation (RCW 9.68A.040) |  |
| VIII | Arson 1 (RCW 9A.48.020) |  |
|  | Commercial Sexual Abuse of a Minor (RCW 9.68A.100) |  |
|  | Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050) |  |
|  | Manslaughter 2 (RCW 9A.32.070) |  |
|  | Promoting Prostitution 1 (RCW 9A.88.070) |  |
|  | Theft of Ammonia (RCW 69.55.010) |  |
| VII | Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b)) |  |
|  | Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b)) |  |
|  | Burglary 1 (RCW 9A.52.020) |  |
|  | Child Molestation 2 (RCW 9A.44.086) |  |
|  | Civil Disorder Training (RCW 9A.48.120) |  |
|  | Custodial Sexual Misconduct 1 (RCW 9A.44.160) |  |
|  | Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1)) |  |
|  | Drive-by Shooting (RCW 9A.36.045) |  |
|  | False Reporting 1 (RCW 9A.84.040(2)(a)) |  |
|  | Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050) |  |
|  | Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c)) |  |
|  | Introducing Contraband 1 (RCW 9A.76.140) |  |
|  | Malicious placement of an explosive 3 (RCW 70.74.270(3)) |  |
|  | Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b)) |  |
|  | Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675) |  |
|  | Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b)) |  |
|  | Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1)) |  |
|  | Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)) |  |
|  | Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225) |  |
|  | Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520) |  |
| VI | Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a)) |  |
|  | Bribery (RCW 9A.68.010) |  |
|  | Incest 1 (RCW 9A.64.020(1)) |  |
|  | Intimidating a Judge (RCW 9A.72.160) |  |
|  | Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130) |  |
|  | Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b)) |  |
|  | Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1)) |  |
|  | Rape of a Child 3 (RCW 9A.44.079) |  |
|  | Theft of a Firearm (RCW 9A.56.300) |  |
|  | Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1)) |  |
|  | Unlawful Storage of Ammonia (RCW 69.55.020) |  |
| V | Abandonment of Dependent Person 2 (RCW 9A.42.070) |  |
|  | Advancing money or property for extortionate extension of credit (RCW 9A.82.030) |  |
|  | Air bag diagnostic systems (RCW 46.37.660(2)(c)) |  |
|  | Air bag replacement requirements (RCW 46.37.660(1)(c)) |  |
|  | Bail Jumping with class A Felony (RCW 9A.76.170(3)(b)) |  |
|  | Child Molestation 3 (RCW 9A.44.089) |  |
|  | Criminal Mistreatment 2 (RCW 9A.42.030) |  |
|  | Custodial Sexual Misconduct 2 (RCW 9A.44.170) |  |
|  | Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2)) |  |
|  | Domestic Violence Court Order Violation (RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070) |  |
|  | Extortion 1 (RCW 9A.56.120) |  |
|  | Extortionate Extension of Credit (RCW 9A.82.020) |  |
|  | Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040) |  |
|  | Incest 2 (RCW 9A.64.020(2)) |  |
|  | Kidnapping 2 (RCW 9A.40.030) |  |
|  | Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c)) |  |
|  | Perjury 1 (RCW 9A.72.020) |  |
|  | Persistent prison misbehavior (RCW 9.94.070) |  |
|  | Possession of a Stolen Firearm (RCW 9A.56.310) |  |
|  | Rape 3 (RCW 9A.44.060) |  |
|  | Rendering Criminal Assistance 1 (RCW 9A.76.070) |  |
|  | Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c)) |  |
|  | Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2)) |  |
|  | Sexual Misconduct with a Minor 1 (RCW 9A.44.093) |  |
|  | Sexually Violating Human Remains (RCW 9A.44.105) |  |
|  | Stalking (RCW 9A.46.110) |  |
|  | Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070) |  |
| IV | Arson 2 (RCW 9A.48.030) |  |
|  | Assault 2 (RCW 9A.36.021) |  |
|  | Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h)) |  |
|  | Assault 4 (third domestic violence offense) (RCW 9A.36.041(3)) |  |
|  | Assault by Watercraft (RCW 79A.60.060) |  |
|  | Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100) |  |
|  | Cheating 1 (RCW 9.46.1961) |  |
|  | Commercial Bribery (RCW 9A.68.060) |  |
|  | Counterfeiting (RCW 9.16.035(4)) |  |
|  | Driving While Under the Influence (RCW 46.61.502(6)) |  |
|  | Endangerment with a Controlled Substance (RCW 9A.42.100) |  |
|  | Escape 1 (RCW 9A.76.110) |  |
|  | Hate Crime (RCW 9A.36.080) |  |
|  | Hit and Run—Injury (RCW 46.52.020(4)(b)) |  |
|  | Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3)) |  |
|  | Identity Theft 1 (RCW 9.35.020(2)) |  |
|  | Indecent Exposure to Person Under Age 14 (subsequent sex offense) (RCW 9A.88.010) |  |
|  | Influencing Outcome of Sporting Event (RCW 9A.82.070) |  |
|  | Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6)) |  |
|  | Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2)) |  |
|  | Residential Burglary (RCW 9A.52.025) |  |
|  | Robbery 2 (RCW 9A.56.210) |  |
|  | Theft of Livestock 1 (RCW 9A.56.080) |  |
|  | Threats to Bomb (RCW 9.61.160) |  |
|  | Trafficking in Stolen Property 1 (RCW 9A.82.050) |  |
|  | Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b)) |  |
|  | Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3)) |  |
|  | Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3)) |  |
|  | Unlawful transaction of insurance business (RCW 48.15.023(3)) |  |
|  | Unlicensed practice as an insurance professional (RCW 48.17.063(2)) |  |
|  | Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2)) |  |
|  | Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3)) |  |
|  | Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522) |  |
|  | Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1)) |  |
| III | Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3)) |  |
|  | Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h)) |  |
|  | Assault of a Child 3 (RCW 9A.36.140) |  |
|  | Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c)) |  |
|  | Burglary 2 (RCW 9A.52.030) |  |
|  | Communication with a Minor for Immoral Purposes (RCW 9.68A.090) |  |
|  | Criminal Gang Intimidation (RCW 9A.46.120) |  |
|  | Custodial Assault (RCW 9A.36.100) |  |
|  | Cyber Harassment (RCW 9A.90.120(2)(b)) |  |
|  | Escape 2 (RCW 9A.76.120) |  |
|  | Extortion 2 (RCW 9A.56.130) |  |
|  | False Reporting 2 (RCW 9A.84.040(2)(b)) |  |
|  | Harassment (RCW 9A.46.020) |  |
|  | Hazing (RCW 28B.10.901(2)(b)) |  |
|  | Intimidating a Public Servant (RCW 9A.76.180) |  |
|  | Introducing Contraband 2 (RCW 9A.76.150) |  |
|  | Malicious Injury to Railroad Property (RCW 81.60.070) |  |
|  | Manufacture of Untraceable Firearm with Intent to Sell (RCW 9.41.190) |  |
|  | Manufacture or Assembly of an Undetectable Firearm or Untraceable Firearm (RCW 9.41.325) |  |
|  | Mortgage Fraud (RCW 19.144.080) |  |
|  | Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674) |  |
|  | Organized Retail Theft 1 (RCW 9A.56.350(2)) |  |
|  | Perjury 2 (RCW 9A.72.030) |  |
|  | Possession of Incendiary Device (RCW 9.40.120) |  |
|  | Possession of Machine Gun, Bump-Fire Stock, Undetectable Firearm, or Short-Barreled Shotgun or Rifle (RCW 9.41.190) |  |
|  | Promoting Prostitution 2 (RCW 9A.88.080) |  |
|  | Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2)) |  |
|  | Securities Act violation (RCW 21.20.400) |  |
|  | Tampering with a Witness (RCW 9A.72.120) |  |
|  | Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2)) |  |
|  | Theft of Livestock 2 (RCW 9A.56.083) |  |
|  | Theft with the Intent to Resell 1 (RCW 9A.56.340(2)) |  |
|  | Trafficking in Stolen Property 2 (RCW 9A.82.055) |  |
|  | Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b)) |  |
|  | Unlawful Imprisonment (RCW 9A.40.040) |  |
|  | Unlawful Misbranding of Fish or Shellfish 1 (RCW 77.140.060(3)) |  |
|  | Unlawful possession of firearm in the second degree (RCW 9.41.040(2)) |  |
|  | Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b)) |  |
|  | Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b)) |  |
|  | Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4)) |  |
|  | Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522) |  |
| II | Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b)) |  |
|  | Computer Trespass 1 (RCW 9A.90.040) |  |
|  | Counterfeiting (RCW 9.16.035(3)) |  |
|  | Electronic Data Service Interference (RCW 9A.90.060) |  |
|  | Electronic Data Tampering 1 (RCW 9A.90.080) |  |
|  | Electronic Data Theft (RCW 9A.90.100) |  |
|  | Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3)) |  |
|  | Escape from Community Custody (RCW 72.09.310) |  |
|  | Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132) |  |
|  | Health Care False Claims (RCW 48.80.030) |  |
|  | Identity Theft 2 (RCW 9.35.020(3)) |  |
|  | Improperly Obtaining Financial Information (RCW 9.35.010) |  |
|  | Malicious Mischief 1 (RCW 9A.48.070) |  |
|  | Organized Retail Theft 2 (RCW 9A.56.350(3)) |  |
|  | Possession of Stolen Property 1 (RCW 9A.56.150) |  |
|  | Possession of a Stolen Vehicle (RCW 9A.56.068) |  |
|  | Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3)) |  |
|  | Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100) |  |
|  | Theft 1 (RCW 9A.56.030) |  |
|  | Theft of a Motor Vehicle (RCW 9A.56.065) |  |
|  | Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at $5,000 or more) (RCW 9A.56.096(5)(a)) |  |
|  | Theft with the Intent to Resell 2 (RCW 9A.56.340(3)) |  |
|  | Trafficking in Insurance Claims (RCW 48.30A.015) |  |
|  | Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a)) |  |
|  | Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2)) |  |
|  | Unlawful Practice of Law (RCW 2.48.180) |  |
|  | Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b)) |  |
|  | Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a)) |  |
|  | Unlicensed Practice of a Profession or Business (RCW 18.130.190(7)) |  |
|  | Voyeurism 1 (RCW 9A.44.115) |  |
| I | Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024) |  |
|  | False Verification for Welfare (RCW 74.08.055) |  |
|  | Forgery (RCW 9A.60.020) |  |
|  | Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060) |  |
|  | Malicious Mischief 2 (RCW 9A.48.080) |  |
|  | Mineral Trespass (RCW 78.44.330) |  |
|  | Possession of Stolen Property 2 (RCW 9A.56.160) |  |
|  | Reckless Burning 1 (RCW 9A.48.040) |  |
|  | Spotlighting Big Game 1 (RCW 77.15.450(3)(b)) |  |
|  | Suspension of Department Privileges 1 (RCW 77.15.670(3)(b)) |  |
|  | Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075) |  |
|  | Theft 2 (RCW 9A.56.040) |  |
|  | Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2)) |  |
|  | Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at $750 or more but less than $5,000) (RCW 9A.56.096(5)(b)) |  |
|  | Transaction of insurance business beyond the scope of licensure (RCW 48.17.063) |  |
|  | Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b)) |  |
|  | Unlawful Issuance of Checks or Drafts (RCW 9A.56.060) |  |
|  | Unlawful Possession of Fictitious Identification (RCW 9A.56.320) |  |
|  | Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320) |  |
|  | Unlawful Possession of Payment Instruments (RCW 9A.56.320) |  |
|  | Unlawful Possession of a Personal Identification Device (RCW 9A.56.320) |  |
|  | Unlawful Production of Payment Instruments (RCW 9A.56.320) |  |
|  | Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b)) |  |
|  | Unlawful Trafficking in Food Stamps (RCW 9.91.142) |  |
|  | Unlawful Use of Food Stamps (RCW 9.91.144) |  |
|  | Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b)) |  |
|  | Vehicle Prowl 1 (RCW 9A.52.095) |  |
|  | Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b)) |  |

**Sec.**  RCW 9.94A.517 and 2015 c 291 s 9 are each amended to read as follows:

(1)

TABLE ((~~3~~)) 5

DRUG OFFENSE SENTENCING GRID

|  |  |  |  |
| --- | --- | --- | --- |
| **Seriousness****Level** | **Offender Score****0 to 2** | **Offender Score****3 to 5** | **Offender Score****6 to 9 or more** |
| **III** | 51 to 68 months | 68+ to 100 months | 100+ to 120 months |
| **II** | 12+ to 20 months | 20+ to 60 months | 60+ to 120 months |
| **I** | 0 to 6 months | 6+ to 18 months | 12+ to 24 months |

References to months represent the standard sentence ranges. 12+ equals one year and one day.

(2) The court may utilize any other sanctions or alternatives as authorized by law, including but not limited to the special drug offender sentencing alternative under RCW 9.94A.660 or drug court under chapter 2.30 RCW.

(3) Nothing in this section creates an entitlement for a criminal defendant to any specific sanction, alternative, sentence option, or substance abuse treatment.

**Sec.**  RCW 9.94A.530 and 2023 c 102 s 15 are each amended to read as follows:

(1) The intersection of the column defined by the offender score and the row defined by the offense seriousness score determines the standard sentence range (see ((~~RCW 9.94A.510~~)) section 1 of this act, (Table 1), RCW 9.94A.510, (Table 3), and RCW 9.94A.517, (Table ((~~3~~)) 5)). The additional time for deadly weapon findings or for other adjustments as specified in RCW 9.94A.533 shall be added to the entire standard sentence range. The court may impose any sentence within the range that it deems appropriate. All standard sentence ranges are expressed in terms of total confinement.

(2) In determining any sentence other than a sentence above the standard range, the trial court may rely on no more information than is admitted by the plea agreement, or admitted, acknowledged, or proved in a trial or at the time of sentencing, or proven pursuant to RCW 9.94A.537. Where the defendant disputes material facts, the court must either not consider the fact or grant an evidentiary hearing on the point. The facts shall be deemed proved at the hearing by a preponderance of the evidence, except as otherwise specified in RCW 9.94A.537. On remand for resentencing following appeal or collateral attack, the parties shall have the opportunity to present and the court to consider all relevant evidence regarding criminal history, including criminal history not previously presented.

(3) In determining any sentence above the standard sentence range, the court shall follow the procedures set forth in RCW 9.94A.537. Facts that establish the elements of a more serious crime or additional crimes may not be used to go outside the standard sentence range except upon stipulation or when specifically provided for in RCW 9.94A.535(3)(d), (e), (g), and (h).

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

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

(a) The offender is convicted of a felony that is not a violent offense and the violation does not involve a sentence enhancement under RCW 9.94A.533 ((~~(3) or~~)) (4) or (5);

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

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

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

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

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

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

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

(g) The offender has not received a drug offender sentencing alternative more than once in the prior ten years before the current offense.

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

(3) If the sentencing court determines that the offender is eligible for an alternative sentence under this section and that the alternative sentence is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under RCW 9.94A.662 or a residential substance use disorder treatment-based alternative under RCW 9.94A.664. The residential substance use disorder treatment-based alternative is only available if the midpoint of the standard range is twenty-six months or less.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 9.94A.729 and 2022 c 29 s 1 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 (5), 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)~~)) (8), minor child enhancements under RCW 9.94A.533((~~(13)~~)) (14), 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:

(a) In the case of an offender sentenced pursuant to RCW 10.95.030((~~(3)~~)) (2) 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 10 percent 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 15 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 10 percent of the sentence.

(d) An offender is qualified to earn up to 50 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)(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 six 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.833 and 2008 c 276 s 302 are each amended to read as follows:

(1) In a prosecution of a criminal street gang-related felony offense, the prosecution may file a special allegation that the felony offense involved the compensation, threatening, or solicitation of a minor in order to involve that minor in the commission of the felony offense, as described under RCW 9.94A.533((~~(10)~~)) (11)(a).

(2) The state has the burden of proving a special allegation made under this section beyond a reasonable doubt. If a jury is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether the criminal street gang-related felony offense involved the compensation, threatening, or solicitation of a minor in order to involve that minor in the commission of the felony offense. If no jury is had, the court shall make a finding of fact as to whether the criminal street gang-related felony offense involved the compensation, threatening, or solicitation of a minor in order to involve that minor in the commission of the felony offense.

**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 (5), 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;

(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.

**PART V: MISCELLANEOUS PROVISIONS**

NEW SECTION. **Sec.**  If any amendments to any sections enacted or affected by this act are enacted in a 2024 legislative session that do not take cognizance of this act, the code reviser shall prepare a bill for introduction in the 2025 legislative session that incorporates any such amendments into the sections adopted by this act and corrects any incorrect cross-references.

NEW SECTION. **Sec.**  RCW 9.94A.506 (Standard sentence ranges—Limitations) and 2011 1st sp.s. c 40 s 26 are each repealed.

NEW SECTION. **Sec.**  Except for section 8 of this act, this act takes effect August 1, 2028.

**--- END ---**