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HOUSE BILL 2048

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State of Washington

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By Representatives Mosbrucker, Goodman, Graham, Doglio, and Davis

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1 AN ACT Relating to supervision of domestic violence in criminal  
2 sentencing; and amending RCW 9.94A.030, 9.94A.500, 9.94A.501,  
3 9.94A.502, and 9.94A.525.

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

5 **Sec. 1.** RCW 9.94A.030 and 2022 c 231 s 11 are each amended to  
6 read as follows:

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

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

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

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

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

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

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

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

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

16 (9) "Conviction" means an adjudication of guilt pursuant to Title  
17 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,  
18 and acceptance of a plea of guilty.

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

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

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

35 (b) A conviction may be removed from a defendant's criminal  
36 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
37 9.95.240, or a similar out-of-state statute, or if the conviction has  
38 been vacated pursuant to a governor's pardon. However, when a  
39 defendant is charged with a recidivist offense, "criminal history"  
40 includes a vacated prior conviction for the sole purpose of

1 establishing that such vacated prior conviction constitutes an  
2 element of the present recidivist offense as provided in RCW  
3 9.94A.640(4)(b) and 9.96.060(~~((7))~~) (8)(c).

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

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

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

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

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

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

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

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

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

39 (f) To provide the gang with any advantage in, or any control or  
40 dominance over any criminal market sector, including, but not limited

1 to, manufacturing, delivering, or selling any controlled substance  
2 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
3 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
4 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual  
5 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter  
6 9.68 RCW).

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

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

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

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

25 (19) "Disposable earnings" means that part of the earnings of an  
26 offender remaining after the deduction from those earnings of any  
27 amount required by law to be withheld. For the purposes of this  
28 definition, "earnings" means compensation paid or payable for  
29 personal services, whether denominated as wages, salary, commission,  
30 bonuses, or otherwise, and, notwithstanding any other provision of  
31 law making the payments exempt from garnishment, attachment, or other  
32 process to satisfy a court-ordered legal financial obligation,  
33 specifically includes periodic payments pursuant to pension or  
34 retirement programs, or insurance policies of any type, but does not  
35 include payments made under Title 50 RCW, except as provided in RCW  
36 50.40.020 and 50.40.050, or Title 74 RCW.

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

39 (b) "Domestic violence" also means: (i) Physical harm, bodily  
40 injury, assault, or the infliction of fear of imminent physical harm,

1 bodily injury, or assault, sexual assault, or stalking, as defined in  
2 RCW 9A.46.110, of one intimate partner by another intimate partner as  
3 defined in RCW 10.99.020; or (ii) physical harm, bodily injury,  
4 assault, or the infliction of fear of imminent physical harm, bodily  
5 injury, or assault, sexual assault, or stalking, as defined in RCW  
6 9A.46.110, of one family or household member by another family or  
7 household member as defined in RCW 10.99.020.

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

11 (22) "Drug offense" means:

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

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

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

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

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

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

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

1 (25) "Escape" means:

2 (a) Sexually violent predator escape (RCW 9A.76.115), escape in  
3 the first degree (RCW 9A.76.110), escape in the second degree (RCW  
4 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
5 willful failure to return from work release (RCW 72.65.070), or  
6 willful failure to be available for supervision by the department  
7 while in community custody (RCW 72.09.310); or

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

11 (26) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

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

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

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

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

22 (b) Assault in the second degree;

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

24 (d) Child molestation in the second degree;

25 (e) Controlled substance homicide;

26 (f) Extortion in the first degree;

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

28 (h) Indecent liberties;

29 (i) Kidnapping in the second degree;

30 (j) Leading organized crime;

31 (k) Manslaughter in the first degree;

32 (l) Manslaughter in the second degree;

33 (m) Promoting prostitution in the first degree;

34 (n) Rape in the third degree;

35 (o) Sexual exploitation;

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

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

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

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

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

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

20 (ii) A prior conviction for indecent liberties under RCW  
21 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
22 if: (A) The crime was committed against a child under the age of 14;  
23 or (B) the relationship between the victim and perpetrator is  
24 included in the definition of indecent liberties under RCW  
25 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,  
26 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,  
27 1993, through July 27, 1997;

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

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

36 (34) "Offender" means a person who has committed a felony  
37 established by state law and is 18 years of age or older or is less  
38 than 18 years of age but whose case is under superior court  
39 jurisdiction under RCW 13.04.030 or has been transferred by the  
40 appropriate juvenile court to a criminal court pursuant to RCW



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 following offenses with a finding of sexual motivation: Murder in the  
2 first degree, murder in the second degree, homicide by abuse,  
3 kidnapping in the first degree, kidnapping in the second degree,  
4 assault in the first degree, assault in the second degree, assault of  
5 a child in the first degree, assault of a child in the second degree,  
6 or burglary in the first degree; or (C) an attempt to commit any  
7 crime listed in this subsection (37)(b)(i); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (45) "Serious traffic offense" means:

6 (a) Nonfelony driving while under the influence of intoxicating  
7 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
8 while under the influence of intoxicating liquor or any drug (RCW  
9 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
10 attended vehicle (RCW 46.52.020(5)); or

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

14 (46) "Serious violent offense" is a subcategory of violent  
15 offense and means:

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

17 (ii) Homicide by abuse;

18 (iii) Murder in the second degree;

19 (iv) Manslaughter in the first degree;

20 (v) Assault in the first degree;

21 (vi) Kidnapping in the first degree;

22 (vii) Rape in the first degree;

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

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

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

29 (47) "Sex offense" means:

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

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

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

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

38 (v) A felony violation of RCW 9A.44.132(1) (failure to register  
39 as a sex offender) if the person has been convicted of violating RCW

1 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130  
2 prior to June 10, 2010, on at least one prior occasion;

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

6 (c) A felony with a finding of sexual motivation under RCW  
7 9.94A.835 or 13.40.135; or

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

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

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

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

21 (51) "Stranger" means that the victim did not know the offender  
22 24 hours before the offense.

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

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

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

36 (55) "Victim of domestic violence" means an intimate partner or  
37 household member who has been subjected to the infliction of physical  
38 harm or sexual and psychological abuse by an intimate partner or  
39 household member as part of a pattern of assaultive, coercive, and  
40 controlling behaviors directed at achieving compliance from or

1 control over that intimate partner or household member. Domestic  
2 violence includes, but is not limited to, the offenses listed in RCW  
3 10.99.020 and 26.50.010 committed by an intimate partner or household  
4 member against a victim who is an intimate partner or household  
5 member.

6 (56) "Victim of sex trafficking, prostitution, or commercial  
7 sexual abuse of a minor" means a person who has been forced or  
8 coerced to perform a commercial sex act including, but not limited  
9 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,  
10 9.68A.101, and the trafficking victims protection act of 2000, 22  
11 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a  
12 commercial sex act when they were less than 18 years of age including  
13 but not limited to the offenses defined in chapter 9.68A RCW.

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

20 (58) "Violent offense" means:

21 (a) Any of the following felonies:

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

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

26 (iii) Manslaughter in the first degree;

27 (iv) Manslaughter in the second degree;

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

29 (vi) Kidnapping in the second degree;

30 (vii) Arson in the second degree;

31 (viii) Assault in the second degree;

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

33 (x) Extortion in the first degree;

34 (xi) Robbery in the second degree;

35 (xii) Drive-by shooting;

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

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

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

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

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

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

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

24 **Sec. 2.** RCW 9.94A.500 and 2019 c 263 s 501 are each amended to  
25 read as follows:

26 (1) Before imposing a sentence upon a defendant, the court shall  
27 conduct a sentencing hearing. The sentencing hearing shall be held  
28 within forty court days following conviction. Upon the motion of  
29 either party for good cause shown, or on its own motion, the court  
30 may extend the time period for conducting the sentencing hearing.

31 Except in cases where the defendant shall be sentenced to a term  
32 of total confinement for life without the possibility of release or,  
33 when authorized by RCW 10.95.030 for the crime of aggravated murder  
34 in the first degree, sentenced to death, the court may order the  
35 department to complete a risk assessment report. If available before  
36 sentencing, the report shall be provided to the court.

37 Unless specifically waived by the court, the court shall order  
38 the department to complete a chemical dependency screening report  
39 before imposing a sentence upon a defendant who has been convicted of



1 a violation of the uniform controlled substances act under chapter  
2 69.50 RCW, a criminal solicitation to commit such a violation under  
3 chapter 9A.28 RCW, or any felony where the court finds that the  
4 offender has a chemical dependency that has contributed to his or her  
5 offense. In addition, the court shall, at the time of plea or  
6 conviction, order the department to complete a presentence report  
7 before imposing a sentence upon a defendant who has been convicted of  
8 a felony sexual offense. The department of corrections shall give  
9 priority to presentence investigations for sexual offenders. If the  
10 court determines that the defendant may be a mentally ill person as  
11 defined in RCW 71.24.025, although the defendant has not established  
12 that at the time of the crime he or she lacked the capacity to commit  
13 the crime, was incompetent to commit the crime, or was insane at the  
14 time of the crime, the court shall order the department to complete a  
15 presentence report before imposing a sentence.

16 Unless specifically waived by the court, the court shall order  
17 the department to complete a presentence investigation before  
18 imposing a drug offender sentencing alternative upon a defendant who  
19 has been convicted of a felony domestic violence offense (~~where~~  
20 ~~domestic violence has been pleaded and proven~~).

21 The court shall consider the risk assessment report and  
22 presentence reports, if any, including any victim impact statement  
23 and criminal history, and allow arguments from the prosecutor, the  
24 defense counsel, the offender, the victim, the survivor of the  
25 victim, or a representative of the victim or survivor, and an  
26 investigative law enforcement officer as to the sentence to be  
27 imposed.

28 A criminal history summary relating to the defendant from the  
29 prosecuting authority or from a state, federal, or foreign  
30 governmental agency shall be prima facie evidence of the existence  
31 and validity of the convictions listed therein. If the court is  
32 satisfied by a preponderance of the evidence that the defendant has a  
33 criminal history, the court shall specify the convictions it has  
34 found to exist. All of this information shall be part of the record.  
35 Copies of all risk assessment reports and presentence reports  
36 presented to the sentencing court and all written findings of facts  
37 and conclusions of law as to sentencing entered by the court shall be  
38 sent to the department by the clerk of the court at the conclusion of  
39 the sentencing and shall accompany the offender if the offender is  
40 committed to the custody of the department. Court clerks shall

1 provide, without charge, certified copies of documents relating to  
2 criminal convictions requested by prosecuting attorneys.

3 (2) To prevent wrongful disclosure of information and records  
4 related to mental health services, as described in RCW 71.05.445 and  
5 70.02.250, a court may take only those steps necessary during a  
6 sentencing hearing or any hearing in which the department presents  
7 information related to mental health services to the court. The steps  
8 may be taken on motion of the defendant, the prosecuting attorney, or  
9 on the court's own motion. The court may seal the portion of the  
10 record relating to information relating to mental health services,  
11 exclude the public from the hearing during presentation or discussion  
12 of information and records relating to mental health services, or  
13 grant other relief to achieve the result intended by this subsection,  
14 but nothing in this subsection shall be construed to prevent the  
15 subsequent release of information and records related to mental  
16 health services as authorized by RCW 71.05.445, 70.02.250, or  
17 72.09.585. Any person who otherwise is permitted to attend any  
18 hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded  
19 from the hearing solely because the department intends to disclose or  
20 discloses information related to mental health services.

21 **Sec. 3.** RCW 9.94A.501 and 2021 c 242 s 2 are each amended to  
22 read as follows:

23 (1) The department shall supervise the following offenders who  
24 are sentenced to probation in superior court, pursuant to RCW  
25 9.92.060, 9.95.204, or 9.95.210:

26 (a) Offenders convicted of:

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

28 (ii) Custodial sexual misconduct second degree;

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

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

31 (b) Offenders who have:

32 (i) A current conviction for a repetitive domestic violence  
33 offense (~~where domestic violence has been pleaded and proven~~) after  
34 August 1, 2011; and

35 (ii) A prior conviction for a repetitive domestic violence  
36 offense or domestic violence felony offense (~~where domestic violence  
37 has been pleaded and proven~~) after August 1, 2011.

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

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

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

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

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

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

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

21 (e)(i) Has a current conviction for a domestic violence felony  
22 offense (~~where domestic violence has been pleaded and proven~~) after  
23 August 1, 2011, and a prior conviction for a repetitive domestic  
24 violence offense or domestic violence felony offense (~~where domestic  
25 violence was pleaded and proven~~) after August 1, 2011. This  
26 subsection (4)(e)(i) applies only to offenses committed prior to July  
27 24, 2015;

28 (ii) Has a current conviction for a domestic violence felony  
29 offense (~~where domestic violence was pleaded and proven~~). The state  
30 and its officers, agents, and employees shall not be held criminally  
31 or civilly liable for its supervision of an offender under this  
32 subsection (4)(e)(ii) unless the state and its officers, agents, and  
33 employees acted with gross negligence;

34 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660,  
35 9.94A.670, 9.94A.711, or 9.94A.695;

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

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

1 (5) The department shall supervise any offender who is released  
2 by the indeterminate sentence review board and who was sentenced to  
3 community custody or subject to community custody under the terms of  
4 release.

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

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

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

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

20 **Sec. 4.** RCW 9.94A.502 and 2019 c 263 s 401 are each amended to  
21 read as follows:

22 (1) The Washington State University department of criminal  
23 justice shall develop a tool to be used in conjunction with the  
24 Washington one risk assessment that would specifically predict  
25 whether the offender will commit domestic violence in the future. The  
26 domestic violence tool may incorporate relevant court records into  
27 the prediction modeling, if practical within the resources allocated.  
28 The tool will be used by the department as part of the current risk,  
29 needs, and responsivity assessment process.

30 (2) The Washington State University department of criminal  
31 justice shall make the domestic violence risk assessment tool  
32 available for use by the department no later than July 1, 2020.  
33 Subject to funds appropriated for this specific purpose, the  
34 department shall start to implement the domestic violence risk  
35 assessment tool by July 1, 2020, and by July 1, 2021, the department  
36 shall use the domestic violence risk assessment tool when conducting  
37 a Washington one risk assessment for an offender with a current  
38 conviction ((where)) for domestic violence ((~~was pleaded and~~  
39 ~~proven~~)).

1 (3) The harborview center for sexual assault and traumatic stress  
2 shall develop a training curriculum for domestic violence perpetrator  
3 treatment providers that incorporates evidence-based practices and  
4 treatment modalities consistent with the Washington Administrative  
5 Code provisions adopted by the department of social and health  
6 services. The harborview center for sexual assault and traumatic  
7 stress shall complete the training curriculum and make it available  
8 for provider training no later than June 30, 2020.

9 **Sec. 5.** RCW 9.94A.525 and 2023 c 415 s 2 are each amended to  
10 read as follows:

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

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

15 (1)(a) A prior conviction is a conviction which exists before the  
16 date of sentencing for the offense for which the offender score is  
17 being computed. Convictions entered or sentenced on the same date as  
18 the conviction for which the offender score is being computed shall  
19 be deemed "other current offenses" within the meaning of RCW  
20 9.94A.589.

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

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

27 (b) Class B prior felony convictions other than sex offenses  
28 shall not be included in the offender score, if since the last date  
29 of release from confinement (including full-time residential  
30 treatment) pursuant to a felony conviction, if any, or entry of  
31 judgment and sentence, the offender had spent ten consecutive years  
32 in the community without committing any crime that subsequently  
33 results in a conviction.

34 (c) Except as provided in (e) of this subsection, class C prior  
35 felony convictions other than sex offenses shall not be included in  
36 the offender score if, since the last date of release from  
37 confinement (including full-time residential treatment) pursuant to a  
38 felony conviction, if any, or entry of judgment and sentence, the

1 offender had spent five consecutive years in the community without  
2 committing any crime that subsequently results in a conviction.

3 (d) Except as provided in (e) of this subsection, serious traffic  
4 convictions shall not be included in the offender score if, since the  
5 last date of release from confinement (including full-time  
6 residential treatment) pursuant to a conviction, if any, or entry of  
7 judgment and sentence, the offender spent five years in the community  
8 without committing any crime that subsequently results in a  
9 conviction.

10 (e) If the present conviction is felony driving while under the  
11 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or  
12 felony physical control of a vehicle while under the influence of  
13 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate  
14 crimes for the offense as defined by RCW 46.61.5055(14) shall be  
15 included in the offender score, and prior convictions for felony  
16 driving while under the influence of intoxicating liquor or any drug  
17 (RCW 46.61.502(6)) or felony physical control of a vehicle while  
18 under the influence of intoxicating liquor or any drug (RCW  
19 46.61.504(6)) shall always be included in the offender score. All  
20 other convictions of the defendant shall be scored according to this  
21 section.

22 (f) Prior convictions for a repetitive domestic violence offense,  
23 as defined in RCW 9.94A.030, shall not be included in the offender  
24 score if, since the last date of release from confinement or entry of  
25 judgment and sentence, the offender had spent ten consecutive years  
26 in the community without committing any crime that subsequently  
27 results in a conviction.

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

30 (3) Out-of-state convictions for offenses shall be classified  
31 according to the comparable offense definitions and sentences  
32 provided by Washington law. Federal convictions for offenses shall be  
33 classified according to the comparable offense definitions and  
34 sentences provided by Washington law. Neither out-of-state or federal  
35 convictions which would have been presumptively adjudicated in  
36 juvenile court under Washington law may be included in the offender  
37 score unless they are comparable to murder in the first or second  
38 degree or a class A felony sex offense. If there is no clearly  
39 comparable offense under Washington law or the offense is one that is  
40 usually considered subject to exclusive federal jurisdiction, the

1 offense shall be scored as a class C felony equivalent if it was a  
2 felony under the relevant federal statute.

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

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

9 (i) Prior offenses which were found, under RCW 9.94A.589(1) (a),  
10 to encompass the same criminal conduct, shall be counted as one  
11 offense, the offense that yields the highest offender score. The  
12 current sentencing court shall determine with respect to other prior  
13 adult offenses for which sentences were served concurrently or prior  
14 juvenile offenses for which sentences were served consecutively,  
15 whether those offenses shall be counted as one offense or as separate  
16 offenses using the "same criminal conduct" analysis found in RCW  
17 9.94A.589(1) (a), and if the court finds that they shall be counted as  
18 one offense, then the offense that yields the highest offender score  
19 shall be used. The current sentencing court may presume that such  
20 other prior offenses were not the same criminal conduct from  
21 sentences imposed on separate dates, or in separate counties or  
22 jurisdictions, or in separate complaints, indictments, or  
23 informations;

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

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

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

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

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

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

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

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

32 (12) If the present conviction is for homicide by watercraft or  
33 assault by watercraft count two points for each adult prior  
34 conviction for homicide by watercraft or assault by watercraft; for  
35 each felony offense count one point for each adult prior conviction  
36 and 1/2 point for each juvenile prior conviction which would be  
37 scorable under subsection (1)(b) of this section; count one point for  
38 each adult prior conviction for driving under the influence of  
39 intoxicating liquor or any drug, actual physical control of a motor  
40 vehicle while under the influence of intoxicating liquor or any drug,



1 or operation of a vessel while under the influence of intoxicating  
2 liquor or any drug.

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

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

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

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

23 (17) If the present conviction is for a sex offense, count priors  
24 as in subsections (7) through (11) and (13) through (16) of this  
25 section; however count three points for each adult prior sex offense  
26 conviction and juvenile prior class A felony sex offense  
27 adjudication.

28 (18) If the present conviction is for failure to register as a  
29 sex offender under RCW 9A.44.130 or 9A.44.132, count priors as in  
30 subsections (7) through (11) and (13) through (16) of this section;  
31 however count three points for each adult prior sex offense  
32 conviction and juvenile prior sex offense conviction which is  
33 scorable under subsection (1)(b) of this section, excluding adult  
34 prior convictions for failure to register as a sex offender under RCW  
35 9A.44.130 or 9A.44.132, which shall count as one point.

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

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

12 (21) If the present conviction is for a felony (~~domestic~~  
13 ~~violence~~) offense (~~where~~) for domestic violence as defined in RCW  
14 9.94A.030 (~~was pleaded and proven~~), count priors as in subsections  
15 (7) through (20) of this section; however, count points as follows:

16 (a) Count two points for each adult prior conviction (~~where~~)  
17 for domestic violence as defined in RCW 9.94A.030 (~~was pleaded and~~  
18 ~~proven~~) after August 1, 2011, for any of the following offenses: A  
19 felony violation of a no-contact or protection order (RCW 7.105.450  
20 or former RCW 26.50.110), felony Harassment (RCW 9A.46.020(2)(b)),  
21 felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020),  
22 Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful  
23 imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2  
24 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW  
25 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or  
26 Arson 2 (RCW 9A.48.030);

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

35 (c) Count one point for each adult prior conviction for a  
36 repetitive domestic violence offense as defined in RCW 9.94A.030 (~~(7~~  
37 ~~where domestic violence as defined in RCW 9.94A.030, was pleaded and~~  
38 ~~proven~~) after August 1, 2011.

39 (22) The fact that a prior conviction was not included in an  
40 offender's offender score or criminal history at a previous

1 sentencing shall have no bearing on whether it is included in the  
2 criminal history or offender score for the current offense. Prior  
3 convictions that were not counted in the offender score or included  
4 in criminal history under repealed or previous versions of the  
5 sentencing reform act shall be included in criminal history and shall  
6 count in the offender score if the current version of the sentencing  
7 reform act requires including or counting those convictions. Prior  
8 convictions that were not included in criminal history or in the  
9 offender score shall be included upon any resentencing to ensure  
10 imposition of an accurate sentence.

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