
SENATE BILL 6276

State of Washington

54th Legislature

1996 Regular Session

By Senators Long, Smith, Roach, Haugen, Johnson, Quigley, Wood, Hargrove, Schow, Oke, A. Anderson, Rasmussen and McAuliffe

Read first time 01/10/96. Referred to Committee on Law & Justice.

1 AN ACT Relating to enhanced sentencing and supervision of sex
2 offenders; amending RCW 9.94A.120, 72.04A.070, 72.04A.080, 9A.20.021,
3 9A.44.060, 9A.44.079, 9A.44.086, 9A.44.089, 9A.44.100, 9A.64.020,
4 9.94.070, 9.94A.230, 9.94A.310, 9.94A.386, 9A.20.010, 9A.28.020,
5 9A.28.040, 9A.76.080, 9A.76.170, 13.40.0357, and 13.40.070; reenacting
6 and amending RCW 9.41.010, 9.94A.030, 9.94A.320, 9A.44.140, and
7 13.04.030; adding new sections to chapter 9.94A RCW; creating a new
8 section; prescribing penalties; and providing an effective date.

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

10 NEW SECTION. **Sec. 1.** Since passage of the sentencing reform act
11 of 1981, the legislature has recognized that certain offenders should
12 be subject to supervision after release from prison. Also, one of the
13 criticisms of the determinate sentencing system is that it releases
14 offenders at the end of their sentence even if they continue to pose a
15 substantial threat to public safety. In regard to sex offenders, more
16 information may be known about the offender at the time of release from
17 prison than was known by the judge at the time of sentencing. The
18 legislature finds that in order to further enhance public safety and
19 reduce recidivism by sex offenders, the sentencing reform act should be

1 revised to require consideration of the future dangerousness of sex
2 offenders before their release from prison. Also, the authority to
3 impose, monitor, and enforce conditions on the release of a sex
4 offender should be enhanced.

5 **Sec. 2.** RCW 9.94A.120 and 1995 c 108 s 3 are each amended to read
6 as follows:

7 When a person is convicted of a felony, the court shall impose
8 punishment as provided in this section.

9 (1) Except as authorized in subsections (2), (4), (5), (6), and (8)
10 of this section, the court shall impose a sentence within the sentence
11 range for the offense.

12 (2) The court may impose a sentence outside the standard sentence
13 range for that offense if it finds, considering the purpose of this
14 chapter, that there are substantial and compelling reasons justifying
15 an exceptional sentence.

16 (3) Whenever a sentence outside the standard range is imposed, the
17 court shall set forth the reasons for its decision in written findings
18 of fact and conclusions of law. A sentence outside the standard range
19 shall be a determinate sentence.

20 (4) A persistent offender shall be sentenced to a term of total
21 confinement for life without the possibility of parole or, when
22 authorized by RCW 10.95.030 for the crime of aggravated murder in the
23 first degree, sentenced to death, notwithstanding the maximum sentence
24 under any other law. An offender convicted of the crime of murder in
25 the first degree shall be sentenced to a term of total confinement not
26 less than twenty years. An offender convicted of the crime of assault
27 in the first degree or assault of a child in the first degree where the
28 offender used force or means likely to result in death or intended to
29 kill the victim shall be sentenced to a term of total confinement not
30 less than five years. An offender convicted of the crime of rape in
31 the first degree shall be sentenced to a term of total confinement not
32 less than five years. The foregoing minimum terms of total confinement
33 are mandatory and shall not be varied or modified as provided in
34 subsection (2) of this section. In addition, all offenders subject to
35 the provisions of this subsection shall not be eligible for community
36 custody, earned early release time, furlough, home detention, partial
37 confinement, work crew, work release, or any other form of early
38 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),

1 or any other form of authorized leave of absence from the correctional
2 facility while not in the direct custody of a corrections officer or
3 officers during such minimum terms of total confinement except in the
4 case of an offender in need of emergency medical treatment or for the
5 purpose of commitment to an inpatient treatment facility in the case of
6 an offender convicted of the crime of rape in the first degree.

7 (5) In sentencing a first-time offender the court may waive the
8 imposition of a sentence within the sentence range and impose a
9 sentence which may include up to ninety days of confinement in a
10 facility operated or utilized under contract by the county and a
11 requirement that the offender refrain from committing new offenses.
12 The sentence may also include up to two years of community supervision,
13 which, in addition to crime-related prohibitions, may include
14 requirements that the offender perform any one or more of the
15 following:

16 (a) Devote time to a specific employment or occupation;

17 (b) Undergo available outpatient treatment for up to two years, or
18 inpatient treatment not to exceed the standard range of confinement for
19 that offense;

20 (c) Pursue a prescribed, secular course of study or vocational
21 training;

22 (d) Remain within prescribed geographical boundaries and notify the
23 court or the community corrections officer prior to any change in the
24 offender's address or employment;

25 (e) Report as directed to the court and a community corrections
26 officer; or

27 (f) Pay all court-ordered legal financial obligations as provided
28 in RCW 9.94A.030 and/or perform community service work.

29 (6)(a) An offender is eligible for the special drug offender
30 sentencing alternative if:

31 (i) The offender is convicted of the manufacture, delivery, or
32 possession with intent to manufacture or deliver a controlled substance
33 classified in Schedule I or II that is a narcotic drug or a felony that
34 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
35 criminal solicitation, or criminal conspiracy to commit such crimes,
36 and the violation does not involve a sentence enhancement under RCW
37 9.94A.310(~~((+3+))~~) (4);

38 (ii) The offender has no prior convictions for a felony in this
39 state, another state, or the United States; and

1 (iii) The offense involved only a small quantity of the particular
2 controlled substance as determined by the judge upon consideration of
3 such factors as the weight, purity, packaging, sale price, and street
4 value of the controlled substance.

5 (b) If the midpoint of the standard range is greater than one year
6 and the sentencing judge determines that the offender is eligible for
7 this option and that the offender and the community will benefit from
8 the use of the special drug offender sentencing alternative, the judge
9 may waive imposition of a sentence within the standard range and impose
10 a sentence that must include a period of total confinement in a state
11 facility for one-half of the midpoint of the standard range. During
12 incarceration in the state facility, offenders sentenced under this
13 subsection shall undergo a comprehensive substance abuse assessment and
14 receive, within available resources, treatment services appropriate for
15 the offender. The treatment services shall be designed by the division
16 of alcohol and substance abuse of the department of social and health
17 services, in cooperation with the department of corrections. If the
18 midpoint of the standard range is twenty-four months or less, no more
19 than three months of the sentence may be served in a work release
20 status. The court shall also impose one year of concurrent community
21 custody and community supervision that must include appropriate
22 outpatient substance abuse treatment, crime-related prohibitions
23 including a condition not to use illegal controlled substances, and a
24 requirement to submit to urinalysis or other testing to monitor that
25 status. The court may require that the monitoring for controlled
26 substances be conducted by the department or by a treatment alternative
27 to ~~((a))~~ a street crime program or a comparable court or agency-
28 referred program. The offender may be required to pay thirty dollars
29 per month while on community custody to offset the cost of monitoring.
30 In addition, the court shall impose three or more of the following
31 conditions:

- 32 (i) Devote time to a specific employment or training;
- 33 (ii) Remain within prescribed geographical boundaries and notify
34 the court or the community corrections officer before any change in the
35 offender's address or employment;
- 36 (iii) Report as directed to a community corrections officer;
- 37 (iv) Pay all court-ordered legal financial obligations;
- 38 (v) Perform community service work;
- 39 (vi) Stay out of areas designated by the sentencing judge.

1 (c) If the offender violates any of the sentence conditions in (b)
2 of this subsection, the department shall impose sanctions
3 administratively, with notice to the prosecuting attorney and the
4 sentencing court. Upon motion of the court or the prosecuting
5 attorney, a violation hearing shall be held by the court. If the court
6 finds that conditions have been willfully violated, the court may
7 impose confinement consisting of up to the remaining one-half of the
8 midpoint of the standard range. All total confinement served during
9 the period of community custody shall be credited to the offender,
10 regardless of whether the total confinement is served as a result of
11 the original sentence, as a result of a sanction imposed by the
12 department, or as a result of a violation found by the court. The term
13 of community supervision shall be tolled by any period of time served
14 in total confinement as a result of a violation found by the court.

15 (d) The department shall determine the rules for calculating the
16 value of a day fine based on the offender's income and reasonable
17 obligations which the offender has for the support of the offender and
18 any dependents. These rules shall be developed in consultation with
19 the administrator for the courts, the office of financial management,
20 and the commission.

21 (7) If a sentence range has not been established for the
22 defendant's crime, the court shall impose a determinate sentence which
23 may include not more than one year of confinement, community service
24 work, a term of community supervision not to exceed one year, and/or
25 other legal financial obligations. The court may impose a sentence
26 which provides more than one year of confinement if the court finds,
27 considering the purpose of this chapter, that there are substantial and
28 compelling reasons justifying an exceptional sentence.

29 (8)(a)(i) When an offender is convicted of any felony sex offense
30 committed on or after July 1, 1996, the court shall impose a sentence
31 that consists of a maximum term which shall be the maximum sentence
32 provided by RCW 9A.20.021 for the offense, and a minimum term of
33 confinement which shall be within the standard range for the offense,
34 except that the minimum term may be outside the standard sentence range
35 if the court finds justification to impose an exceptional sentence as
36 provided in RCW 9.94A.120(2). The court shall place the offender on
37 community supervision for the length of the maximum sentence.

38 (ii) Except for offenders sentenced under the special sex offender
39 sentencing alternative, offenders sentenced to twelve or more months

1 shall not be released from custody until the sex offender sentence
2 review board has determined that the offender may be released. The
3 board shall review each offender's case and make a determination of
4 whether the offender will be released at least sixty days before the
5 expiration of the offender's minimum term of confinement, minus any
6 earned early release credits.

7 (iii) Offenders sentenced to twelve months or less shall be
8 released upon completion of the minimum term of confinement and shall
9 remain on community supervision until expiration of the maximum term.
10 If the offender is found by the sentencing court to have violated any
11 of the conditions of community supervision, the court may sentence the
12 offender to serve total confinement as follows:

13 (A) Up to sixty days confinement in the county jail for each
14 violation; or

15 (B) The court may sentence the offender to total confinement for
16 the maximum sentence allowed by statute for the offense. The court
17 shall also establish a minimum term of confinement for the offender.
18 The offender shall have credit for confinement time previously served
19 for the offense or violations of community supervision established for
20 that offense. This sentence shall be served in total confinement in a
21 facility or institution operated, or used under contract, by the state.
22 After serving the minimum term imposed by the court, the offender shall
23 be subject to the jurisdiction of the sex offender sentence review
24 board which shall determine whether the offender should be released.

25 (iv) When any sex offender is sentenced to a prison term, the sex
26 offender sentence review board shall establish release conditions. The
27 sentencing court and the prosecuting attorney may advise the board of
28 any recommended conditions. At the time of imposing the prison term,
29 the sentencing court may require that the offender not have any contact
30 with victims or witnesses during the period of the offender's
31 incarceration.

32 (b)(i) When an offender is convicted of a sex offense other than a
33 violation of RCW 9A.44.050 or a sex offense that is also a serious
34 violent offense and has no prior convictions for a sex offense or any
35 other felony sex offenses in this or any other state, the sentencing
36 court, on its own motion or the motion of the state or the defendant,
37 may order an examination to determine whether the defendant is amenable
38 to treatment.

1 The report of the examination shall include at a minimum the
2 following: The defendant's version of the facts and the official
3 version of the facts, the defendant's offense history, an assessment of
4 problems in addition to alleged deviant behaviors, the offender's
5 social and employment situation, and other evaluation measures used.
6 The report shall set forth the sources of the evaluator's information.

7 The examiner shall assess and report regarding the defendant's
8 amenability to treatment and relative risk to the community. A
9 proposed treatment plan shall be provided and shall include, at a
10 minimum:

11 (A) Frequency and type of contact between offender and therapist;

12 (B) Specific issues to be addressed in the treatment and
13 description of planned treatment modalities;

14 (C) Monitoring plans, including any requirements regarding living
15 conditions, lifestyle requirements, and monitoring by family members
16 and others;

17 (D) Anticipated length of treatment; and

18 (E) Recommended crime-related prohibitions.

19 The court on its own motion may order, or on a motion by the state
20 shall order, a second examination regarding the offender's amenability
21 to treatment. The evaluator shall be selected by the party making the
22 motion. The defendant shall pay the cost of any second examination
23 ordered unless the court finds the defendant to be indigent in which
24 case the state shall pay the cost.

25 (ii) After receipt of the reports, the court shall consider whether
26 the offender and the community will benefit from use of this special
27 sexual offender sentencing alternative and consider the victim's
28 opinion whether the offender should receive a treatment disposition
29 under this subsection. If the court determines that this special sex
30 offender sentencing alternative is appropriate, the court shall then
31 impose a sentence within the sentence range. If this sentence is less
32 than eight years of confinement, the court may suspend the execution of
33 the sentence and impose the following conditions of suspension:

34 (A) The court shall place the defendant on community supervision
35 for the length of the (~~suspended~~) maximum sentence (~~(or three years,~~
36 ~~whichever is greater)~~); and

37 (B) The court shall order treatment for any period up to three
38 years in duration. The court in its discretion shall order outpatient
39 sex offender treatment or inpatient sex offender treatment, if

1 available. A community mental health center may not be used for such
2 treatment unless it has an appropriate program designed for sex
3 offender treatment. The offender shall not change sex offender
4 treatment providers or treatment conditions without first notifying the
5 prosecutor, the community corrections officer, and the court, and shall
6 not change providers without court approval after a hearing if the
7 prosecutor or community corrections officer object to the change. In
8 addition, as conditions of the suspended sentence, the court may impose
9 other sentence conditions including up to six months of confinement,
10 not to exceed the sentence range of confinement for that offense,
11 crime-related prohibitions, and requirements that the offender perform
12 any one or more of the following:

13 (I) Devote time to a specific employment or occupation;

14 (II) Remain within prescribed geographical boundaries and notify
15 the court or the community corrections officer prior to any change in
16 the offender's address or employment;

17 (III) Report as directed to the court and a community corrections
18 officer;

19 (IV) Pay all court-ordered legal financial obligations as provided
20 in RCW 9.94A.030, perform community service work, or any combination
21 thereof; or

22 (V) Make recoupment to the victim for the cost of any counseling
23 required as a result of the offender's crime.

24 (iii) The sex offender therapist shall submit quarterly reports on
25 the defendant's progress in treatment to the court and the parties.
26 The report shall reference the treatment plan and include at a minimum
27 the following: Dates of attendance, defendant's compliance with
28 requirements, treatment activities, the defendant's relative progress
29 in treatment, and any other material as specified by the court at
30 sentencing.

31 (iv) At the time of sentencing, the court shall set a treatment
32 termination hearing for three months prior to the anticipated date for
33 completion of treatment. Prior to the treatment termination hearing,
34 the treatment professional and community corrections officer shall
35 submit written reports to the court and parties regarding the
36 defendant's compliance with treatment and monitoring requirements, and
37 recommendations regarding termination from treatment, including
38 proposed community supervision conditions. Either party may request
39 and the court may order another evaluation regarding the advisability

1 of termination from treatment. The defendant shall pay the cost of any
2 additional evaluation ordered unless the court finds the defendant to
3 be indigent in which case the state shall pay the cost. At the
4 treatment termination hearing the court may: (A) Modify conditions of
5 community supervision, and either (B) terminate treatment, or (C)
6 extend treatment for up to the (~~remaining period of community~~
7 ~~supervision~~) maximum sentence.

8 (v) The court may revoke the suspended sentence at any time
9 (~~during the period of community supervision~~) before expiration of the
10 maximum sentence and order execution of the sentence if: (A) The
11 defendant violates the conditions of the suspended sentence, or (B) the
12 court finds that the defendant is failing to make satisfactory progress
13 in treatment. All confinement time served during the period of
14 community supervision shall be credited to the offender if the
15 suspended sentence is revoked.

16 (vi) If an offender's suspended sentence is revoked, the offender's
17 minimum term of confinement shall be the standard range sentence
18 imposed pursuant to (b)(ii) of this subsection. The offender shall
19 become subject to the jurisdiction of the sex offender sentence review
20 board which shall determine whether the offender may be released upon
21 completion of the minimum term.

22 (vii) Except as provided in (~~(a)(vii)~~) (b)(viii) of this
23 subsection, after July 1, 1991, examinations and treatment ordered
24 pursuant to this subsection shall only be conducted by sex offender
25 treatment providers certified by the department of health pursuant to
26 chapter 18.155 RCW.

27 (~~(vii)~~) (viii) A sex offender therapist who examines or treats a
28 sex offender pursuant to this subsection (8) does not have to be
29 certified by the department of health pursuant to chapter 18.155 RCW if
30 the court finds that: (A) The offender has already moved to another
31 state or plans to move to another state for reasons other than
32 circumventing the certification requirements; (B) no certified
33 providers are available for treatment within a reasonable geographical
34 distance of the offender's home; and (C) the evaluation and treatment
35 plan comply with this subsection (8) and the rules adopted by the
36 department of health.

37 For purposes of this subsection, "victim" means any person who has
38 sustained emotional, psychological, physical, or financial injury to
39 person or property as a result of the crime charged. "Victim" also

1 means a parent or guardian of a victim who is a minor child unless the
2 parent or guardian is the perpetrator of the offense.

3 ((~~b~~)) (c) When an offender commits any felony sex offense on or
4 after July 1, 1987, and is sentenced to a term of confinement of more
5 than one year but less than six years, the sentencing court may, on its
6 own motion or on the motion of the offender or the state, request the
7 department of corrections to evaluate whether the offender is amenable
8 to treatment and the department may place the offender in a treatment
9 program within a correctional facility operated by the department.

10 Except for an offender who has been convicted of a violation of RCW
11 9A.44.040 or 9A.44.050, if the offender completes the treatment program
12 before the expiration of his or her term of confinement, the department
13 of corrections may request the court to convert the balance of
14 confinement to community supervision and to place conditions on the
15 offender including crime-related prohibitions and requirements that the
16 offender perform any one or more of the following:

- 17 (i) Devote time to a specific employment or occupation;
- 18 (ii) Remain within prescribed geographical boundaries and notify
19 the court or the community corrections officer prior to any change in
20 the offender's address or employment;
- 21 (iii) Report as directed to the court and a community corrections
22 officer;
- 23 (iv) Undergo available outpatient treatment.

24 If the offender violates any of the terms of his or her community
25 supervision, the court may order the offender to serve out the balance
26 of his or her community supervision term in confinement in the custody
27 of the department of corrections.

28 Nothing in this subsection (8)((~~b~~))(c) shall confer eligibility
29 for such programs for offenders convicted and sentenced for a sex
30 offense committed prior to July 1, 1987. This subsection (8)((~~b~~))(c)
31 does not apply to any crime committed after July 1, 1990.

32 ((~~e~~)) (d) Offenders convicted and sentenced for a sex offense
33 committed prior to July 1, 1987, may, subject to available funds,
34 request an evaluation by the department of corrections to determine
35 whether they are amenable to treatment. If the offender is determined
36 to be amenable to treatment, the offender may request placement in a
37 treatment program within a correctional facility operated by the
38 department. Placement in such treatment program is subject to
39 available funds.

1 (9)(a) When a court sentences a person to a term of total
2 confinement to the custody of the department of corrections for an
3 offense categorized as a sex offense or a serious violent offense
4 committed after July 1, 1988, but before July 1, 1990, assault in the
5 second degree, assault of a child in the second degree, any crime
6 against a person where it is determined in accordance with RCW
7 9.94A.125 that the defendant or an accomplice was armed with a deadly
8 weapon at the time of commission, or any felony offense under chapter
9 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
10 committed on or after July 1, 1988, the court shall in addition to the
11 other terms of the sentence, sentence the offender to a one-year term
12 of community placement beginning either upon completion of the term of
13 confinement or at such time as the offender is transferred to community
14 custody in lieu of earned early release in accordance with RCW
15 9.94A.150 (1) and (2). When the court sentences an offender under this
16 subsection to the statutory maximum period of confinement then the
17 community placement portion of the sentence shall consist entirely of
18 such community custody to which the offender may become eligible, in
19 accordance with RCW 9.94A.150 (1) and (2). Any period of community
20 custody actually served shall be credited against the community
21 placement portion of the sentence.

22 (b) When a court sentences a person to a term of total confinement
23 to the custody of the department of corrections for an offense
24 categorized as a sex offense committed on or after July 1, 1990, but
25 before July 1, 1996, or serious violent offense committed on or after
26 July 1, 1990, the court shall in addition to other terms of the
27 sentence, sentence the offender to community placement for two years or
28 up to the period of earned early release awarded pursuant to RCW
29 9.94A.150 (1) and (2), whichever is longer. The community placement
30 shall begin either upon completion of the term of confinement or at
31 such time as the offender is transferred to community custody in lieu
32 of earned early release in accordance with RCW 9.94A.150 (1) and (2).
33 When the court sentences an offender under this subsection to the
34 statutory maximum period of confinement then the community placement
35 portion of the sentence shall consist entirely of the community custody
36 to which the offender may become eligible, in accordance with RCW
37 9.94A.150 (1) and (2). Any period of community custody actually served
38 shall be credited against the community placement portion of the
39 sentence. Unless a condition is waived by the court, the terms of

1 community placement for offenders sentenced pursuant to this section
2 shall include the following conditions:

3 (i) The offender shall report to and be available for contact with
4 the assigned community corrections officer as directed;

5 (ii) The offender shall work at department of corrections-approved
6 education, employment, and/or community service;

7 (iii) The offender shall not consume controlled substances except
8 pursuant to lawfully issued prescriptions;

9 (iv) An offender in community custody shall not unlawfully possess
10 controlled substances;

11 (v) The offender shall pay supervision fees as determined by the
12 department of corrections; and

13 (vi) The residence location and living arrangements are subject to
14 the prior approval of the department of corrections during the period
15 of community placement.

16 (c) The court may also order any of the following special
17 conditions:

18 (i) The offender shall remain within, or outside of, a specified
19 geographical boundary;

20 (ii) The offender shall not have direct or indirect contact with
21 the victim of the crime or a specified class of individuals;

22 (iii) The offender shall participate in crime-related treatment or
23 counseling services;

24 (iv) The offender shall not consume alcohol; or

25 (v) The offender shall comply with any crime-related prohibitions.

26 (d) Prior to transfer to, or during, community placement, any
27 conditions of community placement may be removed or modified so as not
28 to be more restrictive by the sentencing court, upon recommendation of
29 the department of corrections.

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

36 (11) If a sentence imposed includes payment of a legal financial
37 obligation, the sentence shall specify the total amount of the legal
38 financial obligation owed, and shall require the offender to pay a
39 specified monthly sum toward that legal financial obligation.

1 Restitution to victims shall be paid prior to any other payments of
2 monetary obligations. Any legal financial obligation that is imposed
3 by the court may be collected by the department, which shall deliver
4 the amount paid to the county clerk for credit. The offender's
5 compliance with payment of legal financial obligations shall be
6 supervised by the department. All monetary payments ordered shall be
7 paid no later than ten years after the last date of release from
8 confinement pursuant to a felony conviction or the date the sentence
9 was entered. Independent of the department, the party or entity to
10 whom the legal financial obligation is owed shall have the authority to
11 utilize any other remedies available to the party or entity to collect
12 the legal financial obligation. Nothing in this section makes the
13 department, the state, or any of its employees, agents, or other
14 persons acting on their behalf liable under any circumstances for the
15 payment of these legal financial obligations. If an order includes
16 restitution as one of the monetary assessments, the county clerk shall
17 make disbursements to victims named in the order.

18 (12) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
19 court may not impose a sentence providing for a term of confinement or
20 community supervision or community placement which exceeds the
21 statutory maximum for the crime as provided in chapter 9A.20 RCW.

22 (13) All offenders sentenced to terms involving community
23 supervision, community service, community placement, or legal financial
24 obligation shall be under the supervision of the secretary of the
25 department of corrections or such person as the secretary may designate
26 and shall follow explicitly the instructions of the secretary including
27 reporting as directed to a community corrections officer, remaining
28 within prescribed geographical boundaries, notifying the community
29 corrections officer of any change in the offender's address or
30 employment, and paying the supervision fee assessment. The department
31 may require offenders to pay for special services rendered on or after
32 July 25, 1993, including electronic monitoring, day reporting, and
33 telephone reporting, dependent upon the offender's ability to pay. The
34 department may pay for these services for offenders who are not able to
35 pay.

36 (14) All offenders sentenced to terms involving community
37 supervision, community service, or community placement under the
38 supervision of the department of corrections shall not own, use, or
39 possess firearms or ammunition. Offenders who own, use, or are found

1 to be in actual or constructive possession of firearms or ammunition
2 shall be subject to the appropriate violation process and sanctions.
3 "Constructive possession" as used in this subsection means the power
4 and intent to control the firearm or ammunition. "Firearm" as used in
5 this subsection means a weapon or device from which a projectile may be
6 fired by an explosive such as gunpowder.

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

11 (16) A departure from the standards in RCW 9.94A.400 (1) and (2)
12 governing whether sentences are to be served consecutively or
13 concurrently is an exceptional sentence subject to the limitations in
14 subsections (2) and (3) of this section, and may be appealed by the
15 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

16 (17) The court shall order restitution whenever the offender is
17 convicted of a felony that results in injury to any person or damage to
18 or loss of property, whether the offender is sentenced to confinement
19 or placed under community supervision, unless extraordinary
20 circumstances exist that make restitution inappropriate in the court's
21 judgment. The court shall set forth the extraordinary circumstances in
22 the record if it does not order restitution.

23 (18) As a part of any sentence, the court may impose and enforce an
24 order that relates directly to the circumstances of the crime for which
25 the offender has been convicted, prohibiting the offender from having
26 any contact with other specified individuals or a specific class of
27 individuals for a period not to exceed the maximum allowable sentence
28 for the crime, regardless of the expiration of the offender's term of
29 community supervision or community placement.

30 (19) In any sentence of partial confinement, the court may require
31 the defendant to serve the partial confinement in work release, in a
32 program of home detention, on work crew, or in a combined program of
33 work crew and home detention.

34 (20) All court-ordered legal financial obligations collected by the
35 department and remitted to the county clerk shall be credited and paid
36 where restitution is ordered. Restitution shall be paid prior to any
37 other payments of monetary obligations.

1 NEW SECTION. **Sec. 3.** A sex offender sentence review board is
2 created to:

3 (1) Review sentences of offenders convicted of a sex offense that
4 results in total confinement in prison, including offenders who were
5 sentenced under the special sex offender sentencing alternative whose
6 suspended sentence was revoked, to determine whether the offender
7 should be released upon completion of the minimum sentence or if the
8 offender should remain in custody;

9 (2) Establish conditions of release for any offenders who are
10 released;

11 (3) Establish procedures to determine if an offender has violated
12 conditions of release, and impose sanctions for such violations; and

13 (4) Establish procedures for periodic review of offenders who
14 remain in confinement beyond the minimum term of confinement under
15 subsection (1) of this section.

16 NEW SECTION. **Sec. 4.** (1) The sex offender sentence review board
17 shall consist of five members, each of whom shall be appointed by the
18 governor with the consent of the senate. The governor, in appointing
19 the members, shall designate one of them to serve as chair at the
20 governor's pleasure.

21 (2) All persons appointed by the governor shall have background,
22 education, training, or experience in the treatment, supervision,
23 investigation, or prosecution of sex offenders. The governor shall
24 seek recommendations from law enforcement and from prosecutors for at
25 least two of the positions on the board. At least one or more members
26 appointed by the governor shall have current experience in the
27 evaluation and treatment of sex offenders.

28 (3) Initial appointments to the board shall be for staggered terms
29 with two members appointed for five-year terms, two members appointed
30 for three-year terms, and one member appointed for a one-year term.
31 All subsequent appointments shall be for a term of five years.

32 (4) In the event of the inability of any member to act, the
33 governor shall appoint some competent person to act in the member's
34 stead during the continuance of such inability.

35 (5) Members of the board may not be removed during their respective
36 terms except for cause determined by the superior court of Thurston
37 county.

1 (6) The members of the board and its officers and employees shall
2 not engage in any other business or profession or hold any other public
3 office; nor shall they, at the time of appointment or employment or
4 during their incumbency, serve as the representative of any political
5 party on an executive committee or other governing body thereof, or as
6 an executive officer or employee of any political committee or
7 association.

8 (7) The members of the board shall each severally receive salaries
9 fixed by the governor in accordance with RCW 43.03.040, and in addition
10 shall receive travel expenses incurred in the discharge of their
11 official duties in accordance with RCW 43.03.050 and 43.03.060.

12 (8) The board may employ and fix, with the approval of the
13 governor, the compensation of and prescribe the duties of such
14 employees, assistants, or experts as necessary, and provide necessary
15 quarters, supplies, and equipment. The board also may hire on a
16 contract basis such experts as it may find necessary to assist it in
17 its duties.

18 NEW SECTION. **Sec. 5.** The sex offender sentence review board shall
19 meet at department of corrections' institutions at such times as may be
20 necessary for a full and complete study of the cases of all sex
21 offenders whose durations of confinement are to be determined by it or
22 whose applications for release come before it. Other times and places
23 of meetings may also be fixed by the board.

24 The superintendents of the different correctional institutions
25 shall provide suitable quarters for the board while in the discharge of
26 its duties.

27 NEW SECTION. **Sec. 6.** (1) When deciding whether an offender should
28 be released, the sex offender sentence review board shall give public
29 safety considerations the highest priority. An offender shall not be
30 released unless the board finds that the offender's rehabilitation has
31 been complete and the offender is a fit subject for release. All
32 relevant evidence shall be considered by the board, including but not
33 limited to, evidence relating to:

34 (a) The number and severity of the sex offenses and violent
35 offenses committed by the offender;

1 (b) Whether the offender has committed sexual offenses against
2 strangers or individuals with whom a relationship was established or
3 promoted for the purpose of victimization;

4 (c) Whether the offender has a history of substance abuse, the
5 extent of any such abuse, and the offender's performance in any
6 substance abuse treatment;

7 (d) Whether the offender has an adequate plan for his or her
8 residence and employment upon release;

9 (e) The offender's performance in any sex offender treatment,
10 refusal to participate in treatment, or lack of amenability to
11 treatment;

12 (f) The offender's future dangerousness;

13 (g) Infractions committed by the offender while in the custody of
14 the department;

15 (h) Whether the offender has a history of mental illness and the
16 current status of that condition; and

17 (i) Any other relevant evidence.

18 (2) The board shall not consider in any way factors relating to
19 prison population or prison overcrowding when deciding whether to
20 release a sex offender.

21 NEW SECTION. **Sec. 7.** The sex offender sentence review board may
22 meet and transact business in panels. Each board panel shall consist
23 of at least three members of the board. In all matters concerning the
24 internal affairs of the board and policy-making decisions, a majority
25 of the full board must concur. The chair of the board with the consent
26 of a majority of the board may designate any three members to exercise
27 all the powers and duties of the board in connection with any hearing
28 before the board. If the three members so designated cannot
29 unanimously agree as to the disposition of the hearing assigned to
30 them, the hearing shall be reheard by the full board. All actions of
31 the full board shall be by concurrence of a majority of the board
32 members.

33 NEW SECTION. **Sec. 8.** (1) At the time the sex offender is
34 transported to the custody of the department of corrections, the sex
35 offender sentence review board shall obtain from the sentencing judge
36 and the prosecuting attorney, a statement of all the facts concerning
37 the offender's crime and any other information of which they may be

1 possessed relative to the offender, and the sentencing judge and the
2 prosecuting attorney shall furnish the board with such information.

3 (2) Whenever a sex offender is sentenced to confinement in a state
4 correctional facility, it is the duty of the prosecuting attorney who
5 prosecuted the offender to make a statement of the facts respecting the
6 crime for which the offender was convicted, and include in such
7 statement all information that the prosecuting attorney has in regard
8 to the career of the offender before the commission of the crime for
9 which the offender was sentenced, stating to the best of the
10 prosecuting attorney's knowledge whether the offender was industrious
11 and of good character, and all other facts and circumstances that may
12 tend to indicate whether such offender is capable of again becoming a
13 law-abiding citizen.

14 (3) Such statement shall be signed by the prosecuting attorney and
15 approved by the sentencing judge and shall be delivered to the sheriff,
16 traveling guard, department of corrections personnel, or other officer
17 executing the sentence, and a copy of such statement shall be furnished
18 to the defendant or his or her attorney. The officer shall deliver the
19 statement, at the time of the offender's commitment, to the
20 superintendent of the institution to which the offender has been
21 sentenced. The superintendent shall make the statement available for
22 use by the sex offender sentence review board.

23 NEW SECTION. **Sec. 9.** If a sex offender under the jurisdiction of
24 the sex offender sentence review board serving a sentence in a state
25 correctional facility commits any infractions of the rules and
26 regulations of the institution, the board may revoke any order
27 theretofore made determining the length of time the offender shall be
28 imprisoned, including the forfeiture of all or a portion of credits
29 earned, pursuant to RCW 9.94A.150, and make a new order determining the
30 length of time the offender shall serve, not exceeding the maximum
31 penalty provided by law for the crime for which the offender was
32 convicted. Revocation and redetermination shall not be had except upon
33 a hearing before the board. At the hearing the sex offender shall be
34 present and entitled to be heard and may present evidence and witnesses
35 in his or her behalf.

36 NEW SECTION. **Sec. 10.** (1) A sex offender serving a sentence in
37 the penitentiary or the reformatory, not sooner released under the

1 provisions of this chapter, shall be discharged from custody on serving
2 the maximum punishment provided by law for the offense of which the
3 offender was convicted.

4 (2) At the time of release of a sex offender, the sex offender
5 sentence review board shall establish conditions of release. When
6 establishing the conditions of release, the board shall consider any
7 recommendations for release conditions made by the department, the
8 sentencing court, or the prosecutor. At a minimum, the offender shall
9 be required to comply with at least the following:

- 10 (a) No law violations;
- 11 (b) No illegal drug use;
- 12 (c) Report as required to the department; and
- 13 (d) No contact with any victims or witnesses.

14 NEW SECTION. **Sec. 11.** Whenever the sex offender sentence review
15 board or a community corrections officer of this state has reason to
16 believe a sex offender has breached a condition of his or her release
17 or violated the law of any state or the rules and regulations of the
18 board, any community corrections officer may arrest or cause the arrest
19 and detention and suspension of release of the offender pending a
20 determination by the board whether the release shall be revoked. All
21 facts and circumstances surrounding the violation by the offender shall
22 be reported to the board by the community corrections officer, with
23 recommendations. The board, after consultation with the secretary of
24 corrections, shall make all rules and regulations concerning procedural
25 matters, which shall include the time when community corrections
26 officers shall file with the board reports required by this section,
27 procedures pertaining thereto, and the filing of such information as
28 may be necessary to enable the board to perform its functions under
29 this section. On the basis of the report by the community corrections
30 officer, or at any time upon its own discretion, the board may revise
31 or modify the conditions of release or order the revocation of release
32 by the issuance of a written order bearing its seal. The order shall
33 be sufficient warrant for all peace officers to take into custody any
34 offender who may be on release and retain the offender in their custody
35 until arrangements can be made by the board for the offender's return
36 to a state correctional institution. Any revision or modification of
37 the conditions of release or the order revoking release shall be
38 personally served upon the offender.

1 Any offender arrested and detained in physical custody by the
2 authority of a community corrections officer, or upon the written order
3 of the board, shall not be released from custody on bail or personal
4 recognizance, except upon approval of the board and the issuance by the
5 board of an order of reinstatement on release on the same or modified
6 conditions of release.

7 All chiefs of police, marshals of cities and towns, sheriffs of
8 counties, and all police, prison, and peace officers and constables
9 shall execute any such order in the same manner as any ordinary
10 criminal process.

11 Whenever a released sex offender is accused of a violation of his
12 or her release, other than conviction for a felony or misdemeanor under
13 the laws of this state or the laws of any other state, the offender is
14 entitled to a fair and impartial hearing on the violations within
15 thirty days from the time the offender is served with notice of the
16 violation of conditions of release. The hearing shall be held before
17 one or more members of the board at a place or places, within this
18 state, reasonably near the site of the alleged violation.

19 In the event that the board revokes a release by reason of an
20 alleged violation or pending the disposition of a new criminal charge,
21 the board may nullify the order of revocation and release the offender
22 under previous conditions or any new conditions that the board may
23 determine advisable. Before the board may nullify an order of
24 revocation and release an offender, the board must determine that the
25 best interests of society and the individual are best served by such
26 release rather than a return to a penal institution.

27 NEW SECTION. **Sec. 12.** Within fifteen days from the date of notice
28 to the department of corrections of the arrest and detention of a sex
29 offender alleged to have violated conditions of release, the offender,
30 shall be personally served by a community corrections officer with a
31 copy of the factual allegations of the violation of the conditions of
32 release, and, at the same time shall be advised of his or her right to
33 an on-site release revocation hearing and other rights and privileges
34 as provided in sections 11 through 17 of this act. The offender, after
35 service of the allegations of violations of the conditions of release
36 and the advice of rights may waive the on-site release revocation
37 hearing as provided in section 11 of this act, and admit one or more of
38 the alleged violations. If the board accepts the waiver it shall

1 either, (1) reinstate the offender's release under the same or modified
2 conditions, or (2) revoke the release of the offender and return the
3 offender to state custody. A determination of a new minimum sentence
4 shall be made within thirty days of return to state custody which shall
5 not exceed the maximum sentence as provided by law for the crime of
6 which the offender was originally convicted.

7 If the waiver made by the offender is rejected by the board it
8 shall hold an on-site release revocation hearing under sections 11
9 through 17 of this act.

10 NEW SECTION. **Sec. 13.** At any on-site release revocation hearing
11 the offender is entitled to be represented by an attorney of the
12 offender's choosing and at the offender's expense. Upon the
13 presentation of satisfactory evidence of indigency and the request for
14 the appointment of an attorney, the sex offender sentence review board
15 may cause the appointment of an attorney to represent the offender to
16 be paid for at state expense. The board may assume all or such other
17 expenses in the presentation of evidence on behalf of the offender as
18 it deems appropriate subject to available funds. Attorneys for the
19 representation of sex offenders in on-site hearings shall be appointed
20 by the superior courts for the counties wherein the on-site hearing is
21 to be held. The attorneys shall be compensated in the manner and
22 amount as is fixed in a schedule of fees adopted by rule of the board.

23 NEW SECTION. **Sec. 14.** In conducting on-site release revocation
24 hearings, the sex offender sentence review board may administer oaths
25 and affirmations, examine witnesses, receive evidence, and issue
26 subpoenas for the compulsory attendance of witnesses and the production
27 of evidence for presentation at such hearings. Subpoenas issued by the
28 board shall be effective throughout the state. Witnesses in attendance
29 at any on-site hearing shall be paid the same fees and allowances, in
30 the same manner and under the same conditions as provided for witnesses
31 in the courts of the state in accordance with chapter 2.40 RCW. If any
32 person fails or refuses to obey a subpoena issued by the board, or
33 obeys the subpoena but refuses to testify concerning any matter under
34 examination at the hearing, the board may petition the superior court
35 of the county where the hearing is being conducted for enforcement of
36 the subpoena. The petition shall be accompanied by a copy of the
37 subpoena and proof of service, and shall set forth in what specific

1 manner the subpoena has not been complied with, and shall ask an order
2 of the court to compel the witness to appear and testify before the
3 board. The court, upon such petition, shall enter an order directing
4 the witness to appear before the court at a time and place to be fixed
5 in such order and then and there to show cause why he or she has not
6 responded to the subpoena or has refused to testify. A copy of the
7 order shall be served upon the witness. If it appears to the court
8 that the subpoena was properly issued and that the particular questions
9 the witness refuses to answer are reasonable and relevant, the court
10 shall enter an order that the witness appear at the time and place
11 fixed in the order and testify or produce the required papers, and on
12 failing to obey said order, the witness may be found in contempt of
13 court.

14 NEW SECTION. **Sec. 15.** At all on-site release revocation hearings
15 the community corrections officers of the department of corrections,
16 having made the allegations of the violations of the conditions of
17 release, may be represented by the attorney general. The attorney
18 general may make independent recommendations to the sex offender
19 sentence review board about whether the violations constitute
20 sufficient cause for the revocation of the release and the return of
21 the parolee to a state correctional institution. The hearings shall be
22 open to the public unless the board for specifically stated reasons
23 closes the hearing in whole or in part. The hearings shall be recorded
24 either manually or by a mechanical recording device. The offender may
25 be requested to testify and any such testimony shall not be used
26 against him or her in any criminal prosecution. The board shall adopt
27 rules governing the formal and informal procedures authorized by this
28 chapter and make rules of practice before the board in on-site parole
29 revocation hearings, together with forms and instructions.

30 NEW SECTION. **Sec. 16.** After the on-site release revocation
31 hearing has been concluded, the members of the sex offender sentence
32 review board having heard the matter shall enter their decision of
33 record within ten days, and make findings and conclusions upon the
34 allegations of the violations of the conditions of release. If the
35 member, or members having heard the matter, should conclude that the
36 allegations have not been proven by a preponderance of the evidence,
37 or, those which have been proven by a preponderance of the evidence are

1 not sufficient cause for the revocation of release, then the release
2 shall be reinstated on the same or modified conditions of release. For
3 violations not resulting in new convictions, modified conditions of
4 release may include sanctions according to an administrative sanction
5 grid. If the member or members having heard the matter should conclude
6 that the allegations have been proven by a preponderance of the
7 evidence and constitute sufficient cause for the revocation of release,
8 then such member or members shall enter an order of release revocation
9 and return the offender to state custody. Within thirty days of the
10 return of the offender to a state correctional institution the board
11 shall enter an order determining a new minimum term not exceeding the
12 maximum penalty provided by law for the crime for which the offender
13 was originally convicted.

14 NEW SECTION. **Sec. 17.** All officers and employees of the state,
15 counties, cities and political subdivisions of this state shall
16 cooperate with the sex offender sentence review board in making
17 available suitable facilities for conducting release revocation
18 hearings.

19 NEW SECTION. **Sec. 18.** From and after the revocation of the
20 release of any sex offender and until his or her return to custody, the
21 offender shall be deemed an escapee and a fugitive from justice. The
22 sex offender sentence review board may deny credit against the maximum
23 sentence for any time during which the offender is an escapee and
24 fugitive from justice.

25 NEW SECTION. **Sec. 19.** The sex offender sentence review board
26 shall cause a complete record to be kept of every sex offender under
27 the jurisdiction of the board released from total confinement. The
28 records shall be organized so that there will always be complete
29 information about each such offender immediately available. The board
30 may make rules as to the privacy of such records and their use by
31 others than the board and its staff. In determining the rules
32 regarding dissemination of information regarding convicted sex
33 offenders under the board's jurisdiction, the board shall consider the
34 provisions of section 116, chapter 3, Laws of 1990 and RCW 4.24.550 and
35 shall be immune from liability for the release of information
36 concerning sex offenders as provided in RCW 4.24.550.

1 The superintendents of state correctional facilities and all
2 officers and employees thereof and all other public officials shall at
3 all times cooperate with the board and furnish to the board, its
4 officers, and employees such information as may be necessary to enable
5 it to perform its functions, and such superintendents and other
6 employees shall at all times give the members of the board, its
7 officers, and employees free access to all sex offenders confined in
8 the state correctional facilities.

9 In addition to any other information required to be released under
10 this chapter, the board may, pursuant to RCW 4.24.550, release
11 information concerning offenders under the jurisdiction of the board
12 who are convicted of sex offenses as defined in RCW 9.94A.030.

13 NEW SECTION. **Sec. 20.** The sex offender sentence review board
14 shall make all necessary rules to carry out the provisions of sections
15 3 through 23 of this act, and may provide the forms of all necessary
16 documents.

17 NEW SECTION. **Sec. 21.** To assist it in fixing the duration of a
18 sex offender's term of confinement, and in fixing the condition for
19 release from custody, it shall not only be the duty of the sex offender
20 sentence review board to thoroughly inform itself as to the facts of
21 the offender's crime but also to inform itself as thoroughly as
22 possible as to the offender as a personality. The department of
23 corrections and the institutions under its control shall make available
24 to the board on request its case investigations, any file or other
25 record, in order to assist the board in developing information for
26 carrying out the purpose of sections 3 through 23 of this act.

27 NEW SECTION. **Sec. 22.** The sex offender sentence review board may
28 deputize any person regularly employed by another state to act as an
29 officer and agent of this state in effecting the return of any sex
30 offender who has violated the terms and conditions of release as
31 granted by this state. In any matter relating to the return of the
32 offender, any agent so deputized shall have all the powers of a police
33 officer of this state.

34 Any deputization shall be in writing and the person deputized shall
35 carry formal evidence of his or her deputization and shall produce the
36 same upon demand.

1 NEW SECTION. **Sec. 23.** The sex offender sentence review board may
2 enter into contracts with similar officials of any other state or
3 states for the purpose of sharing an equitable portion of the cost of
4 effecting the return of any sex offender who has violated the terms and
5 conditions of release as granted by this state.

6 **Sec. 24.** RCW 72.04A.070 and 1981 c 136 s 82 are each amended to
7 read as follows:

8 The secretary of corrections shall cause to be prepared plans and
9 recommendations for the conditions of supervision under which each
10 inmate of any state penal institutions who is eligible for parole or
11 release may be released from custody. Such plans and recommendations
12 shall be submitted to the indeterminate sentence review board (~~(of~~
13 ~~prison terms and paroles)~~) or the sex offender sentence review board
14 which may, at its discretion, approve, reject, or revise or amend such
15 plans and recommendations for the conditions of supervision of release
16 of inmates on parole or release, and, in addition, (~~(the)~~) either
17 board may stipulate any special conditions of supervision to be carried
18 out by a probation and parole officer or community corrections officer.

19 **Sec. 25.** RCW 72.04A.080 and 1981 c 136 s 83 are each amended to
20 read as follows:

21 Each inmate hereafter released or released on parole shall be
22 subject to the supervision of the department of corrections, and the
23 probation and parole officers or community corrections officers of the
24 department shall be charged with the preparation of progress reports of
25 parolees or sex offenders and to give guidance and supervision to such
26 parolees and sex offenders within the conditions of a parolee's or sex
27 offender's release from custody. Copies of all progress reports
28 prepared by the probation and parole officers and community corrections
29 officers shall be supplied to the indeterminate sentence review
30 board (~~(of prison terms and paroles)~~) or the sex offender sentence review
31 board for their files and records.

32 **Sec. 26.** RCW 9A.20.021 and 1982 c 192 s 10 are each amended to
33 read as follows:

34 (1) Felony. No person convicted of a classified felony shall be
35 punished by confinement or fine exceeding the following:

1 (a) For a class A felony, by confinement in a state correctional
2 institution for a term of life imprisonment, or by a fine in an amount
3 fixed by the court of fifty thousand dollars, or by both such
4 confinement and fine;

5 (b) For a class B+ felony, by confinement in a state correctional
6 institution for a term of twenty years, or by a fine in an amount fixed
7 by the court of thirty thousand dollars, or by both such confinement
8 and fine;

9 (c) For a class B felony, by confinement in a state correctional
10 institution for a term of ten years, or by a fine in an amount fixed by
11 the court of twenty thousand dollars, or by both such confinement and
12 fine;

13 ((+e)) (d) For a class C felony, by confinement in a state
14 correctional institution for five years, or by a fine in an amount
15 fixed by the court of ten thousand dollars, or by both such confinement
16 and fine.

17 (2) Gross misdemeanor. Every person convicted of a gross
18 misdemeanor defined in Title 9A RCW shall be punished by imprisonment
19 in the county jail for a maximum term fixed by the court of not more
20 than one year, or by a fine in an amount fixed by the court of not more
21 than five thousand dollars, or by both such imprisonment and fine.

22 (3) Misdemeanor. Every person convicted of a misdemeanor defined
23 in Title 9A RCW shall be punished by imprisonment in the county jail
24 for a maximum term fixed by the court of not more than ninety days, or
25 by a fine in an amount fixed by the court of not more than one thousand
26 dollars, or by both such imprisonment and fine.

27 (4) This section applies to only those crimes committed on or after
28 July 1, 1984.

29 **Sec. 27.** RCW 9A.44.060 and 1979 ex.s. c 244 s 3 are each amended
30 to read as follows:

31 (1) A person is guilty of rape in the third degree when, under
32 circumstances not constituting rape in the first or second degrees,
33 such person engages in sexual intercourse with another person, not
34 married to the perpetrator:

35 (a) Where the victim did not consent, as defined in RCW
36 ((9A.44.010(6))) 9A.44.010, to sexual intercourse with the perpetrator
37 and such lack of consent was clearly expressed by the victim's words or
38 conduct, or

1 (b) Where there is threat of substantial unlawful harm to property
2 rights of the victim.

3 (2) Rape in the third degree is a class ((C)) B felony.

4 **Sec. 28.** RCW 9A.44.079 and 1988 c 145 s 4 are each amended to read
5 as follows:

6 (1) A person is guilty of rape of a child in the third degree when
7 the person has sexual intercourse with another who is at least fourteen
8 years old but less than sixteen years old and not married to the
9 perpetrator and the perpetrator is at least forty-eight months older
10 than the victim.

11 (2) Rape of a child in the third degree is a class ((C)) B felony.

12 **Sec. 29.** RCW 9A.44.086 and 1994 c 271 s 304 are each amended to
13 read as follows:

14 (1) A person is guilty of child molestation in the second degree
15 when the person has, or knowingly causes another person under the age
16 of eighteen to have, sexual contact with another who is at least twelve
17 years old but less than fourteen years old and not married to the
18 perpetrator and the perpetrator is at least thirty-six months older
19 than the victim.

20 (2) Child molestation in the second degree is a class B+ felony.

21 **Sec. 30.** RCW 9A.44.089 and 1994 c 271 s 305 are each amended to
22 read as follows:

23 (1) A person is guilty of child molestation in the third degree
24 when the person has, or knowingly causes another person under the age
25 of eighteen to have, sexual contact with another who is at least
26 fourteen years old but less than sixteen years old and not married to
27 the perpetrator and the perpetrator is at least forty-eight months
28 older than the victim.

29 (2) Child molestation in the third degree is a class ((C)) B
30 felony.

31 **Sec. 31.** RCW 9A.44.100 and 1993 c 477 s 3 are each amended to read
32 as follows:

33 (1) A person is guilty of indecent liberties when he knowingly
34 causes another person who is not his spouse to have sexual contact with
35 him or another:

1 (a) By forcible compulsion; or
2 (b) When the other person is incapable of consent by reason of
3 being mentally defective, mentally incapacitated, or physically
4 helpless;

5 (c) When the victim is developmentally disabled and the perpetrator
6 is a person who is not married to the victim and who has supervisory
7 authority over the victim;

8 (d) When the perpetrator is a health care provider, the victim is
9 a client or patient, and the sexual contact occurs during a treatment
10 session, consultation, interview, or examination. It is an affirmative
11 defense that the defendant must prove by a preponderance of the
12 evidence that the client or patient consented to the sexual contact
13 with the knowledge that the sexual contact was not for the purpose of
14 treatment; or

15 (e) When the victim is a resident of a facility for mentally
16 disordered or chemically dependent persons and the perpetrator is a
17 person who is not married to the victim and has supervisory authority
18 over the victim.

19 (2) Indecent liberties is a class B₊ felony.

20 **Sec. 32.** RCW 9A.64.020 and 1985 c 53 s 1 are each amended to read
21 as follows:

22 (1) A person is guilty of incest in the first degree if he engages
23 in sexual intercourse with a person whom he knows to be related to him,
24 either legitimately or illegitimately, as an ancestor, descendant,
25 brother, or sister of either the whole or the half blood.

26 (2) A person is guilty of incest in the second degree if he engages
27 in sexual contact with a person whom he knows to be related to him,
28 either legitimately or illegitimately, as an ancestor, descendant,
29 brother, or sister of either the whole or the half blood.

30 (3) As used in this section, "descendant" includes stepchildren and
31 adopted children under eighteen years of age.

32 (4) As used in this section, "sexual contact" has the same meaning
33 as in RCW (~~9A.44.100(2)~~) 9A.44.010.

34 (5) As used in this section, "sexual intercourse" has the same
35 meaning as in RCW 9A.44.010(1).

36 (6) Incest in the first degree is a class B₊ felony.

37 (7) Incest in the second degree is a class ((E)) B felony.

1 **Sec. 33.** RCW 9.41.010 and 1994 sp.s. c 7 s 401 and 1994 c 121 s 1
2 are each reenacted and amended to read as follows:

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

5 (1) "Firearm" means a weapon or device from which a projectile may
6 be fired by an explosive such as gunpowder.

7 (2) "Pistol" means any firearm with a barrel less than twelve
8 inches in length, or is designed to be held and fired by the use of a
9 single hand.

10 (3) "Rifle" means a weapon designed or redesigned, made or remade,
11 and intended to be fired from the shoulder and designed or redesigned,
12 made or remade, and intended to use the energy of the explosive in a
13 fixed metallic cartridge to fire only a single projectile through a
14 rifled bore for each single pull of the trigger.

15 (4) "Short-barreled rifle" means a rifle having one or more barrels
16 less than sixteen inches in length and any weapon made from a rifle by
17 any means of modification if such modified weapon has an overall length
18 of less than twenty-six inches.

19 (5) "Shotgun" means a weapon with one or more barrels, designed or
20 redesigned, made or remade, and intended to be fired from the shoulder
21 and designed or redesigned, made or remade, and intended to use the
22 energy of the explosive in a fixed shotgun shell to fire through a
23 smooth bore either a number of ball shot or a single projectile for
24 each single pull of the trigger.

25 (6) "Short-barreled shotgun" means a shotgun having one or more
26 barrels less than eighteen inches in length and any weapon made from a
27 shotgun by any means of modification if such modified weapon has an
28 overall length of less than twenty-six inches.

29 (7) "Machine gun" means any firearm known as a machine gun,
30 mechanical rifle, submachine gun, or any other mechanism or instrument
31 not requiring that the trigger be pressed for each shot and having a
32 reservoir clip, disc, drum, belt, or other separable mechanical device
33 for storing, carrying, or supplying ammunition which can be loaded into
34 the firearm, mechanism, or instrument, and fired therefrom at the rate
35 of five or more shots per second.

36 (8) "Antique firearm" means a firearm or replica of a firearm not
37 designed or redesigned for using rim fire or conventional center fire
38 ignition with fixed ammunition and manufactured in or before 1898,
39 including any matchlock, flintlock, percussion cap, or similar type of

1 ignition system and also any firearm using fixed ammunition
2 manufactured in or before 1898, for which ammunition is no longer
3 manufactured in the United States and is not readily available in the
4 ordinary channels of commercial trade.

5 (9) "Loaded" means:

6 (a) There is a cartridge in the chamber of the firearm;

7 (b) Bullets are in a clip that is locked in place in the firearm;

8 (c) There is a cartridge in the cylinder of the firearm, if the
9 firearm is a revolver; or

10 (d) There is a cartridge in the tube, magazine, or other
11 compartment of the firearm.

12 (10) "Dealer" means a person engaged in the business of selling
13 firearms or ammunition at wholesale or retail who has, or is required
14 to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A
15 person who does not have, and is not required to have, a federal
16 firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that
17 person makes only occasional sales, exchanges, or purchases of firearms
18 for the enhancement of a personal collection or for a hobby, or sells
19 all or part of his or her personal collection of firearms.

20 (11) "Crime of violence" means:

21 (a) Any of the following felonies, as now existing or hereafter
22 amended: Any felony defined under any law as a class A felony or an
23 attempt to commit a class A felony, criminal solicitation of or
24 criminal conspiracy to commit a class A felony, manslaughter in the
25 first degree, manslaughter in the second degree, indecent liberties if
26 committed by forcible compulsion, rape in the second degree, kidnapping
27 in the second degree, arson in the second degree, assault in the second
28 degree, assault of a child in the second degree, extortion in the first
29 degree, burglary in the second degree, residential burglary, and
30 robbery in the second degree;

31 (b) Any conviction for a felony offense in effect at any time prior
32 to July 1, 1976, which is comparable to a felony classified as a crime
33 of violence in (a) of this subsection; and

34 (c) Any federal or out-of-state conviction for an offense
35 comparable to a felony classified as a crime of violence under (a) or
36 (b) of this subsection.

37 (12) "Serious offense" means any of the following felonies or a
38 felony attempt to commit any of the following felonies, as now existing
39 or hereafter amended:

- 1 (a) Any crime of violence;
- 2 (b) Child molestation in the second degree;
- 3 (c) Controlled substance homicide;
- 4 (d) Incest when committed against a child under age fourteen;
- 5 (e) Indecent liberties;
- 6 (f) Leading organized crime;
- 7 (g) Promoting prostitution in the first degree;
- 8 (h) Rape in the third degree;
- 9 (i) Sexual exploitation;
- 10 (j) Vehicular assault;
- 11 (k) Vehicular homicide, when proximately caused by the driving of
- 12 any vehicle by any person while under the influence of intoxicating
- 13 liquor or any drug as defined by RCW 46.61.502, or by the operation of
- 14 any vehicle in a reckless manner;
- 15 (l) Any other class B or B+ felony offense with a finding of sexual
- 16 motivation, as "sexual motivation" is defined under RCW 9.94A.030;
- 17 (m) Any other felony with a deadly weapon verdict under RCW
- 18 9.94A.125; or
- 19 (n) Any felony offense in effect at any time prior to July 1, 1994,
- 20 that is comparable to a serious offense, or any federal or out-of-state
- 21 conviction for an offense that under the laws of this state would be a
- 22 felony classified as a serious offense.

23 **Sec. 34.** RCW 9.94.070 and 1995 c 385 s 1 are each amended to read
24 as follows:

25 (1) An inmate of a state correctional institution who is serving a
26 sentence for an offense committed on or after August 1, 1995, commits
27 the crime of persistent prison misbehavior if the inmate knowingly
28 commits a serious infraction, that does not constitute a class A, class
29 B+, or class B felony, after losing all potential earned early release
30 time credit.

31 (2) "Serious infraction" means misconduct that has been designated
32 as a serious infraction by department of corrections rules adopted
33 under RCW 72.09.130.

34 (3) "State correctional institution" has the same meaning as in RCW
35 9.94.049.

36 (4) The crime of persistent prison misbehavior is a class C felony
37 punishable as provided in RCW 9A.20.021. The sentence imposed for this

1 crime must be served consecutive to any sentence being served at the
2 time the crime is committed.

3 **Sec. 35.** RCW 9.94A.030 and 1995 c 268 s 2, 1995 c 108 s 1, and
4 1995 c 101 s 2 are each reenacted and amended to read as follows:

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

7 (1) "Collect," or any derivative thereof, "collect and remit," or
8 "collect and deliver," when used with reference to the department of
9 corrections, means that the department is responsible for monitoring
10 and enforcing the offender's sentence with regard to the legal
11 financial obligation, receiving payment thereof from the offender, and,
12 consistent with current law, delivering daily the entire payment to the
13 superior court clerk without depositing it in a departmental account.

14 (2) "Commission" means the sentencing guidelines commission.

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

19 (4) "Community custody" means that portion of an inmate's sentence
20 of confinement in lieu of earned early release time or imposed pursuant
21 to RCW 9.94A.120(6) served in the community subject to controls placed
22 on the inmate's movement and activities by the department of
23 corrections.

24 (5) "Community placement" means that period during which the
25 offender is subject to the conditions of community custody and/or
26 postrelease supervision, which begins either upon completion of the
27 term of confinement (postrelease supervision) or at such time as the
28 offender is transferred to community custody in lieu of earned early
29 release. Community placement may consist of entirely community
30 custody, entirely postrelease supervision, or a combination of the two.

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

34 (7) "Community supervision" means a period of time during which a
35 convicted offender is subject to crime-related prohibitions and other
36 sentence conditions imposed by a court pursuant to this chapter or RCW
37 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
38 may include crime-related prohibitions and other conditions imposed

1 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
2 for out-of-state supervision of parolees and probationers, RCW
3 9.95.270, community supervision is the functional equivalent of
4 probation and should be considered the same as probation by other
5 states.

6 (8) "Confinement" means total or partial confinement as defined in
7 this section.

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

25 (11) "Crime-related prohibition" means an order of a court
26 prohibiting conduct that directly relates to the circumstances of the
27 crime for which the offender has been convicted, and shall not be
28 construed to mean orders directing an offender affirmatively to
29 participate in rehabilitative programs or to otherwise perform
30 affirmative conduct.

31 (12)(a) "Criminal history" means the list of a defendant's prior
32 convictions, whether in this state, in federal court, or elsewhere.
33 The history shall include, where known, for each conviction (i) whether
34 the defendant has been placed on probation and the length and terms
35 thereof; and (ii) whether the defendant has been incarcerated and the
36 length of incarceration.

37 (b) "Criminal history" shall always include juvenile convictions
38 for sex offenses and serious violent offenses and shall also include a
39 defendant's other prior convictions in juvenile court if: (i) The

1 conviction was for an offense which is a felony or a serious traffic
2 offense and is criminal history as defined in RCW 13.40.020(9); (ii)
3 the defendant was fifteen years of age or older at the time the offense
4 was committed; and (iii) with respect to prior juvenile class B, B+,
5 and C felonies or serious traffic offenses, the defendant was less than
6 twenty-three years of age at the time the offense for which he or she
7 is being sentenced was committed.

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

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

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

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

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

38 (18) "Drug offense" means:

1 (a) Any felony violation of chapter 69.50 RCW except possession of
2 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
3 controlled substance (RCW 69.50.403);

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

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

10 (19) "Escape" means:

11 (a) Escape in the first degree (RCW 9A.76.110), escape in the
12 second degree (RCW 9A.76.120), willful failure to return from furlough
13 (RCW 72.66.060), willful failure to return from work release (RCW
14 72.65.070), or willful failure to be available for supervision by the
15 department while in community custody (RCW 72.09.310); or

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

19 (20) "Felony traffic offense" means:

20 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
21 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
22 and-run injury-accident (RCW 46.52.020(4)); 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 (21) "Fines" means the requirement that the offender pay a specific
27 sum of money over a specific period of time to the court.

28 (22)(a) "First-time offender" means any person who is convicted of
29 a felony (i) not classified as a violent offense or a sex offense under
30 this chapter, or (ii) that is not the manufacture, delivery, or
31 possession with intent to manufacture or deliver a controlled substance
32 classified in schedule I or II that is a narcotic drug, nor the
33 manufacture, delivery, or possession with intent to deliver
34 methamphetamine, its salts, isomers, and salts of its isomers as
35 defined in RCW 69.50.206(d)(2), nor the selling for profit of any
36 controlled substance or counterfeit substance classified in schedule I,
37 RCW 69.50.204, except leaves and flowering tops of marijuana, and
38 except as provided in (b) of this subsection, who previously has never
39 been convicted of a felony in this state, federal court, or another

1 state, and who has never participated in a program of deferred
2 prosecution for a felony offense.

3 (b) For purposes of (a) of this subsection, a juvenile adjudication
4 for an offense committed before the age of fifteen years is not a
5 previous felony conviction except for adjudications of sex offenses and
6 serious violent offenses.

7 (23) "Most serious offense" means any of the following felonies or
8 a felony attempt to commit any of the following felonies, as now
9 existing or hereafter amended:

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

13 (b) Assault in the second degree;

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

15 (d) Child molestation in the second degree;

16 (e) Controlled substance homicide;

17 (f) Extortion in the first degree;

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

19 (h) Indecent liberties;

20 (i) Kidnapping in the second degree;

21 (j) Leading organized crime;

22 (k) Manslaughter in the first degree;

23 (l) Manslaughter in the second degree;

24 (m) Promoting prostitution in the first degree;

25 (n) Rape in the third degree;

26 (o) Robbery in the second degree;

27 (p) Sexual exploitation;

28 (q) Vehicular assault;

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

33 (s) Any other class B or B+ felony offense with a finding of sexual
34 motivation, as "sexual motivation" is defined under this section;

35 (t) Any other felony with a deadly weapon verdict under RCW
36 9.94A.125;

37 (u) Any felony offense in effect at any time prior to December 2,
38 1993, that is comparable to a most serious offense under this
39 subsection, or any federal or out-of-state conviction for an offense

1 that under the laws of this state would be a felony classified as a
2 most serious offense under this subsection.

3 (24) "Nonviolent offense" means an offense which is not a violent
4 offense.

5 (25) "Offender" means a person who has committed a felony
6 established by state law and is eighteen years of age or older or is
7 less than eighteen years of age but whose case has been transferred by
8 the appropriate juvenile court to a criminal court pursuant to RCW
9 13.40.110. Throughout this chapter, the terms "offender" and
10 "defendant" are used interchangeably.

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

19 (27) "Persistent offender" is an offender who:

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

22 (b) Has, before the commission of the offense under (a) of this
23 subsection, been convicted as an offender on at least two separate
24 occasions, whether in this state or elsewhere, of felonies that under
25 the laws of this state would be considered most serious offenses and
26 would be included in the offender score under RCW 9.94A.360; provided
27 that of the two or more previous convictions, at least one conviction
28 must have occurred before the commission of any of the other most
29 serious offenses for which the offender was previously convicted.

30 (28) "Postrelease supervision" is that portion of an offender's
31 community placement that is not community custody.

32 (29) "Restitution" means the requirement that the offender pay a
33 specific sum of money over a specific period of time to the court as
34 payment of damages. The sum may include both public and private costs.
35 The imposition of a restitution order does not preclude civil redress.

36 (30) "Serious traffic offense" means:

37 (a) Driving while under the influence of intoxicating liquor or any
38 drug (RCW 46.61.502), actual physical control while under the influence
39 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving

1 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
2 or

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

6 (31) "Serious violent offense" is a subcategory of violent offense
7 and means:

8 (a) Murder in the first degree, homicide by abuse, murder in the
9 second degree, assault in the first degree, kidnapping in the first
10 degree, or rape in the first degree, assault of a child in the first
11 degree, or an attempt, criminal solicitation, or criminal conspiracy to
12 commit one of these felonies; 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 a serious
15 violent offense under (a) of this subsection.

16 (32) "Sentence range" means the sentencing court's discretionary
17 range in imposing a nonappealable sentence.

18 (33) "Sex offense" means:

19 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
20 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
21 criminal attempt, criminal solicitation, or criminal conspiracy to
22 commit such crimes;

23 (b) A felony with a finding of sexual motivation under RCW
24 9.94A.127 or 13.40.135; or

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

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

31 (35) "Total confinement" means confinement inside the physical
32 boundaries of a facility or institution operated or utilized under
33 contract by the state or any other unit of government for twenty-four
34 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

35 (36) "Transition training" means written and verbal instructions
36 and assistance provided by the department to the offender during the
37 two weeks prior to the offender's successful completion of the work
38 ethic camp program. The transition training shall include instructions

1 in the offender's requirements and obligations during the offender's
2 period of community custody.

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

6 (38) "Violent offense" means:

7 (a) Any of the following felonies, as now existing or hereafter
8 amended: Any felony defined under any law as a class A felony or an
9 attempt to commit a class A felony, criminal solicitation of or
10 criminal conspiracy to commit a class A felony, manslaughter in the
11 first degree, manslaughter in the second degree, indecent liberties if
12 committed by forcible compulsion, kidnapping in the second degree,
13 arson in the second degree, assault in the second degree, assault of a
14 child in the second degree, extortion in the first degree, robbery in
15 the second degree, vehicular assault, and vehicular homicide, when
16 proximately caused by the driving of any vehicle by any person while
17 under the influence of intoxicating liquor or any drug as defined by
18 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

25 (39) "Work crew" means a program of partial confinement consisting
26 of civic improvement tasks for the benefit of the community of not less
27 than thirty-five hours per week that complies with RCW 9.94A.135. The
28 civic improvement tasks shall have minimal negative impact on existing
29 private industries or the labor force in the county where the service
30 or labor is performed. The civic improvement tasks shall not affect
31 employment opportunities for people with developmental disabilities
32 contracted through sheltered workshops as defined in RCW 82.04.385.
33 Only those offenders sentenced to a facility operated or utilized under
34 contract by a county or the state are eligible to participate on a work
35 crew. Offenders sentenced for a sex offense as defined in subsection
36 (33) of this section are not eligible for the work crew program.

37 (40) "Work ethic camp" means an alternative incarceration program
38 designed to reduce recidivism and lower the cost of corrections by
39 requiring offenders to complete a comprehensive array of real-world job

1 and vocational experiences, character-building work ethics training,
2 life management skills development, substance abuse rehabilitation,
3 counseling, literacy training, and basic adult education.

4 (41) "Work release" means a program of partial confinement
5 available to offenders who are employed or engaged as a student in a
6 regular course of study at school. Participation in work release shall
7 be conditioned upon the offender attending work or school at regularly
8 defined hours and abiding by the rules of the work release facility.

9 (42) "Home detention" means a program of partial confinement
10 available to offenders wherein the offender is confined in a private
11 residence subject to electronic surveillance.

12 **Sec. 36.** RCW 9.94A.230 and 1987 c 486 s 7 are each amended to read
13 as follows:

14 (1) Every offender who has been discharged under RCW 9.94A.220 may
15 apply to the sentencing court for a vacation of the offender's record
16 of conviction. If the court finds the offender meets the tests
17 prescribed in subsection (2) of this section, the court may clear the
18 record of conviction by: (a) Permitting the offender to withdraw the
19 offender's plea of guilty and to enter a plea of not guilty; or (b) if
20 the offender has been convicted after a plea of not guilty, by the
21 court setting aside the verdict of guilty; and (c) by the court
22 dismissing the information or indictment against the offender.

23 (2) An offender may not have the record of conviction cleared if:
24 (a) There are any criminal charges against the offender pending in any
25 court of this state or another state, or in any federal court; (b) the
26 offense was a violent offense as defined in RCW 9.94A.030; (c) the
27 offense was a crime against persons as defined in RCW 43.43.830; (d)
28 the offender has been convicted of a new crime in this state, another
29 state, or federal court since the date of the offender's discharge
30 under RCW 9.94A.220; (e) the offense is a class B+ felony and less than
31 twenty years have passed since the date the applicant was discharged
32 under RCW 9.94A.220; (f) the offense is a class B felony and less than
33 ten years have passed since the date the applicant was discharged under
34 RCW 9.94A.220; and ((+f)) (g) the offense was a class C felony and
35 less than five years have passed since the date the applicant was
36 discharged under RCW 9.94A.220.

37 (3) Once the court vacates a record of conviction under subsection
38 (1) of this section, the fact that the offender has been convicted of

1 the offense shall not be included in the offender's criminal history
 2 for purposes of determining a sentence in any subsequent conviction,
 3 and the offender shall be released from all penalties and disabilities
 4 resulting from the offense. For all purposes, including responding to
 5 questions on employment applications, an offender whose conviction has
 6 been vacated may state that the offender has never been convicted of
 7 that crime. Nothing in this section affects or prevents the use of an
 8 offender's prior conviction in a later criminal prosecution.

9 **Sec. 37.** RCW 9.94A.310 and 1995 c 129 s 2 (Initiative Measure No.
 10 159) are each amended to read as follows:

11 (1) TABLE 1

12 Sentencing Grid

13 SERIOUSNESS

14 SCORE OFFENDER SCORE

15 0 1 2 3 4 5 6 7 8 9 or
 16 more

17

18 XV Life Sentence without Parole/Death Penalty

19

20 XIV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y
 21 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-
 22 320 333 347 361 374 388 416 450 493 548

23

24 XIII 12y 13y 14y 15y 16y 17y 19y 21y 25y 29y
 25 123- 134- 144- 154- 165- 175- 195- 216- 257- 298-
 26 164 178 192 205 219 233 260 288 342 397

27

28 XII 9y 9y11m 10y9m 11y8m 12y6m 13y5m 15y9m 17y3m 20y3m 23y3m
 29 93- 102- 111- 120- 129- 138- 162- 178- 209- 240-
 30 123 136 147 160 171 184 216 236 277 318

31

32 XI 7y6m 8y4m 9y2m 9y11m 10y9m 11y7m 14y2m 15y5m 17y11m 20y5m
 33 78- 86- 95- 102- 111- 120- 146- 159- 185- 210-
 34 102 114 125 136 147 158 194 211 245 280

35

1	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
2		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
3		68	75	82	89	96	102	130	144	171	198
4											
5	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
6		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
7		41	48	54	61	68	75	102	116	144	171
8											
9	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
10		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
11		27	34	41	48	54	61	89	102	116	144
12											
13	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
14		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
15		20	27	34	41	48	54	75	89	102	116
16											
17	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
18		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
19		14	20	27	34	41	48	61	75	89	102
20											
21	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
22		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
23		12	14	17	20	29	43	54	68	82	96
24											
25	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
26		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
27		9	12	14	17	20	29	43	57	70	84
28											
29	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
30		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
31		3	8	12	12	16	22	29	43	57	68
32											
33	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
34		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
35		Days	6	9	12	14	18	22	29	43	57
36											

1	I		3m	4m	5m	8m	13m	16m	20m	2y2m	
2		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
3		Days	Days	5	6	8	12	14	18	22	29
4	<hr/>										

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

9 (2) For persons convicted of the anticipatory offenses of criminal
10 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
11 presumptive sentence is determined by locating the sentencing grid
12 sentence range defined by the appropriate offender score and the
13 seriousness level of the completed crime, and multiplying the range by
14 75 percent.

15 (3) The following additional times shall be added to the
16 presumptive sentence for felony crimes committed after July 23, 1995,
17 if the offender or an accomplice was armed with a firearm as defined in
18 RCW 9.41.010 and the offender is being sentenced for one of the crimes
19 listed in this subsection as eligible for any firearm enhancements
20 based on the classification of the completed felony crime. If the
21 offender or an accomplice was armed with a firearm as defined in RCW
22 9.41.010 and the offender is being sentenced for an anticipatory
23 offense under chapter 9A.28 RCW to commit one of the crimes listed in
24 this subsection as eligible for any firearm enhancements, the following
25 additional times shall be added to the presumptive sentence determined
26 under subsection (2) of this section based on the felony crime of
27 conviction as classified under RCW 9A.28.020:

28 (a) Five years for any felony defined under any law as a class A
29 felony or with a maximum sentence of at least twenty years, or both,
30 and not covered under (f) of this subsection.

31 (b) Three years for any felony defined under any law as a class B
32 or B+ felony or with a maximum sentence of ten years, or both, and not
33 covered under (f) of this subsection.

34 (c) Eighteen months for any felony defined under any law as a
35 class C felony or with a maximum sentence of five years, or both, and
36 not covered under (f) of this subsection.

37 (d) If the offender is being sentenced for any firearm
38 enhancements under (a), (b), and/or (c) of this subsection and the
39 offender has previously been sentenced for any deadly weapon

1 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
2 subsection or subsection (4) (a), (b), and/or (c) of this section, or
3 both, any and all firearm enhancements under this subsection shall be
4 twice the amount of the enhancement listed.

5 (e) Notwithstanding any other provision of law, any and all
6 firearm enhancements under this section are mandatory, shall be served
7 in total confinement, and shall not run concurrently with any other
8 sentencing provisions.

9 (f) The firearm enhancements in this section shall apply to all
10 felony crimes except the following: Possession of a machine gun,
11 possessing a stolen firearm, reckless endangerment in the first degree,
12 theft of a firearm, unlawful possession of a firearm in the first and
13 second degree, and use of a machine gun in a felony.

14 (g) If the presumptive sentence under this section exceeds the
15 statutory maximum for the offense, the statutory maximum sentence shall
16 be the presumptive sentence unless the offender is a persistent
17 offender as defined in RCW 9.94A.030.

18 (4) The following additional times shall be added to the
19 presumptive sentence for felony crimes committed after July 23, 1995,
20 if the offender or an accomplice was armed with a deadly weapon as
21 defined in this chapter other than a firearm as defined in RCW 9.41.010
22 and the offender is being sentenced for one of the crimes listed in
23 this subsection as eligible for any deadly weapon enhancements based on
24 the classification of the completed felony crime. If the offender or
25 an accomplice was armed with a deadly weapon other than a firearm as
26 defined in RCW 9.41.010 and the offender is being sentenced for an
27 anticipatory offense under chapter 9A.28 RCW to commit one of the
28 crimes listed in this subsection as eligible for any deadly weapon
29 enhancements, the following additional times shall be added to the
30 presumptive sentence determined under subsection (2) of this section
31 based on the felony crime of conviction as classified under RCW
32 9A.28.020:

33 (a) Two years for any felony defined under any law as a class A
34 felony or with a maximum sentence of at least twenty years, or both,
35 and not covered under (f) of this subsection.

36 (b) One year for any felony defined under any law as a class B or
37 B+ felony or with a maximum sentence of ten years, or both, and not
38 covered under (f) of this subsection.

1 (c) Six months for any felony defined under any law as a class C
2 felony or with a maximum sentence of five years, or both, and not
3 covered under (f) of this subsection.

4 (d) If the offender is being sentenced under (a), (b), and/or (c)
5 of this subsection for any deadly weapon enhancements and the offender
6 has previously been sentenced for any deadly weapon enhancements after
7 July 23, 1995, under (a), (b), and/or (c) of this subsection or
8 subsection (3) (a), (b), and/or (c) of this section, or both, any and
9 all deadly weapon enhancements under this subsection shall be twice the
10 amount of the enhancement listed.

11 (e) Notwithstanding any other provision of law, any and all deadly
12 weapon enhancements under this section are mandatory, shall be served
13 in total confinement, and shall not run concurrently with any other
14 sentencing provisions.

15 (f) The deadly weapon enhancements in this section shall apply to
16 all felony crimes except the following: Possession of a machine gun,
17 possessing a stolen firearm, reckless endangerment in the first degree,
18 theft of a firearm, unlawful possession of a firearm in the first and
19 second degree, and use of a machine gun in a felony.

20 (g) If the presumptive sentence under this section exceeds the
21 statutory maximum for the offense, the statutory maximum sentence shall
22 be the presumptive sentence unless the offender is a persistent
23 offender as defined in RCW 9.94A.030.

24 (5) The following additional times shall be added to the
25 presumptive sentence if the offender or an accomplice committed the
26 offense while in a county jail or state correctional facility as that
27 term is defined in this chapter and the offender is being sentenced for
28 one of the crimes listed in this subsection. If the offender or an
29 accomplice committed one of the crimes listed in this subsection while
30 in a county jail or state correctional facility as that term is defined
31 in this chapter, and the offender is being sentenced for an
32 anticipatory offense under chapter 9A.28 RCW to commit one of the
33 crimes listed in this subsection, the following additional times shall
34 be added to the presumptive sentence determined under subsection (2) of
35 this section:

36 (a) Eighteen months for offenses committed under RCW
37 69.50.401(a)(1)(i) or 69.50.410;

38 (b) Fifteen months for offenses committed under RCW
39 69.50.401(a)(1)(ii), (iii), and (iv);

1 (c) Twelve months for offenses committed under RCW 69.50.401(d).
2 For the purposes of this subsection, all of the real property of
3 a state correctional facility or county jail shall be deemed to be part
4 of that facility or county jail.

5 (6) An additional twenty-four months shall be added to the
6 presumptive sentence for any ranked offense involving a violation of
7 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

8 **Sec. 38.** RCW 9.94A.320 and 1995 c 385 s 2, 1995 c 285 s 28, and
9 1995 c 129 s 3 (Initiative Measure No. 159) are each reenacted and
10 amended to read as follows:

11 TABLE 2

12 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

13	XV	Aggravated Murder 1 (RCW 10.95.020)
14	XIV	Murder 1 (RCW 9A.32.030)
15		Homicide by abuse (RCW 9A.32.055)
16	XIII	Murder 2 (RCW 9A.32.050)
17	XII	Assault 1 (RCW 9A.36.011)
18		Assault of a Child 1 (RCW 9A.36.120)
19	XI	Rape 1 (RCW 9A.44.040)
20		Rape of a Child 1 (RCW 9A.44.073)
21	X	Kidnapping 1 (RCW 9A.40.020)
22		Rape 2 (RCW 9A.44.050)
23		Rape of a Child 2 (RCW 9A.44.076)
24		Child Molestation 1 (RCW 9A.44.083)
25		Damaging building, etc., by explosion with
26		threat to human being (RCW
27		70.74.280(1))
28		Over 18 and deliver heroin or narcotic from
29		Schedule I or II to someone under 18
30		(RCW 69.50.406)
31		Leading Organized Crime (RCW
32		9A.82.060(1)(a))

1 IX Assault of a Child 2 (RCW 9A.36.130)
2 Robbery 1 (RCW 9A.56.200)
3 Manslaughter 1 (RCW 9A.32.060)
4 Explosive devices prohibited (RCW 70.74.180)
5 Indecent Liberties (with forcible
6 compulsion) (RCW 9A.44.100(1)(a))
7 Endangering life and property by explosives
8 with threat to human being (RCW
9 70.74.270)
10 Over 18 and deliver narcotic from Schedule
11 III, IV, or V or a nonnarcotic from
12 Schedule I-V to someone under 18 and 3
13 years junior (RCW 69.50.406)
14 Controlled Substance Homicide (RCW
15 69.50.415)
16 Sexual Exploitation (RCW 9.68A.040)
17 Inciting Criminal Profiteering (RCW
18 9A.82.060(1)(b))
19 Vehicular Homicide, by being under the
20 influence of intoxicating liquor or any
21 drug (RCW 46.61.520)
22 VIII Arson 1 (RCW 9A.48.020)
23 Promoting Prostitution 1 (RCW 9A.88.070)
24 Selling for profit (controlled or
25 counterfeit) any controlled substance
26 (RCW 69.50.410)
27 Manufacture, deliver, or possess with intent
28 to deliver heroin or cocaine (RCW
29 69.50.401(a)(1)(i))
30 Manufacture, deliver, or possess with intent
31 to deliver methamphetamine (RCW
32 69.50.401(a)(1)(ii))
33 Vehicular Homicide, by the operation of any
34 vehicle in a reckless manner (RCW
35 46.61.520)

1 VII Burglary 1 (RCW 9A.52.020)
2 Vehicular Homicide, by disregard for the
3 safety of others (RCW 46.61.520)
4 Introducing Contraband 1 (RCW 9A.76.140)
5 Indecent Liberties (without forcible
6 compulsion) (RCW 9A.44.100(1) (b) and
7 (c))
8 Child Molestation 2 (RCW 9A.44.086)
9 Dealing in depictions of minor engaged in
10 sexually explicit conduct (RCW
11 9.68A.050)
12 Sending, bringing into state depictions of
13 minor engaged in sexually explicit
14 conduct (RCW 9.68A.060)
15 Involving a minor in drug dealing (RCW
16 69.50.401(f))
17 Reckless Endangerment 1 (RCW 9A.36.045)
18 Unlawful Possession of a Firearm in the
19 first degree (RCW 9.41.040(1)(a))
20 VI Bribery (RCW 9A.68.010)
21 Manslaughter 2 (RCW 9A.32.070)
22 Rape of a Child 3 (RCW 9A.44.079)
23 Intimidating a Juror/Witness (RCW 9A.72.110,
24 9A.72.130)
25 Damaging building, etc., by explosion with
26 no threat to human being (RCW
27 70.74.280(2))
28 Endangering life and property by explosives
29 with no threat to human being (RCW
30 70.74.270)
31 Incest 1 (RCW 9A.64.020(1))
32 Manufacture, deliver, or possess with intent
33 to deliver narcotics from Schedule I or
34 II (except heroin or cocaine) (RCW
35 69.50.401(a)(1)(i))
36 Intimidating a Judge (RCW 9A.72.160)
37 Bail Jumping with Murder 1 (RCW
38 9A.76.170(2)(a))
39 Theft of a Firearm (RCW 9A.56.300)

1 V Persistent prison misbehavior (RCW 9.94.070)
2 Criminal Mistreatment 1 (RCW 9A.42.020)
3 Rape 3 (RCW 9A.44.060)
4 Sexual Misconduct with a Minor 1 (RCW
5 9A.44.093)
6 Child Molestation 3 (RCW 9A.44.089)
7 Kidnapping 2 (RCW 9A.40.030)
8 Extortion 1 (RCW 9A.56.120)
9 Incest 2 (RCW 9A.64.020(2))
10 Perjury 1 (RCW 9A.72.020)
11 Extortionate Extension of Credit (RCW
12 9A.82.020)
13 Advancing money or property for extortionate
14 extension of credit (RCW 9A.82.030)
15 Extortionate Means to Collect Extensions of
16 Credit (RCW 9A.82.040)
17 Rendering Criminal Assistance 1 (RCW
18 9A.76.070)
19 Bail Jumping with class A Felony (RCW
20 9A.76.170(2)(b))
21 Sexually Violating Human Remains (RCW
22 9A.44.105)
23 Delivery of imitation controlled substance
24 by person eighteen or over to person
25 under eighteen (RCW 69.52.030(2))
26 Possession of a Stolen Firearm (RCW
27 9A.56.310)

28 IV Residential Burglary (RCW 9A.52.025)
29 Theft of Livestock 1 (RCW 9A.56.080)
30 Robbery 2 (RCW 9A.56.210)
31 Assault 2 (RCW 9A.36.021)
32 Escape 1 (RCW 9A.76.110)
33 Arson 2 (RCW 9A.48.030)
34 Commercial Bribery (RCW 9A.68.060)
35 Bribing a Witness/Bribe Received by Witness
36 (RCW 9A.72.090, 9A.72.100)
37 Malicious Harassment (RCW 9A.36.080)
38 Threats to Bomb (RCW 9.61.160)

1 Willful Failure to Return from Furlough (RCW
2 72.66.060)
3 Hit and Run « Injury Accident (RCW
4 46.52.020(4))
5 Vehicular Assault (RCW 46.61.522)
6 Manufacture, deliver, or possess with intent
7 to deliver narcotics from Schedule III,
8 IV, or V or nonnarcotics from Schedule
9 I-V (except marijuana or
10 methamphetamines) (RCW
11 69.50.401(a)(1)(ii) through (iv))
12 Influencing Outcome of Sporting Event (RCW
13 9A.82.070)
14 Use of Proceeds of Criminal Profiteering
15 (RCW 9A.82.080 (1) and (2))
16 Knowingly Trafficking in Stolen Property
17 (RCW 9A.82.050(2))

18 III Criminal Mistreatment 2 (RCW 9A.42.030)
19 Extortion 2 (RCW 9A.56.130)
20 Unlawful Imprisonment (RCW 9A.40.040)
21 Assault 3 (RCW 9A.36.031)
22 Assault of a Child 3 (RCW 9A.36.140)
23 Custodial Assault (RCW 9A.36.100)
24 Unlawful possession of firearm in the second
25 degree (RCW 9.41.040(1)(b))
26 Harassment (RCW 9A.46.020)
27 Promoting Prostitution 2 (RCW 9A.88.080)
28 Willful Failure to Return from Work Release
29 (RCW 72.65.070)
30 Burglary 2 (RCW 9A.52.030)
31 Introducing Contraband 2 (RCW 9A.76.150)
32 Communication with a Minor for Immoral
33 Purposes (RCW 9.68A.090)
34 Patronizing a Juvenile Prostitute (RCW
35 9.68A.100)
36 Escape 2 (RCW 9A.76.120)
37 Perjury 2 (RCW 9A.72.030)
38 Bail Jumping with class B, B+, or C Felony
39 (RCW 9A.76.170(2)(c))

1 Intimidating a Public Servant (RCW
2 9A.76.180)
3 Tampering with a Witness (RCW 9A.72.120)
4 Manufacture, deliver, or possess with intent
5 to deliver marijuana (RCW
6 69.50.401(a)(1)(ii))
7 Delivery of a material in lieu of a
8 controlled substance (RCW 69.50.401(c))
9 Manufacture, distribute, or possess with
10 intent to distribute an imitation
11 controlled substance (RCW 69.52.030(1))
12 Recklessly Trafficking in Stolen Property
13 (RCW 9A.82.050(1))
14 Theft of livestock 2 (RCW 9A.56.080)
15 Securities Act violation (RCW 21.20.400)

16 II Unlawful Practice of Law (RCW 2.48.180)
17 Malicious Mischief 1 (RCW 9A.48.070)
18 Possession of Stolen Property 1 (RCW
19 9A.56.150)
20 Theft 1 (RCW 9A.56.030)
21 Trafficking in Insurance Claims (RCW
22 48.30A.015)
23 Unlicensed Practice of a Profession or
24 Business (RCW 18.130.190(7))
25 Health Care False Claims (RCW 48.80.030)
26 Possession of controlled substance that is
27 either heroin or narcotics from
28 Schedule I or II (RCW 69.50.401(d))
29 Possession of phencyclidine (PCP) (RCW
30 69.50.401(d))
31 Create, deliver, or possess a counterfeit
32 controlled substance (RCW 69.50.401(b))
33 Computer Trespass 1 (RCW 9A.52.110)
34 Escape from Community Custody (RCW
35 72.09.310)

1 I Theft 2 (RCW 9A.56.040)
2 Possession of Stolen Property 2 (RCW
3 9A.56.160)
4 Forgery (RCW 9A.60.020)
5 Taking Motor Vehicle Without Permission (RCW
6 9A.56.070)
7 Vehicle Prowl 1 (RCW 9A.52.095)
8 Attempting to Elude a Pursuing Police
9 Vehicle (RCW 46.61.024)
10 Malicious Mischief 2 (RCW 9A.48.080)
11 Reckless Burning 1 (RCW 9A.48.040)
12 Unlawful Issuance of Checks or Drafts (RCW
13 9A.56.060)
14 Unlawful Use of Food Stamps (RCW 9.91.140
15 (2) and (3))
16 False Verification for Welfare (RCW
17 74.08.055)
18 Forged Prescription (RCW 69.41.020)
19 Forged Prescription for a Controlled
20 Substance (RCW 69.50.403)
21 Possess Controlled Substance that is a
22 Narcotic from Schedule III, IV, or V or
23 Non-narcotic from Schedule I-V (except
24 phencyclidine) (RCW 69.50.401(d))

25 **Sec. 39.** RCW 9.94A.386 and 1984 c 209 s 23 are each amended to
26 read as follows:

27 On all sentences under this chapter the court may impose fines
28 according to the following ranges:

29	Class A felonies	\$0 - 50,000
30	<u>Class B+ felonies</u>	<u>\$0 - 30,000</u>
31	Class B felonies	\$0 - 20,000
32	Class C felonies	\$0 - 10,000

33 **Sec. 40.** RCW 9A.20.010 and 1984 c 258 s 808 are each amended to
34 read as follows:

1 (1) Classified Felonies. (a) The particular classification of
2 each felony defined in Title 9A RCW is expressly designated in the
3 section defining it.

4 (b) For purposes of sentencing, classified felonies are designated
5 as one of (~~three~~) four classes, as follows:

6 (i) Class A felony; or

7 (ii) Class B+ felony; or

8 (iii) Class B felony; or

9 (~~(+iii)~~) (iv) Class C felony.

10 (2) Misdemeanors and Gross Misdemeanors. (a) Any crime punishable
11 by a fine of not more than one thousand dollars, or by imprisonment in
12 a county jail for not more than ninety days, or by both such fine and
13 imprisonment is a misdemeanor. Whenever the performance of any act is
14 prohibited by any statute, and no penalty for the violation of such
15 statute is imposed, the committing of such act shall be a misdemeanor.

16 (b) All crimes other than felonies and misdemeanors are gross
17 misdemeanors.

18 **Sec. 41.** RCW 9A.28.020 and 1994 c 271 s 101 are each amended to
19 read as follows:

20 (1) A person is guilty of an attempt to commit crime if, with
21 intent to commit a specific crime, he or she does any act which is a
22 substantial step toward the commission of that crime.

23 (2) If the conduct in which a person engages otherwise constitutes
24 an attempt to commit a crime, it is no defense to a prosecution of such
25 attempt that the crime charged to have been attempted was, under the
26 attendant circumstances, factually or legally impossible of commission.

27 (3) An attempt to commit a crime is a:

28 (a) Class A felony when the crime attempted is murder in the first
29 degree, murder in the second degree, or arson in the first degree;

30 (b) Class B felony when the crime attempted is a class B+ felony
31 or a class A felony other than murder in the first degree, murder in
32 the second degree, or arson in the first degree;

33 (c) Class C felony when the crime attempted is a class B felony;

34 (d) Gross misdemeanor when the crime attempted is a class C
35 felony;

36 (e) Misdemeanor when the crime attempted is a gross misdemeanor or
37 misdemeanor.

1 **Sec. 42.** RCW 9A.28.040 and 1975 1st ex.s. c 260 s 9A.28.040 are
2 each amended to read as follows:

3 (1) A person is guilty of criminal conspiracy when, with intent
4 that conduct constituting a crime be performed, he or she agrees with
5 one or more persons to engage in or cause the performance of such
6 conduct, and any one of them takes a substantial step in pursuance of
7 such agreement.

8 (2) It shall not be a defense to criminal conspiracy that the
9 person or persons with whom the accused is alleged to have conspired:

10 (a) Has not been prosecuted or convicted; or

11 (b) Has been convicted of a different offense; or

12 (c) Is not amenable to justice; or

13 (d) Has been acquitted; or

14 (e) Lacked the capacity to commit an offense.

15 (3) Criminal conspiracy is a:

16 (a) Class A felony when an object of the conspiratorial agreement
17 is murder in the first degree;

18 (b) Class B felony when an object of the conspiratorial agreement
19 is a class B+ felony or a class A felony other than murder in the first
20 degree;

21 (c) Class C felony when an object of the conspiratorial agreement
22 is a class B felony;

23 (d) Gross misdemeanor when an object of the conspiratorial
24 agreement is a class C felony;

25 (e) Misdemeanor when an object of the conspiratorial agreement is
26 a gross misdemeanor or misdemeanor.

27 **Sec. 43.** RCW 9A.44.140 and 1995 c 268 s 4, 1995 c 248 s 2, and
28 1995 c 195 s 2 are each reenacted and amended to read as follows:

29 (1) The duty to register under RCW 9A.44.130 shall end:

30 (a) For a person convicted of a class A felony: Such person may
31 only be relieved of the duty to register under subsection (3) or (4) of
32 this section.

33 (b) For a person convicted of a class B+ felony: Twenty years
34 after the last date of release from confinement, if any, (including
35 full-time residential treatment) pursuant to the conviction, or entry
36 of the judgment and sentence, if the person has spent twenty
37 consecutive years in the community without being convicted of any new
38 offenses.

1 (c) For a person convicted of a class B felony: Fifteen years
2 after the last date of release from confinement, if any, (including
3 full-time residential treatment) pursuant to the conviction, or entry
4 of the judgment and sentence, if the person has spent fifteen
5 consecutive years in the community without being convicted of any new
6 offenses.

7 (~~(e)~~) (d) For a person convicted of a class C felony or any
8 violation of RCW 9.68A.090 or an attempt, solicitation, or conspiracy
9 to commit a class C felony: Ten years after the last date of release
10 from confinement, if any, (including full-time residential treatment)
11 pursuant to the conviction, or entry of the judgment and sentence, if
12 the person has spent ten consecutive years in the community without
13 being convicted of any new offenses.

14 (2) The provisions of subsection (1) of this section shall apply
15 equally to a person who has been found not guilty by reason of insanity
16 under chapter 10.77 RCW of a sex offense.

17 (3) Any person having a duty to register under RCW 9A.44.130 may
18 petition the superior court to be relieved of that duty. The petition
19 shall be made to the court in which the petitioner was convicted of the
20 offense that subjects him or her to the duty to register, or, in the
21 case of convictions in other states, a foreign country, or a federal or
22 military court, to the court in Thurston county. The prosecuting
23 attorney of the county shall be named and served as the respondent in
24 any such petition. The court shall consider the nature of the
25 registrable offense committed, and the criminal and relevant
26 noncriminal behavior of the petitioner both before and after
27 conviction, and may consider other factors. Except as provided in
28 subsection (4) of this section, the court may relieve the petitioner of
29 the duty to register only if the petitioner shows, with clear and
30 convincing evidence, that future registration of the petitioner will
31 not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540,
32 46.20.187, 70.48.470, and 72.09.330.

33 (4) An offender having a duty to register under RCW 9A.44.130 for
34 a sex offense committed when the offender was a juvenile may petition
35 the superior court to be relieved of that duty. The court shall
36 consider the nature of the registrable offense committed, and the
37 criminal and relevant noncriminal behavior of the petitioner both
38 before and after adjudication, and may consider other factors. The
39 court may relieve the petitioner of the duty to register for a sex

1 offense that was committed while the petitioner was fifteen years of
2 age or older only if the petitioner shows, with clear and convincing
3 evidence, that future registration of the petitioner will not serve the
4 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,
5 and 72.09.330. The court may relieve the petitioner of the duty to
6 register for a sex offense that was committed while the petitioner was
7 under the age of fifteen if the petitioner (a) has not been adjudicated
8 of any additional sex offenses during the twenty-four months following
9 the adjudication for the sex offense giving rise to the duty to
10 register, and (b) the petitioner proves by a preponderance of the
11 evidence that future registration of the petitioner will not serve the
12 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,
13 and 72.09.330.

14 (5) Unless relieved of the duty to register pursuant to this
15 section, a violation of RCW 9A.44.130 is an ongoing offense for
16 purposes of the statute of limitations under RCW 9A.04.080.

17 (6) Nothing in RCW 9.94A.220 relating to discharge of an offender
18 shall be construed as operating to relieve the offender of his or her
19 duty to register pursuant to RCW 9A.44.130.

20 **Sec. 44.** RCW 9A.76.080 and 1982 1st ex.s. c 47 s 22 are each
21 amended to read as follows:

22 (1) A person is guilty of rendering criminal assistance in the
23 second degree if he or she renders criminal assistance to a person who
24 has committed or is being sought for a class B+, class B, or class C
25 felony or an equivalent juvenile offense or to someone being sought for
26 violation of parole, probation, or community supervision.

27 (2) Rendering criminal assistance in the second degree is:

28 (a) A misdemeanor if it is established by a preponderance of the
29 evidence that the actor is a relative as defined in RCW 9A.76.060;

30 (b) A gross misdemeanor in all other cases.

31 **Sec. 45.** RCW 9A.76.170 and 1983 1st ex.s. c 4 s 3 are each
32 amended to read as follows:

33 (1) Any person having been released by court order or admitted to
34 bail with the requirement of a subsequent personal appearance before
35 any court of this state, and who knowingly fails to appear as required
36 is guilty of bail jumping.

37 (2) Bail jumping is:

1 (a) A class A felony if the person was held for, charged with, or
2 convicted of murder in the first degree;

3 (b) A class B felony if the person was held for, charged with, or
4 convicted of a class A felony other than murder in the first degree;

5 (c) A class C felony if the person was held for, charged with, or
6 convicted of a class B+, class B, or class C felony;

7 (d) A misdemeanor if the person was held for, charged with, or
8 convicted of a gross misdemeanor or misdemeanor.

9 **Sec. 46.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15
10 are each reenacted and amended to read as follows:

11 (1) Except as provided in subsection (2) of this section, the
12 juvenile courts in the several counties of this state, shall have
13 exclusive original jurisdiction over all proceedings:

14 (a) Under the interstate compact on placement of children as
15 provided in chapter 26.34 RCW;

16 (b) Relating to children alleged or found to be dependent as
17 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

18 (c) Relating to the termination of a parent and child relationship
19 as provided in RCW 13.34.180 through 13.34.210;

20 (d) To approve or disapprove out-of-home placement as provided in
21 RCW 13.32A.170;

22 (e) Relating to juveniles alleged or found to have committed
23 offenses, traffic infractions, or violations as provided in RCW
24 13.40.020 through 13.40.230, unless:

25 (i) The juvenile court transfers jurisdiction of a particular
26 juvenile to adult criminal court pursuant to RCW 13.40.110; or

27 (ii) The statute of limitations applicable to adult prosecution
28 for the offense, traffic infraction, or violation has expired; or

29 (iii) The alleged offense or infraction is a traffic, fish,
30 boating, or game offense or traffic infraction committed by a juvenile
31 sixteen years of age or older and would, if committed by an adult, be
32 tried or heard in a court of limited jurisdiction, in which instance
33 the appropriate court of limited jurisdiction shall have jurisdiction
34 over the alleged offense or infraction: PROVIDED, That if such an
35 alleged offense or infraction and an alleged offense or infraction
36 subject to juvenile court jurisdiction arise out of the same event or
37 incident, the juvenile court may have jurisdiction of both matters:
38 PROVIDED FURTHER, That the jurisdiction under this subsection does not

1 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)
2 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited
3 jurisdiction which confine juveniles for an alleged offense or
4 infraction may place juveniles in juvenile detention facilities under
5 an agreement with the officials responsible for the administration of
6 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

7 (iv) The juvenile is sixteen or seventeen years old and the
8 alleged offense is: (A) A serious violent offense as defined in RCW
9 9.94A.030 committed on or after June 13, 1994; or (B) a violent offense
10 as defined in RCW 9.94A.030 committed on or after June 13, 1994, and
11 the juvenile has a criminal history consisting of: (I) One or more
12 prior serious violent offenses; (II) two or more prior violent
13 offenses; or (III) three or more of any combination of the following
14 offenses: Any class A felony, any class B+ felony, any class B felony,
15 vehicular assault, or manslaughter in the second degree, all of which
16 must have been committed after the juvenile's thirteenth birthday and
17 prosecuted separately. In such a case the adult criminal court shall
18 have exclusive original jurisdiction.

19 If the juvenile challenges the state's determination of the
20 juvenile's criminal history, the state may establish the offender's
21 criminal history by a preponderance of the evidence. If the criminal
22 history consists of adjudications entered upon a plea of guilty, the
23 state shall not bear a burden of establishing the knowing and
24 voluntariness of the plea;

25 (f) Under the interstate compact on juveniles as provided in
26 chapter 13.24 RCW;

27 (g) Relating to termination of a diversion agreement under RCW
28 13.40.080, including a proceeding in which the divertee has attained
29 eighteen years of age;

30 (h) Relating to court validation of a voluntary consent to an out-
31 of-home placement under chapter 13.34 RCW, by the parent or Indian
32 custodian of an Indian child, except if the parent or Indian custodian
33 and child are residents of or domiciled within the boundaries of a
34 federally recognized Indian reservation over which the tribe exercises
35 exclusive jurisdiction; and

36 (i) Relating to petitions to compel disclosure of information
37 filed by the department of social and health services pursuant to RCW
38 74.13.042.

1 (2) The family court shall have concurrent original jurisdiction
 2 with the juvenile court over all proceedings under this section if the
 3 superior court judges of a county authorize concurrent jurisdiction as
 4 provided in RCW 26.12.010.

5 (3) A juvenile subject to adult superior court jurisdiction under
 6 subsection (1)(e)(i) through (iv) of this section, who is detained
 7 pending trial, may be detained in a county detention facility as
 8 defined in RCW 13.40.020 pending sentencing or a dismissal.

9 **Sec. 47.** RCW 13.40.0357 and 1995 c 395 s 3 are each amended to
 10 read as follows:

11 **SCHEDULE A**

12 **DESCRIPTION AND OFFENSE CATEGORY**

13	JUVENILE		JUVENILE DISPOSITION
14	DISPOSITION		CATEGORY FOR ATTEMPT,
15	OFFENSE		BAILJUMP, CONSPIRACY,
16	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
17		

18 **Arson and Malicious Mischief**

19	A	Arson 1 (9A.48.020)	B+
20	B	Arson 2 (9A.48.030)	C
21	C	Reckless Burning 1 (9A.48.040)	D
22	D	Reckless Burning 2 (9A.48.050)	E
23	B	Malicious Mischief 1 (9A.48.070)	C
24	C	Malicious Mischief 2 (9A.48.080)	D
25	D	Malicious Mischief 3 (<\$50 is	
26		E class) (9A.48.090)	E
27	E	Tampering with Fire Alarm	
28		Apparatus (9.40.100)	E
29	A	Possession of Incendiary Device	
30		(9.40.120)	B+

31 **Assault and Other Crimes**

32 **Involving Physical Harm**

33	A	Assault 1 (9A.36.011)	B+
34	B+	Assault 2 (9A.36.021)	C+
35	C+	Assault 3 (9A.36.031)	D+
36	D+	Assault 4 (9A.36.041)	E

1	D+	Reckless Endangerment	
2		(9A.36.050)	E
3	C+	Promoting Suicide Attempt	
4		(9A.36.060)	D+
5	D+	Coercion (9A.36.070)	E
6	C+	Custodial Assault (9A.36.100)	D+
7		Burglary and Trespass	
8	B+	Burglary 1 (9A.52.020)	C+
9	B	Burglary 2 (9A.52.030)	C
10	D	Burglary Tools (Possession of)	
11		(9A.52.060)	E
12	D	Criminal Trespass 1 (9A.52.070)	E
13	E	Criminal Trespass 2 (9A.52.080)	E
14	D	Vehicle Prowling (9A.52.100)	E
15		Drugs	
16	E	Possession/Consumption of Alcohol	
17		(66.44.270)	E
18	C	Illegally Obtaining Legend Drug	
19		(69.41.020)	D
20	C+	Sale, Delivery, Possession of Legend	
21		Drug with Intent to Sell	
22		(69.41.030)	D+
23	E	Possession of Legend Drug	
24		(69.41.030)	E
25	B+	Violation of Uniform Controlled	
26		Substances Act - Narcotic Sale	
27		(69.50.401(a)(1)(i))	B+
28	C	Violation of Uniform Controlled	
29		Substances Act - Nonnarcotic Sale	
30		(69.50.401(a)(1)(ii))	C
31	E	Possession of Marihuana <40 grams	
32		(69.50.401(e))	E
33	C	Fraudulently Obtaining Controlled	
34		Substance (69.50.403)	C
35	C+	Sale of Controlled Substance	
36		for Profit (69.50.410)	C+
37	E	Unlawful Inhalation (9.47A.020)	E

1	B	Violation of Uniform Controlled	
2		Substances Act - Narcotic	
3		Counterfeit Substances	
4		(69.50.401(b)(1)(i))	B
5	C	Violation of Uniform Controlled	
6		Substances Act - Nonnarcotic	
7		Counterfeit Substances	
8		(69.50.401(b)(1) (ii), (iii), (iv))	C
9	C	Violation of Uniform Controlled	
10		Substances Act - Possession of a	
11		Controlled Substance	
12		(69.50.401(d))	C
13	C	Violation of Uniform Controlled	
14		Substances Act - Possession of a	
15		Controlled Substance	
16		(69.50.401(c))	C
17		Firearms and Weapons	
18	E	Carrying Loaded Pistol Without	
19		Permit (9.41.050)	E
20	C	Possession of Firearms by	
21		Minor (<18) (9.41.040(1)((e))) (b)(iv))C	
22	D+	Possession of Dangerous Weapon	
23		(9.41.250)	E
24	D	Intimidating Another Person by use	
25		of Weapon (9.41.270)	E
26		Homicide	
27	A+	Murder 1 (9A.32.030)	A
28	A+	Murder 2 (9A.32.050)	B+
29	B+	Manslaughter 1 (9A.32.060)	C+
30	C+	Manslaughter 2 (9A.32.070)	D+
31	B+	Vehicular Homicide (46.61.520)	C+
32		Kidnapping	
33	A	Kidnap 1 (9A.40.020)	B+
34	B+	Kidnap 2 (9A.40.030)	C+
35	C+	Unlawful Imprisonment	
36		(9A.40.040)	D+

1		Obstructing Governmental Operation	
2	E	Obstructing a	
3		Law Enforcement Officer	
4		(9A.76.020)	E
5	E	Resisting Arrest (9A.76.040)	E
6	B	Introducing Contraband 1	
7		(9A.76.140)	C
8	C	Introducing Contraband 2	
9		(9A.76.150)	D
10	E	Introducing Contraband 3	
11		(9A.76.160)	E
12	B+	Intimidating a Public Servant	
13		(9A.76.180)	C+
14	B+	Intimidating a Witness	
15		(9A.72.110)	C+
16		Public Disturbance	
17	C+	Riot with Weapon (9A.84.010)	D+
18	D+	Riot Without Weapon	
19		(9A.84.010)	E
20	E	Failure to Disperse (9A.84.020)	E
21	E	Disorderly Conduct (9A.84.030)	E
22		Sex Crimes	
23	A	Rape 1 (9A.44.040)	B+
24	A-	Rape 2 (9A.44.050)	B+
25	C+	Rape 3 (9A.44.060)	D+
26	A-	Rape of a Child 1 (9A.44.073)	B+
27	B	Rape of a Child 2 (9A.44.076)	C+
28	B	Incest 1 (9A.64.020(1))	C
29	C	Incest 2 (9A.64.020(2))	D
30	D+	Indecent Exposure	
31		(Victim <14) (9A.88.010)	E
32	E	Indecent Exposure	
33		(Victim 14 or over) (9A.88.010)	E
34	B+	Promoting Prostitution 1	
35		(9A.88.070)	C+
36	C+	Promoting Prostitution 2	
37		(9A.88.080)	D+
38	E	O & A (Prostitution) (9A.88.030)	E

1	B+	Indecent Liberties (9A.44.100)	C+
2	B+	Child Molestation 1 (9A.44.083)	C+
3	C+	Child Molestation 2 (9A.44.086)	C
4		Theft, Robbery, Extortion, and Forgery	
5	B	Theft 1 (9A.56.030)	C
6	C	Theft 2 (9A.56.040)	D
7	D	Theft 3 (9A.56.050)	E
8	B	Theft of Livestock (9A.56.080)	C
9	C	Forgery (9A.60.020)	D
10	A	Robbery 1 (9A.56.200)	B+
11	B+	Robbery 2 (9A.56.210)	C+
12	B+	Extortion 1 (9A.56.120)	C+
13	C+	Extortion 2 (9A.56.130)	D+
14	B	Possession of Stolen Property 1	
15		(9A.56.150)	C
16	C	Possession of Stolen Property 2	
17		(9A.56.160)	D
18	D	Possession of Stolen Property 3	
19		(9A.56.170)	E
20	C	Taking Motor Vehicle Without	
21		Owner's Permission (9A.56.070)	D
22		Motor Vehicle Related Crimes	
23	E	Driving Without a License	
24		(46.20.021)	E
25	C	Hit and Run - Injury	
26		(46.52.020(4))	D
27	D	Hit and Run-Attended	
28		(46.52.020(5))	E
29	E	Hit and Run-Unattended	
30		(46.52.010)	E
31	C	Vehicular Assault (46.61.522)	D
32	C	Attempting to Elude Pursuing	
33		Police Vehicle (46.61.024)	D
34	E	Reckless Driving (46.61.500)	E
35	D	Driving While Under the Influence	
36		(46.61.502 and 46.61.504)	E
37	D	Vehicle Prowling (9A.52.100)	E

1	C	Taking Motor Vehicle Without	
2		Owner's Permission (9A.56.070)	D
3		Other	
4	B	Bomb Threat (9.61.160)	C
5	C	Escape 1 (9A.76.110)	C
6	C	Escape 2 (9A.76.120)	C
7	D	Escape 3 (9A.76.130)	E
8	E	Obscene, Harassing, Etc.,	
9		Phone Calls (9.61.230)	E
10	A	Other Offense Equivalent to an	
11		Adult Class A Felony	B+
12	<u>B+</u>	<u>Other Offense Equivalent to an</u>	
13		<u>Adult Class B+ Felony</u>	<u>B</u>
14	B	Other Offense Equivalent to an	
15		Adult Class B Felony	C
16	C	Other Offense Equivalent to an	
17		Adult Class C Felony	D
18	D	Other Offense Equivalent to an	
19		Adult Gross Misdemeanor	E
20	E	Other Offense Equivalent to an	
21		Adult Misdemeanor	E
22	V	Violation of Order of Restitution,	
23		Community Supervision, or	
24		Confinement (13.40.200)	V

25 Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
26 and the standard range is established as follows:

27 1st escape or attempted escape during 12-month period - 4 weeks
28 confinement

29 2nd escape or attempted escape during 12-month period - 8 weeks
30 confinement

31 3rd and subsequent escape or attempted escape during 12-month
32 period - 12 weeks confinement

33 If the court finds that a respondent has violated terms of an order,
34 it may impose a penalty of up to 30 days of confinement.

1 **SCHEDULE B**

2 **PRIOR OFFENSE INCREASE FACTOR**

3 For use with all CURRENT OFFENSES occurring on or after July 1,
4 1989.

5 **TIME SPAN**

6 OFFENSE	0-12	13-24	25 Months
7 CATEGORY	Months	Months	or More
8			
9 A+	.9	.9	.9
10 A	.9	.8	.6
11 A-	.9	.8	.5
12 B+	.9	.7	.4
13 B	.9	.6	.3
14 C+	.6	.3	.2
15 C	.5	.2	.2
16 D+	.3	.2	.1
17 D	.2	.1	.1
18 E	.1	.1	.1

19 Prior history - Any offense in which a diversion agreement or counsel
20 and release form was signed, or any offense which has been adjudicated
21 by court to be correct prior to the commission of the current
22 offense(s).

23 **SCHEDULE C**

24 **CURRENT OFFENSE POINTS**

25 For use with all CURRENT OFFENSES occurring on or after July 1,
26 1989.

27 **AGE**

28 OFFENSE	12 &					
29 CATEGORY	Under	13	14	15	16	17
30						
31 A+	STANDARD RANGE 180-224 WEEKS					
32 A	250	300	350	375	375	375
33 A-	150	150	150	200	200	200
34 B+	110	110	120	130	140	150

1	B	45	45	50	50	57	57
2	C+	44	44	49	49	55	55
3	C	40	40	45	45	50	50
4	D+	16	18	20	22	24	26
5	D	14	16	18	20	22	24
6	E	4	4	4	6	8	10

7 **JUVENILE SENTENCING STANDARDS**
8 **SCHEDULE D-1**

9 This schedule may only be used for minor/first offenders. After the
10 determination is made that a youth is a minor/first offender, the court
11 has the discretion to select sentencing option A, B, or C.

12 **MINOR/FIRST OFFENDER**

13 **OPTION A**

14 **STANDARD RANGE**

15	Community			
16	Points	Community Supervision	Service Hours	Fine
17	Points	Supervision	Hours	Fine
18			
19	1-9	0-3 months	and/or 0-8	and/or 0-\$10
20	10-19	0-3 months	and/or 0-8	and/or 0-\$10
21	20-29	0-3 months	and/or 0-16	and/or 0-\$10
22	30-39	0-3 months	and/or 8-24	and/or 0-\$25
23	40-49	3-6 months	and/or 16-32	and/or 0-\$25
24	50-59	3-6 months	and/or 24-40	and/or 0-\$25
25	60-69	6-9 months	and/or 32-48	and/or 0-\$50
26	70-79	6-9 months	and/or 40-56	and/or 0-\$50
27	80-89	9-12 months	and/or 48-64	and/or 10-\$100
28	90-109	9-12 months	and/or 56-72	and/or 10-\$100

29 **OR**

30 **OPTION B**

31 **STATUTORY OPTION**

32 0-12 Months Community Supervision

33 0-150 Hours Community Service

1 0-100 Fine
 2 Posting of a Probation Bond
 3 A term of community supervision with a maximum of 150 hours, \$100.00
 4 fine, and 12 months supervision.

5 **OR**

6 **OPTION C**
 7 **MANIFEST INJUSTICE**

8 When a term of community supervision would effectuate a manifest
 9 injustice, another disposition may be imposed. When a judge imposes a
 10 sentence of confinement exceeding 30 days, the court shall sentence the
 11 juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall
 12 be used to determine the range.

13 **JUVENILE SENTENCING STANDARDS**
 14 **SCHEDULE D-2**

15 This schedule may only be used for middle offenders. After the
 16 determination is made that a youth is a middle offender, the court has
 17 the discretion to select sentencing option A, B, or C.

18 **MIDDLE OFFENDER**

19 **OPTION A**
 20 **STANDARD RANGE**

	Points	Community Supervision	Community Service Hours	Fine	Confinement Days Weeks
21	1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
22	10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
23	20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
24	30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
25	40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
26	50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
27	60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
28	70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
29	80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
30	90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
31	110-129				8-12
32	130-149				13-16
33	150-199				21-28

1	200-249	30-40
2	250-299	52-65
3	300-374	80-100
4	375+	103-129

5 Middle offenders with 110 points or more do not have to be committed.
6 They may be assigned community supervision under option B.
7 All A+ offenses 180-224 weeks

8 **OR**

9 **OPTION B**
10 **STATUTORY OPTION**

- 11 0-12 Months Community Supervision
- 12 0-150 Hours Community Service
- 13 0-100 Fine
- 14 Posting of a Probation Bond

15 If the offender has less than 110 points, the court may impose a
16 determinate disposition of community supervision and/or up to 30 days
17 confinement; in which case, if confinement has been imposed, the court
18 shall state either aggravating or mitigating factors as set forth in
19 RCW 13.40.150.

20 If the middle offender has 110 points or more, the court may
21 impose a disposition under option A and may suspend the disposition on
22 the condition that the offender serve up to thirty days of confinement
23 and follow all conditions of community supervision. If the offender
24 fails to comply with the terms of community supervision, the court may
25 impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended
26 disposition and order execution of the disposition. If the court
27 imposes confinement for offenders with 110 points or more, the court
28 shall state either aggravating or mitigating factors set forth in RCW
29 13.40.150.

30 **OR**

31 **OPTION C**
32 **MANIFEST INJUSTICE**

33 If the court determines that a disposition under A or B would
34 effectuate a manifest injustice, the court shall sentence the juvenile
35 to a maximum term and the provisions of RCW 13.40.030(2) shall be used
36 to determine the range.

1 (a) The alleged facts bring the case within the jurisdiction of
2 the court; and

3 (b) On a basis of available evidence there is probable cause to
4 believe that the juvenile did commit the offense.

5 (2) If the identical alleged acts constitute an offense under both
6 the law of this state and an ordinance of any city or county of this
7 state, state law shall govern the prosecutor's screening and charging
8 decision for both filed and diverted cases.

9 (3) If the requirements of subsections (1) (a) and (b) of this
10 section are met, the prosecutor shall either file an information in
11 juvenile court or divert the case, as set forth in subsections (5),
12 (6), and (7) of this section. If the prosecutor finds that the
13 requirements of subsection (1) (a) and (b) of this section are not met,
14 the prosecutor shall maintain a record, for one year, of such decision
15 and the reasons therefor. In lieu of filing an information or
16 diverting an offense a prosecutor may file a motion to modify community
17 supervision where such offense constitutes a violation of community
18 supervision.

19 (4) An information shall be a plain, concise, and definite written
20 statement of the essential facts constituting the offense charged. It
21 shall be signed by the prosecuting attorney and conform to chapter
22 10.37 RCW.

23 (5) Where a case is legally sufficient, the prosecutor shall file
24 an information with the juvenile court if:

25 (a) An alleged offender is accused of a class A felony, a class B+
26 felony, a class B felony, an attempt to commit a class B or B+ felony,
27 a class C felony listed in RCW 9.94A.440(2) as a crime against persons
28 or listed in RCW 9A.46.060 as a crime of harassment, a class C felony
29 that is a violation of RCW 9.41.080 or 9.41.040(1)((~~e~~)) (b)(iv), or
30 any other offense listed in RCW 13.40.020(1) (b) or (c); or

31 (b) An alleged offender is accused of a felony and has a criminal
32 history of any felony, or at least two gross misdemeanors, or at least
33 two misdemeanors; or

34 (c) An alleged offender has previously been committed to the
35 department; or

36 (d) An alleged offender has been referred by a diversion unit for
37 prosecution or desires prosecution instead of diversion; or

38 (e) An alleged offender has two or more diversion contracts on the
39 alleged offender's criminal history; or

1 (f) A special allegation has been filed that the offender or an
2 accomplice was armed with a firearm when the offense was committed.

3 (6) Where a case is legally sufficient the prosecutor shall divert
4 the case if the alleged offense is a misdemeanor or gross misdemeanor
5 or violation and the alleged offense is the offender's first offense or
6 violation. If the alleged offender is charged with a related offense
7 that must or may be filed under subsections (5) and (7) of this
8 section, a case under this subsection may also be filed.

9 (7) Where a case is legally sufficient and falls into neither
10 subsection (5) nor (6) of this section, it may be filed or diverted.
11 In deciding whether to file or divert an offense under this section the
12 prosecutor shall be guided only by the length, seriousness, and recency
13 of the alleged offender's criminal history and the circumstances
14 surrounding the commission of the alleged offense.

15 (8) Whenever a juvenile is placed in custody or, where not placed
16 in custody, referred to a diversionary interview, the parent or legal
17 guardian of the juvenile shall be notified as soon as possible
18 concerning the allegation made against the juvenile and the current
19 status of the juvenile. Where a case involves victims of crimes
20 against persons or victims whose property has not been recovered at the
21 time a juvenile is referred to a diversionary unit, the victim shall be
22 notified of the referral and informed how to contact the unit.

23 (9) The responsibilities of the prosecutor under subsections (1)
24 through (8) of this section may be performed by a juvenile court
25 probation counselor for any complaint referred to the court alleging
26 the commission of an offense which would not be a felony if committed
27 by an adult, if the prosecutor has given sufficient written notice to
28 the juvenile court that the prosecutor will not review such complaints.

29 (10) The prosecutor, juvenile court probation counselor, or
30 diversion unit may, in exercising their authority under this section or
31 RCW 13.40.080, refer juveniles to mediation or victim offender
32 reconciliation programs. Such mediation or victim offender
33 reconciliation programs shall be voluntary for victims.

34 NEW SECTION. **Sec. 49.** Sections 3 through 23 of this act are each
35 added to chapter 9.94A RCW.

1 NEW SECTION. **Sec. 50.** This act shall take effect July 1, 1996.

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