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**SUBSTITUTE HOUSE BILL 1125**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** House Community Safety (originally sponsored by Representatives Simmons, Obras, Scott, Stearns, Ryu, Taylor, Peterson, Reeves, Tharinger, Fey, Morgan, Alvarado, Macri, Ormsby, Stonier, Doglio, Berg, Fosse, Reed, Berry, Duerr, Kloba, Goodman, Farivar, Street, Donaghy, Pollet, Bernbaum, Nance, Ortiz-Self, Ramel, Mena, Gregerson, Wylie, Hill, and Salahuddin)

READ FIRST TIME 02/10/25.

1 AN ACT Relating to providing judicial discretion to modify  
2 sentences in the interest of justice; amending RCW 10.73.100,  
3 9.94A.535, 9.94A.701, and 9.94A.701; adding a new section to chapter  
4 9.94A RCW; adding a new section to chapter 2.70 RCW; creating new  
5 sections; providing an effective date; and providing an expiration  
6 date.

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

8 NEW SECTION. **Sec. 1.** This act shall be known and may be cited  
9 as the judicial discretion act.

10 NEW SECTION. **Sec. 2.** (1) The legislature finds that long-term  
11 incarceration disproportionately impacts low-income communities and  
12 communities of color. The legislature further finds that an expansive  
13 body of research demonstrates that persons who are granted early  
14 release before finishing lengthy sentences are less likely to  
15 recidivate. The legislature further finds that establishing an  
16 opportunity to modify a sentence encourages incarcerated individuals  
17 to engage in desirable behavior and to take advantage of  
18 rehabilitative programming. The legislature further finds that  
19 because the cost of long-term incarceration is substantial and the  
20 state must use its resources responsibly, providing judges the

1 opportunity to modify lengthy sentences in the interests of justice  
2 will result in significant cost savings to the state.

3 (2) Therefore, the legislature intends to authorize sentencing  
4 courts to review lengthy sentences upon a showing that a person's  
5 original sentence no longer serves the interests of justice.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A  
7 RCW to read as follows:

8 (1) Except as provided in subsections (18) and (19) of this  
9 section, and notwithstanding any other provision of this chapter, any  
10 person under a term of total confinement for a felony conviction may  
11 petition the sentencing court or the sentencing court's successor for  
12 a modification of sentence if the original sentence no longer serves  
13 the interests of justice and the person meets any of the following  
14 criteria:

15 (a) Beginning July 1, 2026, the person may petition the court if:

16 (i) The person has served at least seven years of their sentence  
17 for an offense committed at age 17 or younger; or

18 (ii) The person is terminally ill or experiences a permanent or  
19 degenerative medical condition to such a degree that the person does  
20 not presently and likely will not in the future pose a threat to  
21 public safety.

22 (b) Beginning July 1, 2027, the person may petition the court if  
23 the person meets any of the criteria in (a)(i) or (ii) of this  
24 subsection, or if the person has served at least 20 years of their  
25 sentence for an offense committed when the person was at least 18  
26 years old but less than 25 years old.

27 (c) Beginning July 1, 2028, the person may petition the court if  
28 the person meets any of the criteria in (a)(i) or (ii) of this  
29 subsection, or if the person served at least 13 years of their  
30 sentence for an offense committed when the person was at least 18  
31 years old but less than 25 years old.

32 (d) Beginning July 1, 2029, the person may petition the court if  
33 the person meets any of the criteria in (a)(i) or (ii) of this  
34 subsection, or if:

35 (i) The person has served at least 13 years of their sentence for  
36 an offense committed when the person was at least 18 years old but  
37 less than 25 years old; or

38 (ii) The person has served at least 20 years of their sentence  
39 for an offense committed at age 25 or older.

1 (e) Beginning July 1, 2030, the person may petition the court if  
2 the person meets any of the criteria in (a)(i) or (ii) of this  
3 subsection, or if:

4 (i) The person has served at least 10 years of their sentence for  
5 an offense committed when the person was at least 18 years old but  
6 less than 25 years old; or

7 (ii) The person has served at least 17 years of their sentence  
8 for an offense committed at age 25 or older.

9 (f) Beginning July 1, 2031, the person may petition the court if  
10 the person meets any of the criteria in (a)(i) or (ii) of this  
11 subsection, or if:

12 (i) The person has served at least 10 years of their sentence for  
13 an offense committed when the person was at least 18 years old but  
14 less than 25 years old; or

15 (ii) The person has served at least 13 years of their sentence  
16 for an offense committed at age 25 or older.

17 (g) Beginning July 1, 2032, the person may petition the court if  
18 the person meets any of the criteria in (a)(i) or (ii) of this  
19 subsection, or if the person has served at least 10 years of their  
20 sentence for an offense committed at age 18 or older.

21 (h) If the person does not meet any of the criteria under (a)  
22 through (g) of this subsection, the person may petition the court at  
23 any time with the consent of the prosecuting attorney.

24 (2) The petitioner must file the petition in writing with the  
25 sentencing court in the judicial district in which the original  
26 sentence was imposed and serve the prosecuting attorney. The petition  
27 may include affidavits, declarations, letters, prison records, or  
28 other written or electronic materials. The petition must include a  
29 statement by the petitioner and supporting documentation  
30 demonstrating that they meet one or more of the following  
31 requirements for a hearing:

32 (a) The petitioner has demonstrated positive, engaged, and  
33 productive behavior while in the custody of the department that  
34 indicates substantial rehabilitation; or

35 (b) The petitioner has otherwise demonstrated a minimal risk of  
36 reoffense, which may include, but is not limited to, a demonstration  
37 of medical frailty.

38 (3) Upon request by the petitioner or the petitioner's counsel,  
39 the department shall assist the petitioner or the petitioner's

1 counsel in compiling the petitioner's disciplinary record and record  
2 of rehabilitation at no cost to the petitioner.

3 (4) The court may decline to accept a petition that does not meet  
4 one or more of the eligibility criteria pursuant to subsection (1) of  
5 this section. If the court accepts the petition and determines by a  
6 preponderance of the evidence that the petitioner meets one or more  
7 of the criteria under subsection (1) of this section, the court shall  
8 grant a hearing to consider the petition, which must be heard within  
9 120 days. The hearing may be continued for good cause upon motion by  
10 the petitioner or the prosecuting attorney.

11 (5) (a) At the hearing to consider the petition, the petitioner is  
12 entitled to de novo review of the petitioner's original sentence. The  
13 court may grant the petition and modify the petitioner's original  
14 sentence if the court finds that the sentence no longer advances the  
15 interests of justice, provided that any new sentence imposed shall  
16 not be greater than the original sentence, and provided that any new  
17 sentence imposed shall be subject to the following:

18 (i) If the petitioner's original sentence is an indeterminate  
19 sentence imposed under RCW 9.94A.507, the court may modify the  
20 minimum term of the sentence but may not modify the maximum term of  
21 the sentence or order the petitioner's release from custody;

22 (ii) If the petitioner's original sentence includes a mandatory  
23 minimum term imposed pursuant to RCW 9.94A.540, the court may not  
24 modify the sentence below the mandatory minimum term required by law;

25 (iii) The soonest allowable release date from total confinement  
26 for any petitioner resentenced pursuant to this section may be no  
27 sooner than six months after the date of the hearing to consider the  
28 petition; and

29 (iv) The court must impose five years of community custody in  
30 addition to any other terms of the modified sentence.

31 (b) In addition to the mitigating factors provided under RCW  
32 9.94A.535(1), the court may consider the following nonexhaustive list  
33 of factors when determining whether to modify the petitioner's  
34 sentence:

35 (i) The petitioner's disciplinary record and record of  
36 rehabilitation while incarcerated;

37 (ii) Evidence that reflects whether age, time served, and  
38 diminished physical condition, if any, have reduced the petitioner's  
39 risk for future recidivism;

1 (iii) Evidence regarding the petitioner's level of culpability  
2 for the offense;

3 (iv) Evidence that reflects changed circumstances since imposing  
4 the petitioner's original sentence such that the sentence no longer  
5 serves the interests of justice;

6 (v) Demonstration of an extraordinary adverse impact of the  
7 petitioner's release on the victim or survivors of the victim of the  
8 crime for which the petitioner is presently incarcerated, with  
9 special consideration given to the impact of release on any victims  
10 of sex offenses or domestic violence offenses committed by the  
11 petitioner against an intimate partner; and

12 (vi) Whether the petitioner participated in the department's  
13 accountability letter bank, provided that a victim or survivor of a  
14 victim of the crime for which the petitioner is presently  
15 incarcerated has enrolled to receive notification of deposited  
16 accountability letters.

17 (6) When modifying a sentence pursuant to this section:

18 (a) The court may impose an exceptional sentence below the  
19 standard range based on evidence of significant rehabilitation since  
20 the offense or any other applicable factors; and

21 (b) If the petitioner's original sentence included one or more  
22 mandatory enhancements that were imposed under RCW 9.94A.533, the  
23 court may impose a sentence below the mandatory minimum enhancement  
24 term.

25 (7) If the court denies a petition filed pursuant to this section  
26 and declines to set a hearing, or grants a hearing but declines to  
27 modify the petitioner's sentence at the hearing, the petitioner may,  
28 upon a showing of a change in circumstances, file a new petition no  
29 earlier than three years after the date the court denied the previous  
30 petition or declined to modify the petitioner's sentence, unless the  
31 court authorizes the petitioner to file a new petition at an earlier  
32 date. If the court denies the petition or declines to modify the  
33 petitioner's sentence, the court shall state the basis for its  
34 decision on the record and provide an explanation for its decision in  
35 a written order. The petitioner may appeal the denial of a hearing or  
36 an order entered pursuant to a resentencing hearing, provided,  
37 however, that denying a petition filed pursuant to this section shall  
38 not reopen the petitioner's conviction or sentence to any other  
39 challenges that would otherwise be barred.

1 (8) (a) The prosecuting attorney shall make reasonable efforts to  
2 notify victims and survivors of victims of any hearing on a petition  
3 for modification of sentence filed pursuant to this section,  
4 including by providing the date of such hearing.

5 (b) For purposes of (a) of this subsection, the prosecuting  
6 attorney shall make reasonable efforts to notify victims and  
7 survivors of victims of any offense for which the petitioner is  
8 seeking a modification of sentence, and victims of any sex offense or  
9 domestic violence offense committed against an intimate partner  
10 victim for which the petitioner was previously convicted.

11 (9) (a) The office of crime victims advocacy shall create a  
12 flexible fund to serve victims and survivors of victims impacted by  
13 this act. The office may contract for administration of this fund.  
14 The flexible fund may be used for purposes including, but not limited  
15 to:

16 (i) Relocation assistance related to a change in safety planning  
17 associated with the petitioner's resentencing;

18 (ii) Traveling to and from court for resentencing hearings; and

19 (iii) Out-of-pocket expenses for psychotherapy associated with  
20 the committed offense or resentencing.

21 (b) The office of crime victims advocacy shall contract with  
22 prosecuting attorney's offices to offer victim advocacy services for  
23 victims impacted by this act. Such victim advocacy services must  
24 include:

25 (i) Legal advocacy to understand the resentencing process and how  
26 a victim can exercise their rights;

27 (ii) Safety planning;

28 (iii) Options to participate in a restorative justice program  
29 with the petitioner; and

30 (iv) Case management to address needs that may arise as a result  
31 of resentencing.

32 (c) The office of crime victims advocacy may contract with an  
33 entity with expertise in victim services to provide training for  
34 victim advocates embedded within prosecutor's offices regarding  
35 safety planning and other case management services that victims  
36 impacted by this act may require.

37 (10) The court shall provide an opportunity for victims and  
38 survivors of victims of any crimes for which the petitioner has been  
39 convicted to present a statement personally or by representation at  
40 the hearing, and the court must take any such statements into

1 consideration. Victims and survivors of victims are encouraged to  
2 articulate what outcome would make them feel safe as a part of any  
3 such statements presented to the court. The prosecuting attorney and  
4 the court shall comply with the requirements set forth in chapter  
5 7.69 RCW.

6 (11) The court shall not permit any person to waive the right to  
7 petition pursuant to this section. Any agreement to waive the right  
8 to petition pursuant to this section shall be void.

9 (12) The time limit for collateral attacks established under RCW  
10 10.73.090 does not apply to any petition filed pursuant to this  
11 section.

12 (13) Any incarcerated individual who is eligible to file a  
13 petition pursuant to this section and is unable to afford counsel  
14 shall be entitled to have counsel appointed pursuant to section 4 of  
15 this act. Counsel shall be appointed at no cost to the individual, to  
16 represent the individual for the petition and proceedings under this  
17 section, unless the individual expressly waives the right to counsel  
18 after being fully advised of this right by the court.

19 (14) Any person who files a pro se petition and subsequently  
20 retains or is appointed counsel shall be entitled to amend such  
21 petition at least once as of right with the assistance of counsel.  
22 Subsequent amendments may be permitted by leave of court.

23 (15) The department shall provide written notice of this section  
24 to any incarcerated individual sentenced to a term of confinement of  
25 more than 10 years, and the applicable sentencing court, prosecuting  
26 attorney, and public defense agency for the judicial district in  
27 which the individual was sentenced, within the following time frames:

28 (a) For any incarcerated individual serving an applicable  
29 sentence for a felony offense committed at 18 years of age or older,  
30 the department shall provide written notice of this section no later  
31 than 180 days before the date on which the person's 10th year of  
32 confinement begins; and

33 (b) For any incarcerated individual serving an applicable  
34 sentence for a felony offense committed at 17 years of age or  
35 younger, the department shall provide written notice of this section  
36 no later than 180 days before the date on which the person's seventh  
37 year of confinement begins.

38 (16) The department shall provide information about the  
39 department's accountability letter bank to any incarcerated  
40 individual sentenced to a term of confinement of more than seven

1 years, and to any victims or survivors of victims who inquire with  
2 the department's victim services program about options for victim  
3 notifications or other services.

4 (17) When any person granted a modified sentence pursuant to this  
5 section is within six months of his or her expected release date from  
6 total confinement, the department must prepare and make available an  
7 individual reentry plan under chapter 72.09 RCW and the resources  
8 necessary for the person to complete the plan.

9 (18) A person may not petition for a modification of sentence  
10 pursuant to this section if the person's original sentence was  
11 imposed under RCW 9.94A.570 or 10.95.030.

12 (19) A person may not petition for a modification of sentence  
13 pursuant to this section if the person is serving a term of  
14 confinement for a murder in the first degree conviction, unless the  
15 person has served at least 20 years of the original sentence in  
16 addition to meeting eligibility criteria under subsection (1) of this  
17 section.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 2.70 RCW  
19 to read as follows:

20 Within available resources, the office of public defense shall  
21 provide representation for persons who are eligible to file a  
22 petition pursuant to section 3 of this act. The office will  
23 prioritize representation based on the eligibility criteria and  
24 timelines established in section 3(1) of this act.

25 **Sec. 5.** RCW 10.73.100 and 2024 c 118 s 8 are each amended to  
26 read as follows:

27 The time limit specified in RCW 10.73.090 does not apply to a  
28 petition or motion that is based solely on one or more of the  
29 following grounds:

30 (1) Newly discovered evidence, if the defendant acted with  
31 reasonable diligence in discovering the evidence and filing the  
32 petition or motion;

33 (2) The statute that the defendant was convicted of violating was  
34 unconstitutional on its face or as applied to the defendant's  
35 conduct;

36 (3) The conviction was barred by double jeopardy under Amendment  
37 V of the United States Constitution or Article I, section 9 of the  
38 state Constitution;



1 (4) The defendant pleaded not guilty and the evidence introduced  
2 at trial was insufficient to support the conviction;

3 (5) The sentence imposed was in excess of the court's  
4 jurisdiction;

5 (6) A petition for a modification of sentence pursuant to section  
6 3 of this act;

7 (7) A motion for a modification of conditions of community  
8 custody pursuant to RCW 9.94A.703 and 9.94A.709; or

9 ~~((7))~~ (8) There has been a significant change in the law,  
10 whether substantive or procedural, which is material to the  
11 conviction, sentence, or other order entered in a criminal or civil  
12 proceeding instituted by the state or local government, and either  
13 the legislature has expressly provided that the change in the law is  
14 to be applied retroactively, or a court, in interpreting a change in  
15 the law that lacks express legislative intent regarding retroactive  
16 application, determines that sufficient reasons exist to require  
17 retroactive application of the changed legal standard.

18 **Sec. 6.** RCW 9.94A.535 and 2019 c 219 s 1 are each amended to  
19 read as follows:

20 The court may impose a sentence outside the standard sentence  
21 range for an offense if it finds, considering the purpose of this  
22 chapter, that there are substantial and compelling reasons justifying  
23 an exceptional sentence. Facts supporting aggravated sentences, other  
24 than the fact of a prior conviction, shall be determined pursuant to  
25 the provisions of RCW 9.94A.537.

26 Whenever a sentence outside the standard sentence range is  
27 imposed, the court shall set forth the reasons for its decision in  
28 written findings of fact and conclusions of law. A sentence outside  
29 the standard sentence range shall be a determinate sentence.

30 If the sentencing court finds that an exceptional sentence  
31 outside the standard sentence range should be imposed, the sentence  
32 is subject to review only as provided for in RCW 9.94A.585(4).

33 A departure from the standards in RCW 9.94A.589 (1) and (2)  
34 governing whether sentences are to be served consecutively or  
35 concurrently is an exceptional sentence subject to the limitations in  
36 this section, and may be appealed by the offender or the state as set  
37 forth in RCW 9.94A.585 (2) through (6).

38 (1) Mitigating Circumstances - Court to Consider

1 The court may impose an exceptional sentence below the standard  
2 range if it finds that mitigating circumstances are established by a  
3 preponderance of the evidence. The following are illustrative only  
4 and are not intended to be exclusive reasons for exceptional  
5 sentences.

6 (a) To a significant degree, the victim was an initiator, willing  
7 participant, aggressor, or provoker of the incident.

8 (b) Before detection, the defendant compensated, or made a good  
9 faith effort to compensate, the victim of the criminal conduct for  
10 any damage or injury sustained.

11 (c) The defendant committed the crime under duress, coercion,  
12 threat, or compulsion insufficient to constitute a complete defense  
13 but which significantly affected his or her conduct.

14 (d) The defendant, with no apparent predisposition to do so, was  
15 induced by others to participate in the crime.

16 (e) The defendant's capacity to appreciate the wrongfulness of  
17 his or her conduct, or to conform his or her conduct to the  
18 requirements of the law, was significantly impaired. Voluntary use of  
19 drugs or alcohol is excluded.

20 (f) The offense was principally accomplished by another person  
21 and the defendant manifested extreme caution or sincere concern for  
22 the safety or well-being of the victim.

23 (g) The operation of the multiple offense policy of RCW 9.94A.589  
24 results in a presumptive sentence that is clearly excessive in light  
25 of the purpose of this chapter, as expressed in RCW 9.94A.010.

26 (h) The defendant or the defendant's children suffered a  
27 continuing pattern of physical or sexual abuse by the victim of the  
28 offense and the offense is a response to that abuse.

29 (i) The defendant was making a good faith effort to obtain or  
30 provide medical assistance for someone who is experiencing a drug-  
31 related overdose.

32 (j) The current offense involved domestic violence, as defined in  
33 RCW 10.99.020, and the defendant suffered a continuing pattern of  
34 coercion, control, or abuse by the victim of the offense and the  
35 offense is a response to that coercion, control, or abuse.

36 (k) The defendant was convicted of vehicular homicide, by the  
37 operation of a vehicle in a reckless manner and has committed no  
38 other previous serious traffic offenses as defined in RCW 9.94A.030,  
39 and the sentence is clearly excessive in light of the purpose of this  
40 chapter, as expressed in RCW 9.94A.010.

1       (1) The defendant petitions the court for modification of  
2 sentence pursuant to section 3 of this act, and the court considers  
3 the nonexhaustive list of additional factors provided under section  
4 3(5)(b) of this act at a hearing on the petition.

5       (2) Aggravating Circumstances - Considered and Imposed by the  
6 Court

7       The trial court may impose an aggravated exceptional sentence  
8 without a finding of fact by a jury under the following  
9 circumstances:

10       (a) The defendant and the state both stipulate that justice is  
11 best served by the imposition of an exceptional sentence outside the  
12 standard range, and the court finds the exceptional sentence to be  
13 consistent with and in furtherance of the interests of justice and  
14 the purposes of the sentencing reform act.

15       (b) The defendant's prior unscored misdemeanor or prior unscored  
16 foreign criminal history results in a presumptive sentence that is  
17 clearly too lenient in light of the purpose of this chapter, as  
18 expressed in RCW 9.94A.010.

19       (c) The defendant has committed multiple current offenses and the  
20 defendant's high offender score results in some of the current  
21 offenses going unpunished.

22       (d) The failure to consider the defendant's prior criminal  
23 history which was omitted from the offender score calculation  
24 pursuant to RCW 9.94A.525 results in a presumptive sentence that is  
25 clearly too lenient.

26       (3) Aggravating Circumstances - Considered by a Jury - Imposed by  
27 the Court

28       Except for circumstances listed in subsection (2) of this  
29 section, the following circumstances are an exclusive list of factors  
30 that can support a sentence above the standard range. Such facts  
31 should be determined by procedures specified in RCW 9.94A.537.

32       (a) The defendant's conduct during the commission of the current  
33 offense manifested deliberate cruelty to the victim.

34       (b) The defendant knew or should have known that the victim of  
35 the current offense was particularly vulnerable or incapable of  
36 resistance.

37       (c) The current offense was a violent offense, and the defendant  
38 knew that the victim of the current offense was pregnant.

1 (d) The current offense was a major economic offense or series of  
2 offenses, so identified by a consideration of any of the following  
3 factors:

4 (i) The current offense involved multiple victims or multiple  
5 incidents per victim;

6 (ii) The current offense involved attempted or actual monetary  
7 loss substantially greater than typical for the offense;

8 (iii) The current offense involved a high degree of  
9 sophistication or planning or occurred over a lengthy period of time;  
10 or

11 (iv) The defendant used his or her position of trust, confidence,  
12 or fiduciary responsibility to facilitate the commission of the  
13 current offense.

14 (e) The current offense was a major violation of the Uniform  
15 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to  
16 trafficking in controlled substances, which was more onerous than the  
17 typical offense of its statutory definition: The presence of ANY of  
18 the following may identify a current offense as a major VUCSA:

19 (i) The current offense involved at least three separate  
20 transactions in which controlled substances were sold, transferred,  
21 or possessed with intent to do so;

22 (ii) The current offense involved an attempted or actual sale or  
23 transfer of controlled substances in quantities substantially larger  
24 than for personal use;

25 (iii) The current offense involved the manufacture of controlled  
26 substances for use by other parties;

27 (iv) The circumstances of the current offense reveal the offender  
28 to have occupied a high position in the drug distribution hierarchy;

29 (v) The current offense involved a high degree of sophistication  
30 or planning, occurred over a lengthy period of time, or involved a  
31 broad geographic area of disbursement; or

32 (vi) The offender used his or her position or status to  
33 facilitate the commission of the current offense, including positions  
34 of trust, confidence or fiduciary responsibility (e.g., pharmacist,  
35 physician, or other medical professional).

36 (f) The current offense included a finding of sexual motivation  
37 pursuant to RCW 9.94A.835.

38 (g) The offense was part of an ongoing pattern of sexual abuse of  
39 the same victim under the age of (~~eighteen~~) 18 years manifested by  
40 multiple incidents over a prolonged period of time.

1 (h) The current offense involved domestic violence, as defined in  
2 RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one or  
3 more of the following was present:

4 (i) The offense was part of an ongoing pattern of psychological,  
5 physical, or sexual abuse of a victim or multiple victims manifested  
6 by multiple incidents over a prolonged period of time;

7 (ii) The offense occurred within sight or sound of the victim's  
8 or the offender's minor children under the age of eighteen years; or

9 (iii) The offender's conduct during the commission of the current  
10 offense manifested deliberate cruelty or intimidation of the victim.

11 (i) The offense resulted in the pregnancy of a child victim of  
12 rape.

13 (j) The defendant knew that the victim of the current offense was  
14 a youth who was not residing with a legal custodian and the defendant  
15 established or promoted the relationship for the primary purpose of  
16 victimization.

17 (k) The offense was committed with the intent to obstruct or  
18 impair human or animal health care or agricultural or forestry  
19 research or commercial production.

20 (l) The current offense is trafficking in the first degree or  
21 trafficking in the second degree and any victim was a minor at the  
22 time of the offense.

23 (m) The offense involved a high degree of sophistication or  
24 planning.

25 (n) The defendant used his or her position of trust, confidence,  
26 or fiduciary responsibility to facilitate the commission of the  
27 current offense.

28 (o) The defendant committed a current sex offense, has a history  
29 of sex offenses, and is not amenable to treatment.

30 (p) The offense involved an invasion of the victim's privacy.

31 (q) The defendant demonstrated or displayed an egregious lack of  
32 remorse.

33 (r) The offense involved a destructive and foreseeable impact on  
34 persons other than the victim.

35 (s) The defendant committed the offense to obtain or maintain his  
36 or her membership or to advance his or her position in the hierarchy  
37 of an organization, association, or identifiable group.

38 (t) The defendant committed the current offense shortly after  
39 being released from incarceration.

1 (u) The current offense is a burglary and the victim of the  
2 burglary was present in the building or residence when the crime was  
3 committed.

4 (v) The offense was committed against a law enforcement officer  
5 who was performing his or her official duties at the time of the  
6 offense, the offender knew that the victim was a law enforcement  
7 officer, and the victim's status as a law enforcement officer is not  
8 an element of the offense.

9 (w) The defendant committed the offense against a victim who was  
10 acting as a good samaritan.

11 (x) The defendant committed the offense against a public official  
12 or officer of the court in retaliation of the public official's  
13 performance of his or her duty to the criminal justice system.

14 (y) The victim's injuries substantially exceed the level of  
15 bodily harm necessary to satisfy the elements of the offense. This  
16 aggravator is not an exception to RCW 9.94A.530(2).

17 (z) (i) (A) The current offense is theft in the first degree, theft  
18 in the second degree, possession of stolen property in the first  
19 degree, or possession of stolen property in the second degree; (B)  
20 the stolen property involved is metal property; and (C) the property  
21 damage to the victim caused in the course of the theft of metal  
22 property is more than three times the value of the stolen metal  
23 property, or the theft of the metal property creates a public hazard.

24 (ii) For purposes of this subsection, "metal property" means  
25 commercial metal property, private metal property, or nonferrous  
26 metal property, as defined in RCW 19.290.010.

27 (aa) The defendant committed the offense with the intent to  
28 directly or indirectly cause any benefit, aggrandizement, gain,  
29 profit, or other advantage to or for a criminal street gang as  
30 defined in RCW 9.94A.030, its reputation, influence, or membership.

31 (bb) The current offense involved paying to view, over the  
32 internet in violation of RCW 9.68A.075, depictions of a minor engaged  
33 in an act of sexually explicit conduct as defined in RCW  
34 9.68A.011(~~((4))~~) (7) (a) through (g).

35 (cc) The offense was intentionally committed because the  
36 defendant perceived the victim to be homeless, as defined in RCW  
37 9.94A.030.

38 (dd) The current offense involved a felony crime against persons,  
39 except for assault in the third degree pursuant to RCW  
40 9A.36.031(1)(k), that occurs in a courtroom, jury room, judge's

1 chamber, or any waiting area or corridor immediately adjacent to a  
2 courtroom, jury room, or judge's chamber. This subsection shall apply  
3 only: (i) During the times when a courtroom, jury room, or judge's  
4 chamber is being used for judicial purposes during court proceedings;  
5 and (ii) if signage was posted in compliance with RCW 2.28.200 at the  
6 time of the offense.

7 (ee) During the commission of the current offense, the defendant  
8 was driving in the opposite direction of the normal flow of traffic  
9 on a multiple lane highway, as defined by RCW 46.04.350, with a  
10 posted speed limit of forty-five miles per hour or greater.

11 (ff) The current offense involved the assault of a utility  
12 employee of any publicly or privately owned utility company or  
13 agency, who is at the time of the act engaged in official duties,  
14 including: (i) The maintenance or repair of utility poles, lines,  
15 conduits, pipes, or other infrastructure; or (ii) connecting,  
16 disconnecting, or recording utility meters.

17 **Sec. 7.** RCW 9.94A.701 and 2021 c 242 s 6 are each amended to  
18 read as follows:

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

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

24 (b) A serious violent offense.

25 (2) A court shall, in addition to the other terms of the  
26 sentence, sentence an offender to community custody for eighteen  
27 months when the court sentences the person to the custody of the  
28 department for a violent offense that is not considered a serious  
29 violent offense.

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

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

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

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

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

4 (4) If an offender is sentenced under the drug offender  
5 sentencing alternative, the court shall impose community custody as  
6 provided in RCW 9.94A.660.

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

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

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

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

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

21 (10) If a person is granted a modification of sentence pursuant  
22 to section 3 of this act, the court shall impose five years of  
23 community custody as part of the modified sentence.

24 (11) The term of community custody specified by this section  
25 shall be reduced by the court whenever an offender's standard range  
26 term of confinement in combination with the term of community custody  
27 exceeds the statutory maximum for the crime as provided in RCW  
28 9A.20.021.

29 **Sec. 8.** RCW 9.94A.701 and 2024 c 306 s 10 are each amended to  
30 read as follows:

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

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

36 (b) A serious violent offense.

37 (2) A court shall, in addition to the other terms of the  
38 sentence, sentence an offender to community custody for 18 months  
39 when the court sentences the person to the custody of the department



1 for a violent offense that is not considered a serious violent  
2 offense.

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

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

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

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

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

15 (4) If an offender is sentenced under the drug offender  
16 sentencing alternative, the court shall impose community custody as  
17 provided in:

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

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

22 (c) RCW 9.94A.662 and 9.94A.661(6) for a prison-based drug  
23 offender sentencing alternative for driving under the influence; and

24 (d) RCW 9.94A.661 (5) and (6) for a residential-based drug  
25 offender sentencing alternative for driving under the influence.

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

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

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

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

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

1       (10) If a person is granted a modification of sentence pursuant  
2 to section 3 of this act, the court shall impose five years of  
3 community custody as part of the modified sentence.

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

9       NEW SECTION.   **Sec. 9.**   Section 7 of this act expires January 1,  
10 2026.

11       NEW SECTION.   **Sec. 10.**   Section 8 of this act takes effect  
12 January 1, 2026.

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