

1       AN ACT Relating to criminal justice cost savings; amending RCW  
2   9.94A.729, 9.92.060, 9.95.210, 9.94A.650, 9.94A.780, 9.95.214,  
3   72.04A.120, 72.11.040, 9.94A.74504, 9.95.003, 9.95.005, 9.95.007,  
4   9.95.140, 9.95.280, 9.95.300, 9.96.050, 71.05.385, 72.09.585,  
5   9.94A.480, 13.50.010, 9.94A.74501, 10.98.140, 10.98.160, 72.66.016,  
6   9.94A.860, 9.94A.8673, and 9A.52.025; reenacting and amending RCW  
7   9.94A.501, 9.95.204, 9.94A.030, and 70.96A.350; adding new sections to  
8   chapter 9.94A RCW; creating new sections; decodifying RCW 4.24.5502;  
9   repealing RCW 13.40.005, 9.94A.850, 9.94A.855, 9.94A.863, 9.94A.8671,  
10   9.94A.8672, 9.94A.8674, 9.94A.8675, 9.94A.8676, 9.94A.8677, 9.94A.8678,  
11   43.131.411, and 43.131.412; providing an effective date; providing an  
12   expiration date; and declaring an emergency.

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

14                                   **PART I**

15                                   **Offender Release and Supervision**

16       NEW SECTION.   **Sec. 1.**   The legislature finds that the crime rate  
17   and rate of recidivism for offenders in the state of Washington has  
18   been going down over the last several years.   The legislature finds

1 this reduction in crime is, in part, a direct result of investments the  
2 state has made in evidence-based programs for juvenile and adult  
3 offenders. Recent budget cuts have made it necessary to reduce funding  
4 for these integral programs and make other policy choices that are  
5 anticipated to negatively impact the crime rate. It is the intent of  
6 this act to make strategic cuts in the correctional system to save  
7 crucial dollars for the state and also allow for the reinvestment of  
8 funds in evidence-based programming identified by the Washington state  
9 institute for public policy with the goal of maintaining no net  
10 increase in the prison caseload forecast.

11 In reducing the department's discretion to deny an offender's  
12 transfer to community custody in lieu of earned early release, the  
13 legislature does not intend to create a liberty interest for offenders  
14 or cause of action for the failure to release an offender on his or her  
15 release date.

16 **Sec. 2.** RCW 9.94A.501 and 2010 c 267 s 10 and 2010 c 224 s 3 are  
17 each reenacted and amended to read as follows:

18 (1) The department shall supervise up to one year every offender  
19 ~~((convicted of a misdemeanor or gross misdemeanor offense who is))~~  
20 sentenced to probation in superior court, pursuant to RCW 9.92.060,  
21 9.95.204, or 9.95.210, ~~((for an offense included in (a) and (b) of this~~  
22 ~~subsection. The superior court shall order probation for:~~

23 ~~(a) Offenders convicted of fourth degree assault, violation of a~~  
24 ~~domestic violence court order pursuant to RCW 10.99.040, 10.99.050,~~  
25 ~~26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145,~~  
26 ~~and who also have a prior conviction for one or more of the following:~~

27 ~~(i) A violent offense;~~

28 ~~(ii) A sex offense;~~

29 ~~(iii) A crime against a person as provided in RCW 9.94A.411;~~

30 ~~(iv) Fourth degree assault; or~~

31 ~~(v) Violation of a domestic violence court order; and~~

32 ~~(b) Offenders convicted of:~~

33 ~~(i) Sexual misconduct with a minor second degree;~~

34 ~~(ii) Custodial sexual misconduct second degree;~~

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

36 ~~(iv) Violation of RCW 9A.44.132(2) (failure to register))~~ and who  
37 has:

1       (a) A current conviction for a repetitive domestic violence offense  
2 where domestic violence has been plead and proven after August 1, 2011;  
3 and

4       (b) A prior conviction for a repetitive domestic violence offense  
5 or domestic violence felony offense where domestic violence has been  
6 plead and proven after August 1, 2011.

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

10       (3) The department shall supervise every felony offender sentenced  
11 to community custody pursuant to RCW 9.94A.701 whose risk assessment(~~(~~  
12 ~~conducted pursuant to subsection (6) of this section,~~~~)~~) classifies the  
13 offender as one who is at a high risk to reoffend.

14       (4) The department shall supervise every felony offender sentenced  
15 to community custody pursuant to RCW 9.94A.702 whose risk assessment  
16 classifies the offender as one who is at a high risk to reoffend for a  
17 violent offense.

18       (5) Notwithstanding any other provision of this section, the  
19 department shall supervise an offender sentenced to community custody  
20 regardless of risk classification if the offender:

21       (a) Has a current conviction for a sex offense or a serious violent  
22 offense (~~(as defined in RCW 9.94A.030)~~) and was sentenced to a term of  
23 community custody pursuant to RCW 9.94A.701;

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

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

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

31       (e) Has a current conviction for a domestic violence felony offense  
32 where domestic violence has been plead and proven after August 1, 2011,  
33 and a prior conviction for a repetitive domestic violence offense or  
34 domestic violence felony offense where domestic violence has been plead  
35 and proven after August 1, 2011;

36       (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or  
37 9.94A.670; or

38       (~~(+f+)~~) (g) Is subject to supervision pursuant to RCW 9.94A.745.

1       ~~((+5+))~~ (6) The department is not authorized to, and may not,  
2 supervise any offender sentenced to a term of community custody or any  
3 probationer unless the offender or probationer is one for whom  
4 supervision is required under ~~((subsection (1), (2), (3), or (4) of))~~  
5 this section or section 3 of this act.

6       ~~((+6+))~~ (7) The department shall conduct a risk assessment for  
7 every felony offender sentenced to a term of community custody who may  
8 be subject to supervision under this section or section 3 of this act.

9       NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW  
10 to read as follows:

11       (1) The department shall supervise every offender convicted prior  
12 to August 2, 2011, of a misdemeanor or gross misdemeanor offense who is  
13 sentenced to probation in superior court, pursuant to RCW 9.92.060,  
14 9.95.204, or 9.95.210, for an offense as provided in this subsection.  
15 The superior court shall order probation for offenders who have:

16       (a) A current conviction for fourth degree assault or violation of  
17 a domestic violence court order pursuant to RCW 10.99.040, 10.99.050,  
18 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145;  
19 and

20       (b) A prior conviction for one or more of the following:

21       (i) A violent offense;

22       (ii) A sex offense;

23       (iii) A crime against a person as provided in RCW 9.94A.411;

24       (iv) Fourth degree assault; or

25       (v) Violation of a domestic violence court order.

26       (2) The department shall supervise every felony offender convicted  
27 prior to August 2, 2011, who:

28       (a) Has a current conviction for assault or violation of a domestic  
29 violence court order pursuant to RCW 10.99.040, 10.99.050, 26.09.300,  
30 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145;

31       (b) Has a prior conviction for one or more of the following:

32       (i) A violent offense;

33       (ii) A sex offense;

34       (iii) A crime against a person as provided in RCW 9.94A.411;

35       (iv) Fourth degree assault; or

36       (v) Violation of a domestic violence court order.

(c) Is sentenced to community custody pursuant to RCW 9.94A.702;  
and  
(d) Is classified as an offender who is at a high risk to reoffend.  
(3) This section expires August 1, 2014.

**Sec. 4.** RCW 9.94A.729 and 2010 c 224 s 7 are each amended to read as follows:

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

(b) Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time. The department may approve a jail certification from a correctional agency that calculates earned release time based on the actual amount of confinement time served by the offender before sentencing when an erroneous calculation of confinement time served by the offender before sentencing appears on the judgment and sentence.

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

(3) An offender may earn early release time as follows:

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

(b) In the case of an offender convicted of a serious violent

1 offense, or a sex offense that is a class A felony, committed on or  
2 after July 1, 2003, the aggregate earned release time may not exceed  
3 ten percent of the sentence.

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

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

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

9 (A) A sex offense;

10 (B) A violent offense;

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

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

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

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

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

19 (iii) Has no prior conviction for the offenses listed in (c)(ii) of  
20 this subsection;

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

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

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

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

34 (5)(a) A person who is eligible for earned early release as  
35 provided in this section and who (~~is convicted of a sex offense, a~~  
36 ~~violent offense, any crime against persons under RCW 9.94A.411(2), or~~  
37 ~~a felony offense under chapter 69.50 or 69.52 RCW)) will be supervised~~

1 by the department pursuant to RCW 9.94A.501, shall be transferred to  
2 community custody in lieu of earned release time;

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

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

20 (i) The offender is not within one year of completing his or her  
21 sentenced term of confinement; or

22 (ii) It appears the offender may meet the criteria of a sexually  
23 violent predator as defined in RCW 71.09.020 and the offender has been  
24 referred to the end of sentence review committee for evaluation as a  
25 sexually violent predator;

26 (d) ~~((If the department is unable to approve the offender's release~~  
27 ~~plan))~~ In order to facilitate the release of an offender on earned  
28 early release, the department may do one or more of the following:

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

34 (ii) Provide rental vouchers to the offender for a period not to  
35 exceed three months ~~((if rental assistance will result in an approved~~  
36 ~~release plan))~~. ~~((The))~~ A rental voucher must be provided in  
37 conjunction with additional transition support programming or services

1 that enable an offender to participate in services including, but not  
2 limited to, substance abuse treatment, mental health treatment, sex  
3 offender treatment, educational programming, or employment programming;

4 (e) For each offender who is the recipient of a rental voucher, the  
5 department shall include, concurrent with the data that the department  
6 otherwise obtains and records, the housing status of the offender for  
7 the duration of the offender's supervision;

8 (f) The department's authority under this subsection (5) is  
9 independent of any court-ordered condition of sentence or statutory  
10 provision regarding conditions for community custody.

11 (6) An offender serving a term of confinement imposed under RCW  
12 9.94A.670(5)(a) is not eligible for earned release credits under this  
13 section.

14 **Sec. 5.** RCW 9.92.060 and 2005 c 362 s 2 are each amended to read  
15 as follows:

16 (1) Whenever any person is convicted of any crime except murder,  
17 burglary in the first degree, arson in the first degree, robbery, rape  
18 of a child, or rape, the superior court may, in its discretion, at the  
19 time of imposing sentence upon such person, direct that such sentence  
20 be stayed and suspended until otherwise ordered by the superior court,  
21 and, upon such terms as the superior court may determine, that the  
22 sentenced person be placed under the charge of:

23 (a) A community corrections officer employed by the department of  
24 corrections, if the person is subject to supervision under RCW  
25 9.94A.501 or section 3 of this act; or ((if the county elects to assume  
26 responsibility for the supervision of all superior court misdemeanor  
27 probationers))

28 (b) A probation officer employed or contracted for by the county,  
29 ((upon such terms as the superior court may determine)) if the county  
30 has elected to assume responsibility for the supervision of superior  
31 court misdemeanor probationers.

32 (2) As a condition to suspension of sentence, the superior court  
33 shall require the payment of the penalty assessment required by RCW  
34 7.68.035. In addition, the superior court may require the convicted  
35 person to make such monetary payments, on such terms as the superior  
36 court deems appropriate under the circumstances, as are necessary: (a)  
37 To comply with any order of the court for the payment of family



1 support; (b) to make restitution to any person or persons who may have  
2 suffered loss or damage by reason of the commission of the crime in  
3 question or when the offender pleads guilty to a lesser offense or  
4 fewer offenses and agrees with the prosecutor's recommendation that the  
5 offender be required to pay restitution to a victim of an offense or  
6 offenses which are not prosecuted pursuant to a plea agreement; (c) to  
7 pay any fine imposed and not suspended and the court or other costs  
8 incurred in the prosecution of the case, including reimbursement of the  
9 state for costs of extradition if return to this state by extradition  
10 was required; and (d) to contribute to a county or interlocal drug  
11 fund.

12 (3) As a condition of the suspended sentence, the superior court  
13 may order the probationer to report to the secretary of corrections or  
14 such officer as the secretary may designate and as a condition of the  
15 probation to follow the instructions of the secretary. If the county  
16 legislative authority has elected to assume responsibility for the  
17 supervision of superior court misdemeanor probationers within its  
18 jurisdiction, the superior court misdemeanor probationer shall report  
19 to a probation officer employed or contracted for by the county. In  
20 cases where a superior court misdemeanor probationer is sentenced in  
21 one county, but resides within another county, there must be provisions  
22 for the probationer to report to the agency having supervision  
23 responsibility for the probationer's county of residence.

24 (4) If restitution to the victim has been ordered under subsection  
25 (2)(b) of this section and the superior court has ordered supervision,  
26 the officer supervising the probationer shall make a reasonable effort  
27 to ascertain whether restitution has been made as ordered. If the  
28 superior court has ordered supervision and restitution has not been  
29 made, the officer shall inform the prosecutor of that violation of the  
30 terms of the suspended sentence not less than three months prior to the  
31 termination of the suspended sentence.

32 ~~((5) The provisions of RCW 9.94A.501 apply to sentences imposed~~  
33 ~~under this section.))~~

34 **Sec. 6.** RCW 9.95.204 and 2005 c 400 s 2 and 2005 c 362 s 3 are  
35 each reenacted and amended to read as follows:

36 (1) When a superior court places a defendant convicted of a  
37 misdemeanor or gross misdemeanor on probation and orders supervision

1 under RCW 9.92.060 or 9.95.210, the department of corrections has  
2 ~~((initial))~~ responsibility for supervision of ~~((that))~~ defendants  
3 pursuant to RCW 9.94A.501 and section 3 of this act.

4 (2) A county legislative authority may assume responsibility for  
5 the supervision of ~~((all))~~ defendants within its jurisdiction who have  
6 been convicted of a misdemeanor or gross misdemeanor and sentenced to  
7 probation by a superior court. If a county legislative authority  
8 chooses to assume responsibility for defendants supervised by the  
9 department, the assumption of responsibility shall be made by contract  
10 with the department of corrections on a biennial basis.

11 ~~(3) ((If a county assumes supervision responsibility, the county~~  
12 ~~shall supervise all superior court misdemeanor probationers within~~  
13 ~~that county for the duration of the biennium, as set forth in the~~  
14 ~~contract with the department of corrections.~~

15 ~~(4) A contract between a county legislative authority and the~~  
16 ~~department of corrections for the transfer of supervision~~  
17 ~~responsibility must include, at a minimum, the following provisions:~~

18 ~~(a) The county's agreement to supervise all misdemeanor~~  
19 ~~probationers who are sentenced by a superior court within that county~~  
20 ~~and who reside within that county;~~

21 ~~(b) A reciprocal agreement regarding the supervision of superior~~  
22 ~~court misdemeanor probationers sentenced in one county but who reside~~  
23 ~~in another county;~~

24 ~~(c) The county's agreement to comply with the minimum standards for~~  
25 ~~classification and supervision of offenders as required under RCW~~  
26 ~~9.95.206;~~

27 ~~(d) The amount of funds available from the department of~~  
28 ~~corrections to the county for supervision of superior court~~  
29 ~~misdemeanant probationers, calculated according to a formula~~  
30 ~~established by the department of corrections;~~

31 ~~(e) A method for the payment of funds by the department of~~  
32 ~~corrections to the county;~~

33 ~~(f) The county's agreement that any funds received by the county~~  
34 ~~under the contract will be expended only to cover costs of supervision~~  
35 ~~of superior court misdemeanor probationers;~~

36 ~~(g) The county's agreement to account to the department of~~  
37 ~~corrections for the expenditure of all funds received under the~~

1 ~~contract and to submit to audits for compliance with the supervision~~  
2 ~~standards and financial requirements of this section;~~

3 ~~(h) Provisions regarding rights and remedies in the event of a~~  
4 ~~possible breach of contract or default by either party; and~~

5 ~~(i) Provisions allowing for voluntary termination of the contract~~  
6 ~~by either party, with good cause, after sixty days' written notice.~~

7 ~~(5) If the contract between the county and the department of~~  
8 ~~corrections is terminated for any reason, the department of corrections~~  
9 ~~shall reassume responsibility for supervision of superior court~~  
10 ~~misdemeanant probationers within that county. In such an event, the~~  
11 ~~department of corrections retains any and all rights and remedies~~  
12 ~~available by law and under the contract.~~

13 ~~(6))~~ The state of Washington, the department of corrections and  
14 its employees, community corrections officers, and volunteers who  
15 assist community corrections officers are not liable for any harm  
16 caused by the actions of a superior court misdemeanor probationer who  
17 is under the supervision of a county. A county, its probation  
18 department and employees, probation officers, and volunteers who assist  
19 probation officers are not liable for any harm caused by the actions of  
20 a superior court misdemeanor probationer who is under the supervision  
21 of the department of corrections. ~~((This subsection applies regardless~~  
22 ~~of whether the supervising entity is in compliance with the standards~~  
23 ~~of supervision at the time of the misdemeanor probationer's actions.~~

24 ~~(7))~~ (4) The state of Washington, the department of corrections  
25 and its employees, community corrections officers, any county ~~((under~~  
26 ~~contract with the department of corrections))~~ providing supervision  
27 services pursuant to this section and its employees, probation  
28 officers, and volunteers who assist community corrections officers and  
29 probation officers in the superior court misdemeanor probation program  
30 are not liable for civil damages resulting from any act or omission in  
31 the rendering of superior court misdemeanor probation activities  
32 unless the act or omission constitutes gross negligence. For purposes  
33 of this section, "volunteers" is defined according to RCW 51.12.035.

34 ~~((8) The provisions of RCW 9.94A.501 apply to sentences imposed~~  
35 ~~under this section.~~

36 ~~(9))~~ (5)(a) If a misdemeanor probationer requests permission to  
37 travel or transfer to another state, the assigned probation officer  
38 employed or contracted for by the county shall determine whether such

request is subject to RCW 9.94A.745, the interstate compact for adult offender supervision. If such request is subject to the compact, the probation officer shall:

(i) Notify the department of corrections of the probationer's request;

(ii) Provide the department of corrections with the supporting documentation it requests for processing an application for transfer;

(iii) Notify the probationer of the fee due to the department of corrections for processing an application under the compact;

(iv) Cease supervision of the probationer while another state supervises the probationer pursuant to the compact;

(v) Resume supervision if the probationer returns to this state before the term of probation expires.

(b) The probationer shall receive credit for time served while being supervised by another state.

**Sec. 7.** RCW 9.95.210 and 2005 c 362 s 4 are each amended to read as follows:

(1) In granting probation, the superior court may suspend the imposition or the execution of the sentence and may direct that the suspension may continue upon such conditions and for such time as it shall designate, not exceeding the maximum term of sentence or two years, whichever is longer.

(2) In the order granting probation and as a condition thereof, the superior court may in its discretion imprison the defendant in the county jail for a period not exceeding one year and may fine the defendant any sum not exceeding the statutory limit for the offense committed, and court costs. As a condition of probation, the superior court shall require the payment of the penalty assessment required by RCW 7.68.035. The superior court may also require the defendant to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not

1 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be  
2 imposed and court costs, including reimbursement of the state for costs  
3 of extradition if return to this state by extradition was required; (d)  
4 following consideration of the financial condition of the person  
5 subject to possible electronic monitoring, to pay for the costs of  
6 electronic monitoring if that monitoring was required by the court as  
7 a condition of release from custody or as a condition of probation; (e)  
8 to contribute to a county or interlocal drug fund; and (f) to make  
9 restitution to a public agency for the costs of an emergency response  
10 under RCW 38.52.430, and may require bonds for the faithful observance  
11 of any and all conditions imposed in the probation.

12 (3) The superior court shall order restitution in all cases where  
13 the victim is entitled to benefits under the crime victims'  
14 compensation act, chapter 7.68 RCW. If the superior court does not  
15 order restitution and the victim of the crime has been determined to be  
16 entitled to benefits under the crime victims' compensation act, the  
17 department of labor and industries, as administrator of the crime  
18 victims' compensation program, may petition the superior court within  
19 one year of imposition of the sentence for entry of a restitution  
20 order. Upon receipt of a petition from the department of labor and  
21 industries, the superior court shall hold a restitution hearing and  
22 shall enter a restitution order.

23 (4) In granting probation, the superior court may order the  
24 probationer to report to the secretary of corrections or such officer  
25 as the secretary may designate and as a condition of the probation to  
26 follow the instructions of the secretary. If the county legislative  
27 authority has elected to assume responsibility for the supervision of  
28 superior court misdemeanor probationers within its jurisdiction, the  
29 superior court misdemeanor probationer shall report to a probation  
30 officer employed or contracted for by the county. In cases where a  
31 superior court misdemeanor probationer is sentenced in one county, but  
32 resides within another county, there must be provisions for the  
33 probationer to report to the agency having supervision responsibility  
34 for the probationer's county of residence.

35 (5) If the probationer has been ordered to make restitution and the  
36 superior court has ordered supervision, the officer supervising the  
37 probationer shall make a reasonable effort to ascertain whether  
38 restitution has been made. If the superior court has ordered

1 supervision and restitution has not been made as ordered, the officer  
2 shall inform the prosecutor of that violation of the terms of probation  
3 not less than three months prior to the termination of the probation  
4 period. The secretary of corrections will promulgate rules and  
5 regulations for the conduct of the person during the term of probation.  
6 For defendants found guilty in district court, like functions as the  
7 secretary performs in regard to probation may be performed by probation  
8 officers employed for that purpose by the county legislative authority  
9 of the county wherein the court is located.

10 (6) The provisions of RCW 9.94A.501 and section 3 of this act apply  
11 to sentences imposed under this section.

12 **Sec. 8.** RCW 9.94A.030 and 2010 c 274 s 401, 2010 c 267 s 9, 2010  
13 c 227 s 11, and 2010 c 224 s 1 are each reenacted and amended to read  
14 as follows:

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

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

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

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

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

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

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

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

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

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

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

18 (11) "Criminal history" means the list of a defendant's prior  
19 convictions and juvenile adjudications, whether in this state, in  
20 federal court, or elsewhere.

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

25 (b) A conviction may be removed from a defendant's criminal history  
26 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or  
27 a similar out-of-state statute, or if the conviction has been vacated  
28 pursuant to a governor's pardon.

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

34 (12) "Criminal street gang" means any ongoing organization,  
35 association, or group of three or more persons, whether formal or  
36 informal, having a common name or common identifying sign or symbol,  
37 having as one of its primary activities the commission of criminal  
38 acts, and whose members or associates individually or collectively

engage in or have engaged in a pattern of criminal street gang activity. This definition does not apply to employees engaged in concerted activities for their mutual aid and protection, or to the activities of labor and bona fide nonprofit organizations or their members or agents.

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

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

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

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

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

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

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

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

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

(16) "Day reporting" means a program of enhanced supervision designed to monitor the offender's daily activities and compliance with



1 sentence conditions, and in which the offender is required to report  
2 daily to a specific location designated by the department or the  
3 sentencing court.

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

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

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

25 (20) "Domestic violence" has the same meaning as defined in RCW  
26 10.99.020 and 26.50.010.

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

31 (22) "Drug offense" means:

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

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

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

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

6 (24) "Escape" means:

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

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

16 (25) "Felony traffic offense" means:

17 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
18 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
19 run injury-accident (RCW 46.52.020(4)), felony driving while under the  
20 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or  
21 felony physical control of a vehicle while under the influence of  
22 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

32 (28) "Home detention" means a program of partial confinement  
33 available to offenders wherein the offender is confined in a private  
34 residence subject to electronic surveillance.

35 (29) "Legal financial obligation" means a sum of money that is  
36 ordered by a superior court of the state of Washington for legal  
37 financial obligations which may include restitution to the victim,  
38 statutorily imposed crime victims' compensation fees as assessed

pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to RCW 38.52.430.

(30) "Minor child" means a biological or adopted child of the offender who is under age eighteen at the time of the offender's current offense.

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

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

(b) Assault in the second degree;

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

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

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

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

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

1 (r) 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 of  
4 any vehicle in a reckless manner;

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

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

9 (u) 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 (v)(i) A prior conviction for indecent liberties under RCW  
15 (~~9A.88.100~~) 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975  
16 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a),  
17 (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and  
18 RCW 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  
23 fourteen; 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, 1997,  
26 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
27 through July 27, 1997;

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

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

36 (33) "Offender" means a person who has committed a felony  
37 established by state law and is eighteen years of age or older or is  
38 less than eighteen years of age but whose case is under superior court

1 jurisdiction under RCW 13.04.030 or has been transferred by the  
2 appropriate juvenile court to a criminal court pursuant to RCW  
3 13.40.110. In addition, for the purpose of community custody  
4 requirements under this chapter, "offender" also means a (~~misdemeanor~~  
5 ~~or gross misdemeanor~~) misdemeanant or gross misdemeanant probationer  
6 (~~convicted of an offense included in RCW 9.94A.501(1) and~~) ordered by  
7 a superior court to probation (~~under the supervision of the~~  
8 ~~department~~) pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and  
9 supervised by the department pursuant to RCW 9.94A.501 and section 3 of  
10 this act. Throughout this chapter, the terms "offender" and  
11 "defendant" are used interchangeably.

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

21 (35) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

36 (vii) Malicious Harassment (RCW 9A.36.080);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(36) "Persistent offender" is an offender who:

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

(ii) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.525; provided

1 that of the two or more previous convictions, at least one conviction  
2 must have occurred before the commission of any of the other most  
3 serious offenses for which the offender was previously convicted; or

4 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
5 of a child in the first degree, child molestation in the first degree,  
6 rape in the second degree, rape of a child in the second degree, or  
7 indecent liberties by forcible compulsion; (B) any of the following  
8 offenses with a finding of sexual motivation: Murder in the first  
9 degree, murder in the second degree, homicide by abuse, kidnapping in  
10 the first degree, kidnapping in the second degree, assault in the first  
11 degree, assault in the second degree, assault of a child in the first  
12 degree, assault of a child in the second degree, or burglary in the  
13 first degree; or (C) an attempt to commit any crime listed in this  
14 subsection (36)(b)(i); and

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

27 (37) "Predatory" means: (a) The perpetrator of the crime was a  
28 stranger to the victim, as defined in this section; (b) the perpetrator  
29 established or promoted a relationship with the victim prior to the  
30 offense and the victimization of the victim was a significant reason  
31 the perpetrator established or promoted the relationship; or (c) the  
32 perpetrator was: (i) A teacher, counselor, volunteer, or other person  
33 in authority in any public or private school and the victim was a  
34 student of the school under his or her authority or supervision. For  
35 purposes of this subsection, "school" does not include home-based  
36 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,  
37 volunteer, or other person in authority in any recreational activity  
38 and the victim was a participant in the activity under his or her

1 authority or supervision; (iii) a pastor, elder, volunteer, or other  
2 person in authority in any church or religious organization, and the  
3 victim was a member or participant of the organization under his or her  
4 authority; or (iv) a teacher, counselor, volunteer, or other person in  
5 authority providing home-based instruction and the victim was a student  
6 receiving home-based instruction while under his or her authority or  
7 supervision. For purposes of this subsection: (A) "Home-based  
8 instruction" has the same meaning as defined in RCW 28A.225.010; and  
9 (B) "teacher, counselor, volunteer, or other person in authority" does  
10 not include the parent or legal guardian of the victim.

11 (38) "Private school" means a school regulated under chapter  
12 28A.195 or 28A.205 RCW.

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

14 (40) "Repetitive domestic violence offense" means any:

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

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

19 (iii) Domestic violence violation of a protection order under  
20 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

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

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

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

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

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

37 (43) "Serious traffic offense" means:



1 (a) Nonfelony driving while under the influence of intoxicating  
2 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
3 while under the influence of intoxicating liquor or any drug (RCW  
4 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
5 attended vehicle (RCW 46.52.020(5)); or

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

9 (44) "Serious violent offense" is a subcategory of violent offense  
10 and means:

11 (a)(i) Murder in the first degree;  
12 (ii) Homicide by abuse;  
13 (iii) Murder in the second degree;  
14 (iv) Manslaughter in the first degree;  
15 (v) Assault in the first degree;  
16 (vi) Kidnapping in the first degree;  
17 (vii) Rape in the first degree;  
18 (viii) Assault of a child in the first degree; or  
19 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
20 commit one of these felonies; or

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

24 (45) "Sex offense" means:

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

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

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

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

32 (v) A felony violation of RCW 9A.44.132(1) (failure to register) if  
33 the person has been convicted of violating RCW 9A.44.132(1) (failure to  
34 register) on at least one prior occasion;

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

1 (c) A felony with a finding of sexual motivation under RCW  
2 9.94A.835 or 13.40.135; or

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

6 (46) "Sexual motivation" means that one of the purposes for which  
7 the defendant committed the crime was for the purpose of his or her  
8 sexual gratification.

9 (47) "Standard sentence range" means the sentencing court's  
10 discretionary range in imposing a nonappealable sentence.

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

15 (49) "Stranger" means that the victim did not know the offender  
16 twenty-four hours before the offense.

17 (50) "Total confinement" means confinement inside the physical  
18 boundaries of a facility or institution operated or utilized under  
19 contract by the state or any other unit of government for twenty-four  
20 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

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

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

30 (53) "Violent offense" means:

31 (a) Any of the following felonies:

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

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

36 (iii) Manslaughter in the first degree;

37 (iv) Manslaughter in the second degree;

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

(vi) Kidnapping in the second degree;  
(vii) Arson in the second degree;  
(viii) Assault in the second degree;  
(ix) Assault of a child in the second degree;  
(x) Extortion in the first degree;  
(xi) Robbery in the second degree;  
(xii) Drive-by shooting;  
(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and  
(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;  
(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and  
(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.  
(54) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.  
(55) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.  
(56) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

**Sec. 9.** RCW 9.94A.650 and 2008 c 231 s 29 are each amended to read as follows:

(1) This section applies to offenders who have never been

1 previously convicted of a felony in this state, federal court, or  
2 another state, and who have never participated in a program of deferred  
3 prosecution for a felony, and who are convicted of a felony that is  
4 not:

5 (a) Classified as a violent offense or a sex offense under this  
6 chapter;

7 (b) Manufacture, delivery, or possession with intent to manufacture  
8 or deliver a controlled substance classified in Schedule I or II that  
9 is a narcotic drug or flunitrazepam classified in Schedule IV;

10 (c) Manufacture, delivery, or possession with intent to deliver a  
11 methamphetamine, its salts, isomers, and salts of its isomers as  
12 defined in RCW 69.50.206(d)(2);

13 (d) The selling for profit of any controlled substance or  
14 counterfeit substance classified in Schedule I, RCW 69.50.204, except  
15 leaves and flowering tops of marihuana; or

16 (e) Felony driving while under the influence of intoxicating liquor  
17 or any drug or felony physical control of a vehicle while under the  
18 influence of intoxicating liquor or any drug.

19 (2) In sentencing a first-time offender the court may waive the  
20 imposition of a sentence within the standard sentence range and impose  
21 a sentence which may include up to ninety days of confinement in a  
22 facility operated or utilized under contract by the county and a  
23 requirement that the offender refrain from committing new offenses.

24 (3) The court may impose up to (~~one year~~) six months of community  
25 custody unless treatment is ordered, in which case the period of  
26 community custody may include up to the period of treatment, but shall  
27 not exceed (~~two years~~) one year.

28 (4) As a condition of community custody, in addition to any  
29 conditions authorized in RCW 9.94A.703, the court may order the  
30 offender to pay all court-ordered legal financial obligations and/or  
31 perform community restitution work.

## 32 PART II

### 33 Cost Of Supervision

34 **Sec. 10.** RCW 9.94A.780 and 2008 c 231 s 37 are each amended to  
35 read as follows:

36 (1) Whenever a punishment imposed under this chapter requires

1 supervision services to be provided, the offender shall pay to the  
2 department of corrections the ~~((monthly assessment))~~ supervision intake  
3 fee, prescribed under subsection (2) of this section, ~~((which shall be~~  
4 ~~for the duration of the terms of supervision and))~~ which shall be  
5 considered as payment or part payment of the cost of ~~((providing))~~  
6 establishing supervision to the offender. The department may exempt or  
7 defer a person from the payment of all or any part of the  
8 ~~((assessment))~~ intake fee based upon any of the following factors:

9 (a) The offender has diligently attempted but has been unable to  
10 obtain employment that provides the offender sufficient income to make  
11 such a payment~~((s))~~.

12 (b) The offender is a student in a school, college, university, or  
13 a course of vocational or technical training designed to fit the  
14 student for gainful employment.

15 (c) The offender has an employment handicap, as determined by an  
16 examination acceptable to or ordered by the department.

17 (d) The offender's age prevents him or her from obtaining  
18 employment.

19 (e) The offender is responsible for the support of dependents and  
20 the payment of the ~~((assessment))~~ intake fee constitutes an undue  
21 hardship on the offender.

22 (f) Other extenuating circumstances as determined by the  
23 department.

24 (2) The department of corrections shall adopt a rule prescribing  
25 the amount of the assessment. The ~~((department may, if it finds it~~  
26 ~~appropriate, prescribe a schedule of assessments that shall vary in~~  
27 ~~accordance with the intensity or cost of the supervision. The~~  
28 ~~department may not prescribe any assessment that is less than ten~~  
29 ~~dollars nor more than fifty dollars))~~ supervision intake fee shall be  
30 imposed after the determination of eligibility for supervision has been  
31 completed. For offenders whose crime was committed on or after July 1,  
32 2011, the intake fee prescribed shall be not less than four hundred  
33 dollars or more than six hundred dollars, and shall be assessed for  
34 each judgment and sentence imposed by the superior court in which  
35 supervision by the department is required.

36 (3) For offenders whose offense date was before July 1, 2011, the  
37 monthly rate shall be converted to a one-time fee. The amount due

1 shall be based upon the most recent monthly fee amount by the months of  
2 supervision left to serve, but in no case shall exceed six hundred  
3 dollars.

4 (4) Nothing in this act shall affect the amount or dates payments  
5 are due for any prior balances owed by an offender for the cost of  
6 supervision.

7 ~~((+3+))~~ (5) All amounts required to be paid under this section  
8 shall be collected by the department of corrections and deposited by  
9 the department in the dedicated fund established pursuant to RCW  
10 72.11.040.

11 ~~((+4+))~~ (6) This section shall not apply to probation services  
12 provided under an interstate compact pursuant to chapter 9.95 RCW or to  
13 probation services provided for persons placed on probation prior to  
14 June 10, 1982.

15 ~~((+5+))~~ (7) If a county clerk assumes responsibility for collection  
16 of unpaid legal financial obligations under RCW 9.94A.760, or under any  
17 agreement with the department under that section, whether before or  
18 after the completion of any period of community custody, the clerk may  
19 impose a monthly or annual assessment for the cost of collections. The  
20 amount of the assessment shall not exceed the actual cost of  
21 collections. The county clerk may exempt or defer payment of all or  
22 part of the assessment based upon any of the factors listed in  
23 subsection (1) of this section. The offender shall pay the assessment  
24 under this subsection to the county clerk who shall apply it to the  
25 cost of collecting legal financial obligations under RCW 9.94A.760.

26 **Sec. 11.** RCW 9.95.214 and 2005 c 400 s 3 are each amended to read  
27 as follows:

28 Whenever a defendant convicted of a misdemeanor or gross  
29 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and  
30 the defendant is supervised by ~~((the department of corrections or))~~ a  
31 county probation department, the ~~((department or))~~ county probation  
32 department may assess and collect from the defendant for the duration  
33 of the term of supervision a monthly assessment not to exceed one  
34 hundred dollars per month. Whenever a defendant convicted of a  
35 misdemeanor or gross misdemeanor is placed on probation under RCW  
36 9.92.060 or 9.95.210, and the defendant is supervised by the department  
37 of corrections, the department may collect supervision intake fees

1 pursuant to RCW 9.94A.780. This assessment shall be paid to the agency  
2 supervising the defendant and shall be applied, along with funds  
3 appropriated by the legislature, toward the payment or part payment of  
4 the cost of supervising the defendant. The ~~((department or))~~ county  
5 probation department shall suspend such assessment while the defendant  
6 is being supervised by another state pursuant to RCW 9.94A.745, the  
7 interstate compact for adult offender supervision.

8 **Sec. 12.** RCW 72.04A.120 and 1991 c 104 s 2 are each amended to  
9 read as follows:

10 (1) Any person placed on parole shall be required to pay the  
11 ~~((monthly assessment))~~ supervision intake fee, prescribed under  
12 ~~((subsection (2) of this section, which shall be for the duration of~~  
13 ~~the parole and which shall be considered as payment or part payment of~~  
14 ~~the cost of providing parole supervision to the parolee))~~ RCW  
15 9.94A.780(3). The department may exempt a person from the payment of  
16 all or any part of the assessment based upon any of the following  
17 factors:

18 (a) The offender has diligently attempted but has been unable to  
19 obtain employment which provides the offender sufficient income to make  
20 such payments.

21 (b) The offender is a student in a school, college, university, or  
22 a course of vocational or technical training designed to fit the  
23 student for gainful employment.

24 (c) The offender has an employment handicap, as determined by an  
25 examination acceptable to or ordered by the department.

26 (d) The offender's age prevents him from obtaining employment.

27 (e) The offender is responsible for the support of dependents and  
28 the payment of the assessment constitutes an undue hardship on the  
29 offender.

30 (f) Other extenuating circumstances as determined by the  
31 department.

32 (2) The department of corrections shall adopt a rule prescribing  
33 the amount of the assessment. ~~((The department may, if it finds it~~  
34 ~~appropriate, prescribe a schedule of assessments which shall vary in~~  
35 ~~accordance with the intensity or cost of the supervision. The~~  
36 ~~department may not prescribe any assessment which is less than ten~~  
37 ~~dollars nor more than fifty dollars.))~~

1 (3) Payment of the assessed amount shall constitute a condition of  
2 parole for purposes of the application of RCW 72.04A.090.

3 (4) All amounts required to be paid under this section shall be  
4 collected by the department of corrections and deposited by the  
5 department in the dedicated fund established pursuant to RCW 72.11.040.

6 ~~((5) This section shall not apply to parole services provided  
7 under an interstate compact pursuant to chapter 9.95 RCW or to parole  
8 services provided for offenders paroled before June 10, 1982.))~~

9 **Sec. 13.** RCW 72.11.040 and 2005 c 518 s 943 are each amended to  
10 read as follows:

11 The cost of supervision fund is created in the custody of the state  
12 treasurer. All receipts from assessments made under RCW 9.94A.780,  
13 9.94A.74504, and 72.04A.120 shall be deposited into the fund.  
14 Expenditures from the fund may be used only to support the collection  
15 of legal financial obligations. ~~((During the 2005-2007 biennium, funds  
16 from the account may also be used for costs associated with the  
17 department's supervision of the offenders in the community.))~~ Only the  
18 secretary of the department of corrections or the secretary's designee  
19 may authorize expenditures from the fund. The fund is subject to  
20 allotment procedures under chapter 43.88 RCW, but no appropriation is  
21 required for expenditures.

22 **Sec. 14.** RCW 9.94A.74504 and 2005 c 400 s 1 are each amended to  
23 read as follows:

24 (1) The department may supervise nonfelony offenders transferred to  
25 Washington pursuant to RCW 9.94A.745, the interstate compact for adult  
26 offender supervision, and shall supervise these offenders according to  
27 the provisions of this chapter.

28 (2) The department shall process applications for interstate  
29 transfer of felony and nonfelony offenders requesting transfer of  
30 supervision out-of-state pursuant to RCW 9.94A.745, the interstate  
31 compact for adult offender supervision, and may charge offenders a  
32 reasonable fee for processing the application.

33 (3) The department shall adopt a rule prescribing the amount of the  
34 interstate transfer application fee.



PART III

Indeterminate Sentence Review Board

**Sec. 15.** RCW 9.95.003 and 2007 c 362 s 1 are each amended to read as follows:

(1) The board is created within the department. The board shall consist of a ~~((chairman))~~ chair and four other members, each of whom shall be appointed by the governor with the consent of the senate. Each member shall hold office for a term of five years, and until his or her successor is appointed and qualified. The terms shall expire on April 15th of the expiration year. Vacancies in the membership of the board shall be filled by appointment by the governor with the consent of the senate. In the event of the inability of any member to act, the governor shall appoint some competent person to act in his stead during the continuance of such inability. The members shall not be removable during their respective terms except for cause determined by the superior court of Thurston county. The governor in appointing the members shall designate one of them to serve as ~~((chairman))~~ chair at the governor's pleasure. The appointed ~~((chairman))~~ chair shall serve as a fully participating board member ~~((and as the director of the agency))~~.

(2) The department shall provide administrative and staff support for the board. The secretary may employ a senior administrative officer and such other personnel as may be necessary to assist the board in carrying out its duties.

(3) The members of the board and ~~((its officers and employees))~~ staff assigned to the board shall not engage in any other business or profession or hold any other public office without the prior approval of the executive ethics board indicating compliance with RCW 42.52.020, 42.52.030, 42.52.040 and 42.52.120; nor shall they, at the time of appointment or employment or during their incumbency, serve as the representative of any political party on an executive committee or other governing body thereof, or as an executive officer or employee of any political committee or association. The members of the board shall each severally receive salaries fixed by the governor in accordance with the provisions of RCW 43.03.040, and in addition shall receive travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

1       (~~The board may employ, and fix, with the approval of the governor,~~  
2 ~~the compensation of and prescribe the duties of a senior administrative~~  
3 ~~officer and such officers, employees, and assistants as may be~~  
4 ~~necessary, and provide necessary quarters, supplies, and equipment.~~))

5       NEW SECTION.   **Sec. 16.** (1) The indeterminate sentence review board  
6 is transferred to the department of corrections.

7       (2)(a) All reports, documents, surveys, books, records, files,  
8 papers, or written materials in the possession of the indeterminate  
9 sentence review board shall be delivered to the custody of the  
10 department of corrections. All cabinets, furniture, office equipment,  
11 motor vehicles, and other tangible property employed by the  
12 indeterminate sentence review board shall be made available to the  
13 department of corrections. All funds, credits, or other assets held by  
14 the indeterminate sentence review board shall be assigned to the  
15 department of corrections.

16       (b) Any appropriations made to the indeterminate sentence review  
17 board shall, on the effective date of this section, be transferred and  
18 credited to the department of corrections.

19       (c) If any question arises as to the transfer of any personnel,  
20 funds, books, documents, records, papers, files, equipment, or other  
21 tangible property used or held in the exercise of the powers and the  
22 performance of the duties and functions transferred, the director of  
23 financial management shall make a determination as to the proper  
24 allocation and certify the same to the state agencies concerned.

25       (3) All employees of the indeterminate sentence review board are  
26 transferred to the jurisdiction of the department of corrections. All  
27 employees classified under chapter 41.06 RCW, the state civil service  
28 law, are assigned to the department of corrections to perform their  
29 usual duties upon the same terms as formerly, without any loss of  
30 rights, subject to any action that may be appropriate thereafter in  
31 accordance with the laws and rules governing state civil service.

32       (4) All rules and all pending business before the indeterminate  
33 sentence review board shall be continued and acted upon by the  
34 department of corrections. All existing contracts and obligations  
35 shall remain in full force and shall be performed by the department of  
36 corrections.

1 (5) The transfer of the powers, duties, functions, and personnel of  
2 the indeterminate sentence review board shall not affect the validity  
3 of any act performed before the effective date of this section.

4 (6) If apportionments of budgeted funds are required because of the  
5 transfers directed by this section, the director of financial  
6 management shall certify the apportionments to the agencies affected,  
7 the state auditor, and the state treasurer. Each of these shall make  
8 the appropriate transfer and adjustments in funds and appropriation  
9 accounts and equipment records in accordance with the certification.

10 (7) All classified employees of the indeterminate sentence review  
11 board assigned to the department of corrections under this act whose  
12 positions are within an existing bargaining unit description at the  
13 department of corrections shall become a part of the existing  
14 bargaining unit at the department of corrections and shall be  
15 considered an appropriate inclusion or modification of the existing  
16 bargaining unit under the provisions of chapter 41.80 RCW.

17 (8) Notwithstanding any provision of this act and despite the  
18 transfer of the indeterminate sentence review board to the department  
19 of corrections, the members of the indeterminate sentence review board  
20 will possess and shall exercise independent judgment when making any  
21 decisions concerning offenders. These decisions include, but are not  
22 limited to, decisions concerning offenders' release, revocation,  
23 reinstatement, or the imposition of conditions of supervision.

24 **Sec. 17.** RCW 9.95.005 and 2001 2nd sp.s. c 12 s 318 are each  
25 amended to read as follows:

26 The board shall meet at major state correctional institutions at  
27 such times as may be necessary for a full and complete study of the  
28 cases of all convicted persons whose durations of confinement are to be  
29 determined by it; whose community custody supervision is under the  
30 board's authority; or whose applications for parole come before it.  
31 Other times and places of meetings may also be fixed by the board.

32 The superintendents of the different institutions shall provide  
33 suitable quarters for the board (~~(and assistants)~~) while in the  
34 discharge of their duties.

35 **Sec. 18.** RCW 9.95.007 and 1986 c 224 s 5 are each amended to read  
36 as follows:

1       The board may meet and transact business in panels. Each board  
2 panel shall consist of at least two members of the board. In all  
3 matters concerning the internal affairs of the board and policy-making  
4 decisions, a majority of the full board must concur in such matters.  
5 The ~~((chairman))~~ chair of the board with the consent of a majority of  
6 the board may designate any two members to exercise all the powers and  
7 duties of the board in connection with any hearing before the board.  
8 If the two members so designated cannot unanimously agree as to the  
9 disposition of the hearing assigned to them, such hearing shall be  
10 reheard by the full board. All actions of the full board shall be by  
11 concurrence of a majority of the sitting board members.

12       **Sec. 19.** RCW 9.95.140 and 2009 c 28 s 29 are each amended to read  
13 as follows:

14       (1) The board shall cause a complete record to be kept of every  
15 prisoner under the jurisdiction of the board released on parole or  
16 community custody. Such records shall be organized in accordance with  
17 the most modern methods of filing and indexing so that there will be  
18 always immediately available complete information about each such  
19 prisoner. Subject to information sharing provisions related to  
20 ~~((mentally ill))~~ offenders~~((,))~~ with mental illness and the end of  
21 sentence review committee, ~~((and the department of corrections,))~~ the  
22 board may make rules as to the privacy of such records and their use by  
23 others than the board and ~~((its))~~ the department staff assigned to  
24 perform board-related duties. Sex offenders convicted of crimes  
25 committed before July 1, 1984, who are under the board's jurisdiction  
26 shall be subject to the determinations of the end of sentence review  
27 committee regarding risk level and subject to sex offender registration  
28 and community notification. The board and the department staff  
29 assigned to perform board-related duties shall be immune from liability  
30 for the release of information concerning sex offenders as provided in  
31 RCW 4.24.550.

32       The superintendents of state correctional facilities and all  
33 officers and employees thereof and all other public officials shall at  
34 all times cooperate with the board and furnish to the board~~((, its~~  
35 ~~officers, and employees))~~ and staff assigned to perform board-related  
36 duties such information as may be necessary to enable it to perform its  
37 functions, and such superintendents and other employees shall at all

1 times give the members of the board(~~(, its officers, and employees)~~)  
2 and staff assigned to perform board-related duties free access to all  
3 prisoners confined in the state correctional facilities.

4 (2) Offenders sentenced under RCW 9.94A.507 shall be subject to the  
5 determinations of the end of sentence review committee regarding risk  
6 level and subject to sex offender registration and community  
7 notification.

8 (3) The end of sentence review committee shall make law enforcement  
9 notifications for offenders under board jurisdiction on the same basis  
10 that it notifies law enforcement regarding offenders sentenced under  
11 chapter 9.94A RCW for crimes committed after July 1, 1984.

12 **Sec. 20.** RCW 9.95.280 and 2001 2nd sp.s. c 12 s 344 are each  
13 amended to read as follows:

14 The secretary, upon recommendation by the board, may deputize any  
15 person (regularly employed by another state) to act as an officer and  
16 agent of this state in effecting the return of any person convicted of  
17 a crime committed before July 1, 1984, who has violated the terms and  
18 conditions of parole or probation as granted by this state. In any  
19 matter relating to the return of such a person, any agent so deputized  
20 shall have all the powers of a police officer of this state.

21 **Sec. 21.** RCW 9.95.300 and 2001 2nd sp.s. c 12 s 346 are each  
22 amended to read as follows:

23 The secretary, upon recommendation by the board, may enter into  
24 contracts with similar officials of any other state or states for the  
25 purpose of sharing an equitable portion of the cost of effecting the  
26 return of any person who has violated the terms and conditions of  
27 parole, probation, or community custody as granted by this state.

28 **Sec. 22.** RCW 9.96.050 and 2009 c 325 s 4 are each amended to read  
29 as follows:

30 (1)(a) When an offender on parole has performed all obligations of  
31 his or her release, including any and all legal financial obligations,  
32 for such time as shall satisfy the indeterminate sentence review board  
33 that his or her final release is not incompatible with the best  
34 interests of society and the welfare of the paroled individual, the

1 board may make a final order of discharge and issue a certificate of  
2 discharge to the offender.

3 (b) The board retains the jurisdiction to issue a certificate of  
4 discharge after the expiration of the offender's or parolee's maximum  
5 statutory sentence. If not earlier granted and any and all legal  
6 financial obligations have been paid, the board shall issue a final  
7 order of discharge three years from the date of parole unless the  
8 parolee is on suspended or revoked status at the expiration of the  
9 three years.

10 (c) The discharge, regardless of when issued, shall have the effect  
11 of restoring all civil rights not already restored by RCW 29A.08.520,  
12 and the certification of discharge shall so state.

13 (d) This restoration of civil rights shall not restore the right to  
14 receive, possess, own, or transport firearms.

15 (e) The board shall issue a certificate of discharge to the  
16 offender in person or by mail to the offender's last known address.

17 (2) (~~The board shall send to the department of corrections~~) A  
18 copy of every signed certificate of discharge for offender sentences  
19 under the authority of the department of corrections shall be placed in  
20 the department's files.

21 (3) The discharge provided for in this section shall be considered  
22 as a part of the sentence of the convicted person and shall not in any  
23 manner be construed as affecting the powers of the governor to pardon  
24 any such person.

25 **Sec. 23.** RCW 71.05.385 and 2009 c 320 s 2 are each amended to read  
26 as follows:

27 (1) A mental health service provider shall release to the persons  
28 authorized under subsection (2) of this section, upon request:

29 (a) The fact, place, and date of an involuntary commitment, the  
30 fact and date of discharge or release, and the last known address of a  
31 person who has been committed under this chapter.

32 (b) Information related to mental health services, in the format  
33 determined under subsection (9) of this section, concerning a person  
34 who:

35 (i) Is currently committed to the custody or supervision of the  
36 department of corrections or the indeterminate sentence review board  
37 under chapter 9.94A or 9.95 RCW;

1 (ii) Has been convicted or found not guilty by reason of insanity  
2 of a serious violent offense; or

3 (iii) Was charged with a serious violent offense and such charges  
4 were dismissed under RCW 10.77.086.

5 Legal counsel may release such information to the persons  
6 authorized under subsection (2) of this section on behalf of the mental  
7 health service provider, provided that nothing in this subsection shall  
8 require the disclosure of attorney work product or attorney-client  
9 privileged information.

10 (2) The information subject to release under subsection (1) of this  
11 section shall be released to law enforcement officers, personnel of a  
12 county or city jail, designated mental health professionals, public  
13 health officers, therapeutic court personnel, or personnel of the  
14 department of corrections, ~~((or personnel of))~~ including the  
15 indeterminate sentence review board and personnel assigned to perform  
16 board-related duties, when such information is requested during the  
17 course of business and for the purpose of carrying out the  
18 responsibilities of the requesting person's office. No mental health  
19 service provider or person employed by a mental health service  
20 provider, or its legal counsel, shall be liable for information  
21 released to or used under the provisions of this section or rules  
22 adopted under this section except under RCW 71.05.440.

23 (3) A person who requests information under subsection (1)(b) of  
24 this section must comply with the following restrictions:

25 (a) Information must be requested only for the purposes permitted  
26 by this subsection and for the purpose of carrying out the  
27 responsibilities of the requesting person's office. Appropriate  
28 purposes for requesting information under this section include:

29 (i) Completing presentence investigations or risk assessment  
30 reports;

31 (ii) Assessing a person's risk to the community;

32 (iii) Assessing a person's risk of harm to self or others when  
33 confined in a city or county jail;

34 (iv) Planning for and provision of supervision of an offender,  
35 including decisions related to sanctions for violations of conditions  
36 of community supervision; and

37 (v) Responding to an offender's failure to report for department of  
38 corrections supervision.

1 (b) Information shall not be requested under this section unless  
2 the requesting person has reasonable suspicion that the individual who  
3 is the subject of the information:

4 (i) Has engaged in activity indicating that a crime or a violation  
5 of community custody or parole has been committed or, based upon his or  
6 her current or recent past behavior, is likely to be committed in the  
7 near future; or

8 (ii) Is exhibiting signs of a deterioration in mental functioning  
9 which may make the individual appropriate for civil commitment under  
10 this chapter.

11 (c) Any information received under this section shall be held  
12 confidential and subject to the limitations on disclosure outlined in  
13 this chapter, except:

14 (i) Such information may be shared with other persons who have the  
15 right to request similar information under subsection (2) of this  
16 section, solely for the purpose of coordinating activities related to  
17 the individual who is the subject of the information in a manner  
18 consistent with the official responsibilities of the persons involved;

19 (ii) Such information may be shared with a prosecuting attorney  
20 acting in an advisory capacity for a person who receives information  
21 under this section. A prosecuting attorney under this subsection shall  
22 be subject to the same restrictions and confidentiality limitations as  
23 the person who requested the information; and

24 (iii) As provided in RCW 72.09.585.

25 (4) A request for information related to mental health services  
26 under this section shall not require the consent of the subject of the  
27 records. Such request shall be provided in writing, except to the  
28 extent authorized in subsection (5) of this section. A written request  
29 may include requests made by e-mail or facsimile so long as the  
30 requesting person is clearly identified. The request must specify the  
31 information being requested.

32 (5) In the event of an emergency situation that poses a significant  
33 risk to the public or the offender, a mental health service provider,  
34 or its legal counsel, shall release information related to mental  
35 health services delivered to the offender and, if known, information  
36 regarding where the offender is likely to be found to the department of  
37 corrections or law enforcement upon request. The initial request may  
38 be written or oral. All oral requests must be subsequently confirmed



1 in writing. Information released in response to an oral request is  
2 limited to a statement as to whether the offender is or is not being  
3 treated by the mental health service provider and the address or  
4 information about the location or whereabouts of the offender.

5 (6) Disclosure under this section to state or local law enforcement  
6 authorities is mandatory for the purposes of the health insurance  
7 portability and accountability act.

8 (7) Whenever federal law or federal regulations restrict the  
9 release of information contained in the treatment records of any  
10 patient who receives treatment for alcoholism or drug dependency, the  
11 release of the information may be restricted as necessary to comply  
12 with federal law and regulations.

13 (8) This section does not modify the terms and conditions of  
14 disclosure of information related to sexually transmitted diseases  
15 under chapter 70.24 RCW.

16 (9) In collaboration with interested organizations, the department  
17 shall develop a standard form for requests for information related to  
18 mental health services made under this section and a standard format  
19 for information provided in response to such requests. Consistent with  
20 the goals of the health information privacy provisions of the federal  
21 health insurance portability and accountability act, in developing the  
22 standard form for responsive information, the department shall design  
23 the form in such a way that the information disclosed is limited to the  
24 minimum necessary to serve the purpose for which the information is  
25 requested.

26 **Sec. 24.** RCW 72.09.585 and 2004 c 166 s 5 are each amended to read  
27 as follows:

28 (1) When the department is determining an offender's risk  
29 management level, the department shall inquire of the offender and  
30 shall be told whether the offender is subject to court-ordered  
31 treatment for mental health services or chemical dependency services.  
32 The department shall request and the offender shall provide an  
33 authorization to release information form that meets applicable state  
34 and federal requirements and shall provide the offender with written  
35 notice that the department will request the offender's mental health  
36 and substance abuse treatment information. An offender's failure to  
37 inform the department of court-ordered treatment is a violation of the

1 conditions of supervision if the offender is in the community and an  
2 infraction if the offender is in confinement, and the violation or  
3 infraction is subject to sanctions.

4 (2) When an offender discloses that he or she is subject to court-  
5 ordered mental health services or chemical dependency treatment, the  
6 department shall provide the mental health services provider or  
7 chemical dependency treatment provider with a written request for  
8 information and any necessary authorization to release information  
9 forms. The written request shall comply with rules adopted by the  
10 department of social and health services or protocols developed jointly  
11 by the department and the department of social and health services. A  
12 single request shall be valid for the duration of the offender's  
13 supervision in the community. Disclosures of information related to  
14 mental health services made pursuant to a department request shall not  
15 require consent of the offender.

16 (3) The information received by the department under RCW 71.05.445  
17 or (~~(71.34.225)~~) 71.34.345 may be released to the indeterminate  
18 sentence review board as relevant to carry out its responsibility of  
19 planning and ensuring community protection with respect to persons  
20 under its jurisdiction. Further disclosure by the indeterminate  
21 sentence review board is subject to the limitations set forth in  
22 subsections (5) and (6) of this section and must be consistent with the  
23 written policy of the indeterminate sentence review board. The  
24 decision to disclose or not shall not result in civil liability for the  
25 indeterminate sentence review board or (~~(its employees)~~) staff assigned  
26 to perform board-related duties provided that the decision was reached  
27 in good faith and without gross negligence.

28 (4) The information received by the department under RCW 71.05.445  
29 or (~~(71.34.225)~~) 71.34.345 may be used to meet the statutory duties of  
30 the department to provide evidence or report to the court. Disclosure  
31 to the public of information provided to the court by the department  
32 related to mental health services shall be limited in accordance with  
33 RCW 9.94A.500 or this section.

34 (5) The information received by the department under RCW 71.05.445  
35 or (~~(71.34.225)~~) 71.34.345 may be disclosed by the department to other  
36 state and local agencies as relevant to plan for and provide offenders  
37 transition, treatment, and supervision services, or as relevant and  
38 necessary to protect the public and counteract the danger created by a

1 particular offender, and in a manner consistent with the written policy  
2 established by the secretary. The decision to disclose or not shall  
3 not result in civil liability for the department or its employees so  
4 long as the decision was reached in good faith and without gross  
5 negligence. The information received by a state or local agency from  
6 the department shall remain confidential and subject to the limitations  
7 on disclosure set forth in chapters 70.02, 71.05, and 71.34 RCW and,  
8 subject to these limitations, may be released only as relevant and  
9 necessary to counteract the danger created by a particular offender.

10 (6) The information received by the department under RCW 71.05.445  
11 or (~~71.34.225~~) 71.34.345 may be disclosed by the department to  
12 individuals only with respect to offenders who have been determined by  
13 the department to have a high risk of reoffending by a risk assessment,  
14 as defined in RCW 9.94A.030, only as relevant and necessary for those  
15 individuals to take reasonable steps for the purpose of self-  
16 protection, or as provided in RCW 72.09.370(2). The information may  
17 not be disclosed for the purpose of engaging the public in a system of  
18 supervision, monitoring, and reporting offender behavior to the  
19 department. The department must limit the disclosure of information  
20 related to mental health services to the public to descriptions of an  
21 offender's behavior, risk he or she may present to the community, and  
22 need for mental health treatment, including medications, and shall not  
23 disclose or release to the public copies of treatment documents or  
24 records, except as otherwise provided by law. All disclosure of  
25 information to the public must be done in a manner consistent with the  
26 written policy established by the secretary. The decision to disclose  
27 or not shall not result in civil liability for the department or its  
28 employees so long as the decision was reached in good faith and without  
29 gross negligence. Nothing in this subsection prevents any person from  
30 reporting to law enforcement or the department behavior that he or she  
31 believes creates a public safety risk.

32 NEW SECTION. **Sec. 25.** RCW 4.24.5502 is decodified.

33 **PART IV**

34 **Sentencing Guidelines Commission and Related Duties**

1        NEW SECTION.   **Sec. 26.**   A new section is added to chapter 9.94A RCW  
2   to read as follows:

3        The standard sentence ranges of total and partial confinement under  
4   this chapter, except as provided in RCW 9.94A.517, are subject to the  
5   following limitations:

6        (1) If the maximum term in the range is one year or less, the  
7   minimum term in the range shall be no less than one-third of the  
8   maximum term in the range, except that if the maximum term in the range  
9   is ninety days or less, the minimum term may be less than one-third of  
10   the maximum;

11       (2) If the maximum term in the range is greater than one year, the  
12   minimum term in the range shall be no less than seventy-five percent of  
13   the maximum term in the range, except that for murder in the second  
14   degree in seriousness level XIV under RCW 9.94A.510, the minimum term  
15   in the range shall be no less than fifty percent of the maximum term in  
16   the range; and

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

19       **Sec. 27.**   RCW 9.94A.480 and 2002 c 290 s 16 are each amended to  
20   read as follows:

21       (1) A current, newly created or reworked judgment and sentence  
22   document for each felony sentencing shall record any and all  
23   recommended sentencing agreements or plea agreements and the sentences  
24   for any and all felony crimes kept as public records under RCW  
25   9.94A.475 shall contain the clearly printed name and legal signature of  
26   the sentencing judge. The judgment and sentence document as defined in  
27   this section shall also provide additional space for the sentencing  
28   judge's reasons for going either above or below the presumptive  
29   sentence range for any and all felony crimes covered as public records  
30   under RCW 9.94A.475. Both the sentencing judge and the prosecuting  
31   attorney's office shall each retain or receive a completed copy of each  
32   sentencing document as defined in this section for their own records.

33       (2) The ((~~sentencing guidelines commission~~)) department shall be  
34   sent a completed copy of the judgment and sentence document upon  
35   conviction for each felony sentencing under subsection (1) of this  
36   section ((~~and shall compile a yearly and cumulative judicial record of~~

1 each sentencing judge in regards to his or her sentencing practices for  
2 any and all felony crimes involving:

3 (a) Any violent offense as defined in this chapter;

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

5 (c) Any felony with any deadly weapon special verdict under RCW  
6 9.94A.602;

7 (d) Any felony with any deadly weapon enhancements under RCW  
8 9.94A.533 (3) or (4), or both; and/or

9 (e) The felony crimes of possession of a machine gun, possessing a  
10 stolen firearm, drive by shooting, theft of a firearm, unlawful  
11 possession of a firearm in the first or second degree, and/or use of a  
12 machine gun in a felony.

13 (3) The sentencing guidelines commission shall compare each  
14 individual judge's sentencing practices to the standard or presumptive  
15 sentence range for any and all felony crimes listed in subsection (2)  
16 of this section for the appropriate offense level as defined in RCW  
17 9.94A.515 or 9.94A.518, offender score as defined in RCW 9.94A.525, and  
18 any applicable deadly weapon enhancements as defined in RCW 9.94A.533  
19 (3) or (4), or both. These comparative records shall be retained and  
20 made available to the public for review in a current, newly created or  
21 reworked official published document by the sentencing guidelines  
22 commission.

23 (4) Any and all felony sentences which are either above or below  
24 the standard or presumptive sentence range in subsection (3) of this  
25 section shall also mark whether the prosecuting attorney in the case  
26 also recommended a similar sentence, if any, which was either above or  
27 below the presumptive sentence range and shall also indicate if the  
28 sentence was in conjunction with an approved alternative sentencing  
29 option including a first-time offender waiver, sex offender sentencing  
30 alternative, or other prescribed sentencing option.

31 (5)) ).

32 (3) If any completed judgment and sentence document as defined in  
33 subsection (1) of this section is not sent to the ((sentencing  
34 guidelines commission)) department as required in subsection (2) of  
35 this section, the ((sentencing guidelines commission)) department shall  
36 have the authority and shall undertake reasonable and necessary steps  
37 to assure that all past, current, and future sentencing documents as

defined in subsection (1) of this section are received by the  
~~((sentencing guidelines commission))~~ department.

**NEW SECTION.** **Sec. 28.** A new section is added to chapter 9.94A RCW to read as follows:

(1) The department shall (a) serve as the clearinghouse and information center for the collection, preparation, analysis, and dissemination of information on state and local adult and juvenile sentencing practices; and (b) develop and maintain a computerized adult and juvenile sentencing information system consisting of offender, offense, history, and sentence information entered from judgment and sentence forms for all adult felons.

(2) As part of its duties in serving as the information center for adult and juvenile sentencing, the department shall:

(a) On an annual basis, publish a statistical summary of adult felony sentencing and juvenile dispositions; and

(b) Publish and maintain an adult felony sentencing manual.

(3) The adult felony sentencing manual is intended only as a guide to assist practitioners in determining appropriate sentencing ranges. The manual is not a substitute for the actual statutes, which list the sentencing ranges, or for any other information contained within this chapter. The department is not liable for errors or omissions in the manual, or for sentences that may be inappropriately calculated as a result of a practitioner's or court's reliance on the manual.

(4) In publishing materials required by this section, the department shall make the materials available on its web site. The department may charge a reasonable cost for producing and distributing hard copies of any materials.

**NEW SECTION.** **Sec. 29.** A new section is added to chapter 9.94A RCW to read as follows:

The department shall appoint a research staff of sufficient size and with sufficient resources to accomplish its duties. The department may request from the administrative office of the courts and the department of social and health services such data, information, and data processing assistance as it may need to accomplish its duties, and such services shall be provided without cost to the department.

1       **Sec. 30.** RCW 13.50.010 and 2010 c 150 s 3 are each amended to read  
2 as follows:

3       (1) For purposes of this chapter:

4       (a) "Juvenile justice or care agency" means any of the following:  
5 Police, diversion units, court, prosecuting attorney, defense attorney,  
6 detention center, attorney general, the legislative children's  
7 oversight committee, the office of the family and children's ombudsman,  
8 the department of social and health services and its contracting  
9 agencies, schools; persons or public or private agencies having  
10 children committed to their custody; and any placement oversight  
11 committee created under RCW 72.05.415;

12       (b) "Official juvenile court file" means the legal file of the  
13 juvenile court containing the petition or information, motions,  
14 memorandums, briefs, findings of the court, and court orders;

15       (c) "Records" means the official juvenile court file, the social  
16 file, and records of any other juvenile justice or care agency in the  
17 case;

18       (d) "Social file" means the juvenile court file containing the  
19 records and reports of the probation counselor.

20       (2) Each petition or information filed with the court may include  
21 only one juvenile and each petition or information shall be filed under  
22 a separate docket number. The social file shall be filed separately  
23 from the official juvenile court file.

24       (3) It is the duty of any juvenile justice or care agency to  
25 maintain accurate records. To this end:

26       (a) The agency may never knowingly record inaccurate information.  
27 Any information in records maintained by the department of social and  
28 health services relating to a petition filed pursuant to chapter 13.34  
29 RCW that is found by the court to be false or inaccurate shall be  
30 corrected or expunged from such records by the agency;

31       (b) An agency shall take reasonable steps to assure the security of  
32 its records and prevent tampering with them; and

33       (c) An agency shall make reasonable efforts to insure the  
34 completeness of its records, including action taken by other agencies  
35 with respect to matters in its files.

36       (4) Each juvenile justice or care agency shall implement procedures  
37 consistent with the provisions of this chapter to facilitate inquiries  
38 concerning records.

1 (5) Any person who has reasonable cause to believe information  
2 concerning that person is included in the records of a juvenile justice  
3 or care agency and who has been denied access to those records by the  
4 agency may make a motion to the court for an order authorizing that  
5 person to inspect the juvenile justice or care agency record concerning  
6 that person. The court shall grant the motion to examine records  
7 unless it finds that in the interests of justice or in the best  
8 interests of the juvenile the records or parts of them should remain  
9 confidential.

10 (6) A juvenile, or his or her parents, or any person who has  
11 reasonable cause to believe information concerning that person is  
12 included in the records of a juvenile justice or care agency may make  
13 a motion to the court challenging the accuracy of any information  
14 concerning the moving party in the record or challenging the continued  
15 possession of the record by the agency. If the court grants the  
16 motion, it shall order the record or information to be corrected or  
17 destroyed.

18 (7) The person making a motion under subsection (5) or (6) of this  
19 section shall give reasonable notice of the motion to all parties to  
20 the original action and to any agency whose records will be affected by  
21 the motion.

22 (8) The court may permit inspection of records by, or release of  
23 information to, any clinic, hospital, or agency which has the subject  
24 person under care or treatment. The court may also permit inspection  
25 by or release to individuals or agencies, including juvenile justice  
26 advisory committees of county law and justice councils, engaged in  
27 legitimate research for educational, scientific, or public purposes.  
28 The court shall release to the ((~~sentencing guidelines commission~~))  
29 department of corrections records needed for its research and data-  
30 gathering functions ((~~under RCW 9.94A.850 and other statutes~~)). Access  
31 to records or information for research purposes shall be permitted only  
32 if the anonymity of all persons mentioned in the records or information  
33 will be preserved. Each person granted permission to inspect juvenile  
34 justice or care agency records for research purposes shall present a  
35 notarized statement to the court stating that the names of juveniles  
36 and parents will remain confidential.

37 (9) Juvenile detention facilities shall release records to the  
38 ((~~sentencing guidelines commission under RCW 9.94A.850~~)) department of



1 corrections upon request. The commission shall not disclose the names  
2 of any juveniles or parents mentioned in the records without the named  
3 individual's written permission.

4 (10) Requirements in this chapter relating to the court's authority  
5 to compel disclosure shall not apply to the legislative children's  
6 oversight committee or the office of the family and children's  
7 ombudsman.

8 (11) For the purpose of research only, the administrative office of  
9 the courts shall maintain an electronic research copy of all records in  
10 the judicial information system related to juveniles. Access to the  
11 research copy is restricted to the Washington state center for court  
12 research. The Washington state center for court research shall  
13 maintain the confidentiality of all confidential records and shall  
14 preserve the anonymity of all persons identified in the research copy.  
15 The research copy may not be subject to any records retention schedule  
16 and must include records destroyed or removed from the judicial  
17 information system pursuant to RCW 13.50.050 (17) and (18) and  
18 13.50.100(3).

19 (12) The court shall release to the Washington state office of  
20 public defense records needed to implement the agency's oversight,  
21 technical assistance, and other functions as required by RCW 2.70.020.  
22 Access to the records used as a basis for oversight, technical  
23 assistance, or other agency functions is restricted to the Washington  
24 state office of public defense. The Washington state office of public  
25 defense shall maintain the confidentiality of all confidential  
26 information included in the records.

27 **Sec. 31.** RCW 9.94A.74501 and 2001 c 35 s 3 are each amended to  
28 read as follows:

29 (1) The ~~((sentencing guidelines commission))~~ department of  
30 corrections shall serve as the state council for interstate adult  
31 offender supervision as required under article IV of RCW 9.94A.745, the  
32 interstate compact for adult offender supervision. ~~((To assist the~~  
33 ~~commission in performing its functions as the state council,))~~ The  
34 department of corrections shall provide staffing and support services.  
35 The ~~((commission))~~ department of corrections may form a subcommittee,  
36 including members representing the legislative, judicial, and executive  
37 branches of state government, and victims' groups~~((, and the secretary~~

1 ~~of corrections,))~~ to perform the functions of the state council. Any  
2 such subcommittee shall include representation of both houses and at  
3 least two of the four largest political caucuses in the legislature.

4 (2) The ~~((commission,))~~ department or a subcommittee if formed for  
5 that purpose, shall:

6 (a) Review department operations and procedures under RCW  
7 9.94A.745, and recommend policies to the compact administrator,  
8 including policies to be pursued in the administrator's capacity as the  
9 state's representative on the interstate commission created under  
10 article III of RCW 9.94A.745;

11 (b) Report annually to the legislature on interstate supervision  
12 operations and procedures under RCW 9.94A.745, including  
13 recommendations for policy changes; and

14 (c) Not later than December 1, 2004, report to the legislature on  
15 the effectiveness of its functioning as the state council under article  
16 IV of RCW 9.94A.745, and recommend any legislation it deems  
17 appropriate.

18 (3) The ~~((commission, or a subcommittee if formed for that  
19 purpose,))~~ secretary shall appoint ~~((one of its members, or))~~ an  
20 employee of the department ~~((designated by the secretary)), or a~~  
21 subcommittee if formed for that purpose shall appoint one of its  
22 members, to represent the state at meetings of the interstate  
23 commission created under article III of RCW 9.94A.745 when the compact  
24 administrator cannot attend.

25 **Sec. 32.** RCW 10.98.140 and 1987 c 462 s 4 are each amended to read  
26 as follows:

27 (1) The section, the department, and the office of financial  
28 management shall be the primary sources of information for criminal  
29 justice forecasting. The information maintained by these agencies  
30 shall be complete, accurate, and sufficiently timely to support state  
31 criminal justice forecasting.

32 (2) The office of financial management shall be the official state  
33 agency for the sentenced felon jail forecast. This forecast shall  
34 provide at least a six-year projection and shall be published by  
35 December 1 of every even-numbered year beginning with 1986. The office  
36 of financial management shall seek advice regarding the assumptions in  
37 the forecast from criminal justice agencies and associations.

1       (3) The (~~sentencing guidelines commission~~) department of  
2 corrections shall keep records on all sentencings above or below the  
3 standard range defined by chapter 9.94A RCW. As a minimum, the records  
4 shall include the name of the offender, the crimes for which the  
5 offender was sentenced, the name and county of the sentencing judge,  
6 and the deviation from the standard range. Such records shall be made  
7 available to public officials upon request.

8       **Sec. 33.** RCW 10.98.160 and 2005 c 282 s 25 are each amended to  
9 read as follows:

10       In the development and modification of the procedures, definitions,  
11 and reporting capabilities of the section, the department, the office  
12 of financial management, and the responsible agencies and persons shall  
13 consider the needs of other criminal justice agencies such as the  
14 administrative office of the courts, local law enforcement agencies,  
15 local jails, (~~the sentencing guidelines commission,~~) the  
16 indeterminate sentence review board, the clemency board, prosecuting  
17 attorneys, and affected state agencies such as the office of financial  
18 management and legislative committees dealing with criminal justice  
19 issues. The Washington integrated justice information board shall  
20 review and provide recommendations to state justice agencies and the  
21 courts for development and modification of the statewide justice  
22 information network.

23       **Sec. 34.** RCW 70.96A.350 and 2009 c 479 s 50 and 2009 c 445 s 1 are  
24 each reenacted and amended to read as follows:

25       (1) The criminal justice treatment account is created in the state  
26 treasury. Moneys in the account may be expended solely for: (a)  
27 Substance abuse treatment and treatment support services for offenders  
28 with an addiction or a substance abuse problem that, if not treated,  
29 would result in addiction, against whom charges are filed by a  
30 prosecuting attorney in Washington state; (b) the provision of drug and  
31 alcohol treatment services and treatment support services for  
32 nonviolent offenders within a drug court program; (c) the  
33 administrative and overhead costs associated with the operation of a  
34 drug court; and (d) during the 2007-2009 biennium, operation of the  
35 integrated crisis response and intensive case management pilots

1 contracted with the department of social and health services division  
2 of alcohol and substance abuse. Moneys in the account may be spent  
3 only after appropriation.

4 (2) For purposes of this section:

5 (a) "Treatment" means services that are critical to a participant's  
6 successful completion of his or her substance abuse treatment program,  
7 but does not include the following services: Housing other than that  
8 provided as part of an inpatient substance abuse treatment program,  
9 vocational training, and mental health counseling; and

10 (b) "Treatment support" means transportation to or from inpatient  
11 or outpatient treatment services when no viable alternative exists, and  
12 child care services that are necessary to ensure a participant's  
13 ability to attend outpatient treatment sessions.

14 (3) Revenues to the criminal justice treatment account consist of:

15 (a) Funds transferred to the account pursuant to this section; and (b)  
16 any other revenues appropriated to or deposited in the account.

17 (4)(a) For the fiscal biennium beginning July 1, 2003, the state  
18 treasurer shall transfer eight million nine hundred fifty thousand  
19 dollars from the general fund into the criminal justice treatment  
20 account, divided into eight equal quarterly payments. For the fiscal  
21 year beginning July 1, 2005, and each subsequent fiscal year, the state  
22 treasurer shall transfer eight million two hundred fifty thousand  
23 dollars from the general fund to the criminal justice treatment  
24 account, divided into four equal quarterly payments. For the fiscal  
25 year beginning July 1, 2006, and each subsequent fiscal year, the  
26 amount transferred shall be increased on an annual basis by the  
27 implicit price deflator as published by the federal bureau of labor  
28 statistics.

29 (b) In each odd-numbered year, the legislature shall appropriate  
30 the amount transferred to the criminal justice treatment account in (a)  
31 of this subsection to the division of alcohol and substance abuse for  
32 the purposes of subsection (5) of this section.

33 (5) Moneys appropriated to the division of alcohol and substance  
34 abuse from the criminal justice treatment account shall be distributed  
35 as specified in this subsection. The department shall serve as the  
36 fiscal agent for purposes of distribution. Until July 1, 2004, the  
37 department may not use moneys appropriated from the criminal justice  
38 treatment account for administrative expenses and shall distribute all

1 amounts appropriated under subsection (4)(b) of this section in  
2 accordance with this subsection. Beginning in July 1, 2004, the  
3 department may retain up to three percent of the amount appropriated  
4 under subsection (4)(b) of this section for its administrative costs.

5 (a) Seventy percent of amounts appropriated to the division from  
6 the account shall be distributed to counties pursuant to the  
7 distribution formula adopted under this section. The division of  
8 alcohol and substance abuse, in consultation with the department of  
9 corrections, (~~the sentencing guidelines commission,~~) the Washington  
10 state association of counties, the Washington state association of drug  
11 court professionals, the superior court judges' association, the  
12 Washington association of prosecuting attorneys, representatives of the  
13 criminal defense bar, representatives of substance abuse treatment  
14 providers, and any other person deemed by the division to be necessary,  
15 shall establish a fair and reasonable methodology for distribution to  
16 counties of moneys in the criminal justice treatment account. County  
17 or regional plans submitted for the expenditure of formula funds must  
18 be approved by the panel established in (b) of this subsection.

19 (b) Thirty percent of the amounts appropriated to the division from  
20 the account shall be distributed as grants for purposes of treating  
21 offenders against whom charges are filed by a county prosecuting  
22 attorney. The division shall appoint a panel of representatives from  
23 the Washington association of prosecuting attorneys, the Washington  
24 association of sheriffs and police chiefs, the superior court judges'  
25 association, the Washington state association of counties, the  
26 Washington defender's association or the Washington association of  
27 criminal defense lawyers, the department of corrections, the Washington  
28 state association of drug court professionals, substance abuse  
29 treatment providers, and the division. The panel shall review county  
30 or regional plans for funding under (a) of this subsection and grants  
31 approved under this subsection. The panel shall attempt to ensure that  
32 treatment as funded by the grants is available to offenders statewide.

33 (6) The county alcohol and drug coordinator, county prosecutor,  
34 county sheriff, county superior court, a substance abuse treatment  
35 provider appointed by the county legislative authority, a member of the  
36 criminal defense bar appointed by the county legislative authority,  
37 and, in counties with a drug court, a representative of the drug court  
38 shall jointly submit a plan, approved by the county legislative

1 authority or authorities, to the panel established in subsection (5)(b)  
2 of this section, for disposition of all the funds provided from the  
3 criminal justice treatment account within that county. The funds shall  
4 be used solely to provide approved alcohol and substance abuse  
5 treatment pursuant to RCW 70.96A.090, treatment support services, and  
6 for the administrative and overhead costs associated with the operation  
7 of a drug court.

8 (a) No more than ten percent of the total moneys received under  
9 subsections (4) and (5) of this section by a county or group of  
10 counties participating in a regional agreement shall be spent on the  
11 administrative and overhead costs associated with the operation of a  
12 drug court.

13 (b) No more than ten percent of the total moneys received under  
14 subsections (4) and (5) of this section by a county or group of  
15 counties participating in a regional agreement shall be spent for  
16 treatment support services.

17 (7) Counties are encouraged to consider regional agreements and  
18 submit regional plans for the efficient delivery of treatment under  
19 this section.

20 (8) Moneys allocated under this section shall be used to  
21 supplement, not supplant, other federal, state, and local funds used  
22 for substance abuse treatment.

23 (9) Counties must meet the criteria established in RCW  
24 2.28.170(3)(b).

25 (10) The authority under this section to use funds from the  
26 criminal justice treatment account for the administrative and overhead  
27 costs associated with the operation of a drug court expires June 30,  
28 2013.

29 **Sec. 35.** RCW 72.66.016 and 1983 c 255 s 8 are each amended to read  
30 as follows:

31 (1) A furlough shall not be granted to a resident if the furlough  
32 would commence prior to the time the resident has served the minimum  
33 amounts of time provided under this section:

34 (a) If his or her minimum term of imprisonment is longer than  
35 twelve months, he or she shall have served at least six months of the  
36 term;

1 (b) If his or her minimum term of imprisonment is less than twelve  
2 months, he or she shall have served at least ninety days and shall have  
3 no longer than six months left to serve on his or her minimum term;

4 (c) If he or she is serving a mandatory minimum term of  
5 confinement, he or she shall have served all but the last six months of  
6 such term.

7 (2) A person convicted and sentenced for a violent offense as  
8 defined in RCW 9.94A.030 is not eligible for furlough until the person  
9 has served at least one-half of the minimum term (~~(as established by~~  
10 ~~the board of prison terms and paroles or the sentencing guidelines~~  
11 ~~commission))~~).

12 **Sec. 36.** RCW 9.94A.860 and 2001 2nd sp.s. c 12 s 311 are each  
13 amended to read as follows:

14 (1) The sentencing guidelines commission is hereby created as  
15 provided in this section. Except as provided in RCW 9.94A.875, the  
16 commission is advisory only and may only advise the governor and the  
17 legislature as deemed necessary by the governor and the legislature.

18 (2) The commission consists of twenty voting members, one of whom  
19 the governor shall designate as chairperson. With the exception of ex  
20 officio voting members, the voting members of the commission shall be  
21 appointed by the governor, or his or her designee, subject to  
22 confirmation by the senate.

23 ((+2+)) (3) The voting membership consists of the following:

24 (a) The head of the state agency having general responsibility for  
25 adult correction programs, as an ex officio member;

26 (b) The director of financial management or designee, as an ex  
27 officio member;

28 (c) The chair of the indeterminate sentence review board, as an ex  
29 officio member;

30 (d) The head of the state agency, or the agency head's designee,  
31 having responsibility for juvenile corrections programs, as an ex  
32 officio member;

33 (e) Two prosecuting attorneys;

34 (f) Two attorneys with particular expertise in defense work;

35 (g) Four persons who are superior court judges;

36 (h) One person who is the chief law enforcement officer of a county  
37 or city;

1 (i) Four members of the public who are not prosecutors, defense  
2 attorneys, judges, or law enforcement officers, one of whom is a victim  
3 of crime or a crime victims' advocate;

4 (j) One person who is an elected official of a county government,  
5 other than a prosecuting attorney or sheriff;

6 (k) One person who is an elected official of a city government;

7 (l) One person who is an administrator of juvenile court services.

8 In making the appointments, the governor shall endeavor to assure  
9 that the commission membership includes adequate representation and  
10 expertise relating to both the adult criminal justice system and the  
11 juvenile justice system. In making the appointments, the governor  
12 shall seek the recommendations of Washington prosecutors in respect to  
13 the prosecuting attorney members, of the Washington state bar  
14 association in respect to the defense attorney members, of the  
15 association of superior court judges in respect to the members who are  
16 judges, of the Washington association of sheriffs and police chiefs in  
17 respect to the member who is a law enforcement officer, of the  
18 Washington state association of counties in respect to the member who  
19 is a county official, of the association of Washington cities in  
20 respect to the member who is a city official, of the office of crime  
21 victims advocacy and other organizations of crime victims in respect to  
22 the member who is a victim of crime or a crime victims' advocate, and  
23 of the Washington association of juvenile court administrators in  
24 respect to the member who is an administrator of juvenile court  
25 services.

26 ~~((+3+))~~ (4)(a) All voting members of the commission, except ex  
27 officio voting members, shall serve terms of three years and until  
28 their successors are appointed and confirmed.

29 (b) The governor shall stagger the terms of the members appointed  
30 under subsection ~~((+2+))~~ (3)(j), (k), and (l) of this section by  
31 appointing one of them for a term of one year, one for a term of two  
32 years, and one for a term of three years.

33 ~~((+4+))~~ (5) The speaker of the house of representatives and the  
34 president of the senate may each appoint two nonvoting members to the  
35 commission, one from each of the two largest caucuses in each house.  
36 The members so appointed shall serve two-year terms, or until they  
37 cease to be members of the house from which they were appointed,  
38 whichever occurs first.



1        ~~((+5))~~ (6) The members of the commission ~~((shall))~~ may not be  
2 reimbursed for travel expenses ~~((as provided in RCW 43.03.050 and~~  
3 ~~43.03.060))~~. Legislative members ~~((shall))~~ may not be reimbursed by  
4 their respective houses ~~((as provided under RCW 44.04.120))~~. Members  
5 ~~((shall be))~~ are not compensated ~~((in accordance with RCW 43.03.250))~~.

6        (7) The commission may meet if a meeting is called by the governor  
7 and the legislature and only for such purposes as determined by the  
8 governor and the legislature.

9        **Sec. 37.** RCW 9.94A.8673 and 2008 c 249 s 3 are each amended to  
10 read as follows:

11        (1) At such times as the governor or the legislature may request  
12 and within amounts appropriated, the governor may convene a sex  
13 offender policy board established within the office of financial  
14 management to:

15        (a) Undertake projects to assist policymakers in making informed  
16 judgments about issues relating to sex offender policy; and

17        (b) Conduct case reviews of sex offense incidents to understand  
18 performance of Washington's sex offender prevention and response  
19 systems.

20        (2) The sex offender policy board shall consist of thirteen voting  
21 members~~((Unless the member is specifically named in this section,~~  
22 ~~the following organizations shall designate a person to sit on the~~  
23 ~~board.))~~ appointed by the governor, one of whom the governor shall  
24 designate as chair. The voting membership shall consist of the  
25 following:

26        (a) A representative of the Washington association of sheriffs and  
27 police chiefs;

28        (b) A representative of the Washington association of prosecuting  
29 attorneys;

30        (c) A representative of the Washington association of criminal  
31 defense lawyers;

32        (d) The chair of the indeterminate sentence review board or his or  
33 her designee;

34        (e) A representative of the Washington association for the  
35 treatment of sex abusers;

36        (f) The secretary of the department of corrections or his or her  
37 designee;

(g) A representative of the Washington state superior court judge's association;

(h) The assistant secretary of the juvenile rehabilitation administration or his or her designee;

(i) The office of crime victims advocacy in the department of ~~((community, trade, and economic development))~~ commerce;

(j) A representative of the Washington state association of counties;

(k) A representative of the association of Washington cities;

(l) A representative of the Washington association of sexual assault programs; and

(m) The director of the special commitment center or his or her designee.

~~(2) ((The person so named in subsection (1) of this section has the authority to make decisions on behalf of the organization he or she represents.~~

~~(3) The nonvoting membership shall consist of the following:~~

~~(a) Two members of the sentencing guidelines commission chosen by the chair of the commission; and~~

~~(b) A representative of the criminal justice division in the attorney general's office.~~

~~(4) The board shall choose its chair by majority vote from among its voting membership. The chair's term shall be two years.~~

~~(5) The chair of the sentencing guidelines commission shall convene the first meeting.~~

~~(6))~~ As appropriate, the board shall consult with the criminal justice division in the attorney general's office and the Washington institute for public policy ((shall act as an advisor to the board)).

(3) Members of the board shall receive no compensation but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

**Sec. 38.** RCW 9A.52.025 and 1989 2nd ex.s. c 1 s 1 are each amended to read as follows:

(1) A person is guilty of residential burglary if, with intent to commit a crime against a person or property therein, the person enters or remains unlawfully in a dwelling other than a vehicle.

1       (2) Residential burglary is a class B felony. In establishing  
2 sentencing guidelines and disposition standards, (~~the sentencing~~  
3 ~~guidelines commission and the juvenile disposition standards commission~~  
4 ~~shall consider~~) residential burglary (~~as~~) is to be considered a more  
5 serious offense than second degree burglary.

6       NEW SECTION.   **Sec. 39.** The following acts or parts of acts are  
7 each repealed:

8       (1) RCW 13.40.005 (Juvenile disposition standards commission--  
9 Abolished--References to commission--Transfer of powers, duties, and  
10 functions) and 1995 c 269 s 301;

11       (2) RCW 9.94A.850 (Sentencing guidelines commission--Established--  
12 Powers and duties) and 2009 c 375 s 8, 2009 c 28 s 17, & 2005 c 282 s  
13 19;

14       (3) RCW 9.94A.855 (Sentencing guidelines commission--Research  
15 staff--Data, information, assistance--Bylaws--Salary of executive  
16 officer) and 2005 c 282 s 20, 1999 c 143 s 10, 1982 c 192 s 3, & 1981  
17 c 137 s 5;

18       (4) RCW 9.94A.863 (Monetary threshold amounts of property crimes--  
19 Review--Report) and 2009 c 431 s 2;

20       (5) RCW 9.94A.8671 (Sex offender policy board--Findings--Intent)  
21 and 2008 c 249 s 1;

22       (6) RCW 9.94A.8672 (Sex offender policy board--Establishment) and  
23 2008 c 249 s 2;

24       (7) RCW 9.94A.8674 (Sex offender policy board--Terms--Vacancies)  
25 and 2008 c 249 s 4;

26       (8) RCW 9.94A.8675 (Sex offender policy board--Authority) and 2008  
27 c 249 s 5;

28       (9) RCW 9.94A.8676 (Sex offender policy board--Duties) and 2008 c  
29 249 s 6;

30       (10) RCW 9.94A.8677 (Sex offender policy board--Travel expenses)  
31 and 2008 c 249 s 7;

32       (11) RCW 9.94A.8678 (Sex offender policy board--Meeting  
33 attendance--Member replacement) and 2008 c 249 s 8;

34       (12) RCW 43.131.411 (Sex offender policy board--Termination) and  
35 2008 c 249 s 9; and

36       (13) RCW 43.131.412 (Sex offender policy board--Repeal) and 2008 c  
37 249 s 10.

**PART V**  
**Miscellaneous**

NEW SECTION.   **Sec. 40.**   (1) Except as otherwise provided in this section, the provisions of this act apply to persons convicted before, on, or after the effective date of this section.

      (2) By January 1, 2012, consistent with RCW 9.94A.501 and section 3 of this act, the department of corrections shall recalculate the term of community custody for offenders currently in confinement or serving a term of community custody. The department of corrections shall reset the date that community custody will end for those offenders. The recalculation shall not extend a term of community custody beyond that to which an offender is currently subject.

      (3) By January 1, 2012, the department of corrections shall implement the provisions of RCW 9.94A.729.

      (4) By January 1, 2012, consistent with the provisions of RCW 9.94A.650, the department of corrections shall recalculate the term of community custody for each offender sentenced to a first-time offender waiver under RCW 9.94A.650 and currently in confinement or serving a term of community custody. The department of corrections shall reset the date that community custody will end for those offenders. The recalculation shall not extend a term of community custody beyond that to which an offender is currently subject.

NEW SECTION.   **Sec. 41.**   Sections 1 through 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION.   **Sec. 42.**   Sections 10 through 40 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2011.

--- END ---