

2 **E3SHB 3900** - S AMD - 407  
3 By Senators Roach and Johnson

4 ADOPTED 4/17/97

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 5.60.060 and 1996 c 156 s 1 are each amended to read  
8 as follows:

9 (1) A husband shall not be examined for or against his wife,  
10 without the consent of the wife, nor a wife for or against her husband  
11 without the consent of the husband; nor can either during marriage or  
12 afterward, be without the consent of the other, examined as to any  
13 communication made by one to the other during marriage. But this  
14 exception shall not apply to a civil action or proceeding by one  
15 against the other, nor to a criminal action or proceeding for a crime  
16 committed by one against the other, nor to a criminal action or  
17 proceeding against a spouse if the marriage occurred subsequent to the  
18 filing of formal charges against the defendant, nor to a criminal  
19 action or proceeding for a crime committed by said husband or wife  
20 against any child of whom said husband or wife is the parent or  
21 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:  
22 PROVIDED, That the spouse of a person sought to be detained under  
23 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall  
24 be so informed by the court prior to being called as a witness.

25 (2)(a) An attorney or counselor shall not, without the consent of  
26 his or her client, be examined as to any communication made by the  
27 client to him or her, or his or her advice given thereon in the course  
28 of professional employment.

29 (b) A parent shall not be examined as to a communication made by  
30 that parent's minor child to the child's attorney after the filing of  
31 juvenile offender or adult criminal charges, if the parent was present  
32 at the time of the communication. This privilege does not extend to  
33 communications made prior to filing of charges.

34 (3) A member of the clergy or a priest shall not, without the  
35 consent of a person making the confession, be examined as to any  
36 confession made to him or her in his or her professional character, in

1 the course of discipline enjoined by the church to which he or she  
2 belongs.

3 (4) Subject to the limitations under RCW 70.96A.140 or 71.05.250,  
4 a physician or surgeon or osteopathic physician or surgeon shall not,  
5 without the consent of his or her patient, be examined in a civil  
6 action as to any information acquired in attending such patient, which  
7 was necessary to enable him or her to prescribe or act for the patient,  
8 except as follows:

9 (a) In any judicial proceedings regarding a child's injury,  
10 neglect, or sexual abuse or the cause thereof; and

11 (b) Ninety days after filing an action for personal injuries or  
12 wrongful death, the claimant shall be deemed to waive the physician-  
13 patient privilege. Waiver of the physician-patient privilege for any  
14 one physician or condition constitutes a waiver of the privilege as to  
15 all physicians or conditions, subject to such limitations as a court  
16 may impose pursuant to court rules.

17 (5) A public officer shall not be examined as a witness as to  
18 communications made to him or her in official confidence, when the  
19 public interest would suffer by the disclosure.

20 (6)(a) A peer support group counselor shall not, without consent of  
21 the law enforcement officer making the communication, be compelled to  
22 testify about any communication made to the counselor by the officer  
23 while receiving counseling. The counselor must be designated as such  
24 by the sheriff, police chief, or chief of the Washington state patrol,  
25 prior to the incident that results in counseling. The privilege only  
26 applies when the communication was made to the counselor while acting  
27 in his or her capacity as a peer support group counselor. The  
28 privilege does not apply if the counselor was an initial responding  
29 officer, a witness, or a party to the incident which prompted the  
30 delivery of peer support group counseling services to the law  
31 enforcement officer.

32 (b) For purposes of this section, "peer support group counselor"  
33 means a:

34 (i) Law enforcement officer, or civilian employee of a law  
35 enforcement agency, who has received training to provide emotional and  
36 moral support and counseling to an officer who needs those services as  
37 a result of an incident in which the officer was involved while acting  
38 in his or her official capacity; or

1 (ii) Nonemployee counselor who has been designated by the sheriff,  
2 police chief, or chief of the Washington state patrol to provide  
3 emotional and moral support and counseling to an officer who needs  
4 those services as a result of an incident in which the officer was  
5 involved while acting in his or her official capacity.

6 (7) A sexual assault advocate may not, without the consent of the  
7 victim, be examined as to any communication made by the victim to the  
8 sexual assault advocate.

9 (a) For purposes of this section, "sexual assault advocate" means  
10 the employee or volunteer from a rape crisis center, victim assistance  
11 unit, program, or association, that provides information, medical or  
12 legal advocacy, counseling, or support to victims of sexual assault,  
13 who is designated by the victim to accompany the victim to the hospital  
14 or other health care facility and to proceedings concerning the alleged  
15 assault, including police and prosecution interviews and court  
16 proceedings.

17 (b) A sexual assault advocate may disclose a confidential  
18 communication without the consent of the victim if failure to disclose  
19 is likely to result in a clear, imminent risk of serious physical  
20 injury or death of the victim or another person. Any sexual assault  
21 advocate participating in good faith in the disclosing of records and  
22 communications under this section shall have immunity from any  
23 liability, civil, criminal, or otherwise, that might result from the  
24 action. In any proceeding, civil or criminal, arising out of a  
25 disclosure under this section, the good faith of the sexual assault  
26 advocate who disclosed the confidential communication shall be  
27 presumed.

28 **Sec. 2.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are  
29 each reenacted and amended to read as follows:

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

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

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

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

6 (4) "Community custody" means that portion of an inmate's sentence  
7 of confinement in lieu of earned early release time or imposed pursuant  
8 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to  
9 controls placed on the inmate's movement and activities by the  
10 department of corrections.

11 (5) "Community placement" means that period during which the  
12 offender is subject to the conditions of community custody and/or  
13 postrelease supervision, which begins either upon completion of the  
14 term of confinement (postrelease supervision) or at such time as the  
15 offender is transferred to community custody in lieu of earned early  
16 release. Community placement may consist of entirely community  
17 custody, entirely postrelease supervision, or a combination of the two.

18 (6) "Community service" means compulsory service, without  
19 compensation, performed for the benefit of the community by the  
20 offender.

21 (7) "Community supervision" means a period of time during which a  
22 convicted offender is subject to crime-related prohibitions and other  
23 sentence conditions imposed by a court pursuant to this chapter or RCW  
24 16.52.200(6) or 46.61.524. For first-time offenders, the supervision  
25 may include crime-related prohibitions and other conditions imposed  
26 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact  
27 for out-of-state supervision of parolees and probationers, RCW  
28 9.95.270, community supervision is the functional equivalent of  
29 probation and should be considered the same as probation by other  
30 states.

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

33 (9) "Conviction" means an adjudication of guilt pursuant to Titles  
34 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
35 acceptance of a plea of guilty.

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

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

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

17 (12)((a)) "Criminal history" means the list of a defendant's  
18 prior convictions and juvenile adjudications, whether in this state, in  
19 federal court, or elsewhere. The history shall include, where known,  
20 for each conviction ((i)) (a) whether the defendant has been placed  
21 on probation and the length and terms thereof; and ((ii)) (b) whether  
22 the defendant has been incarcerated and the length of incarceration.

23 ~~((b) "Criminal history" shall always include juvenile convictions  
24 for sex offenses and serious violent offenses and shall also include a  
25 defendant's other prior convictions in juvenile court if: (i) The  
26 conviction was for an offense which is a felony or a serious traffic  
27 offense and is criminal history as defined in RCW 13.40.020(9); (ii)  
28 the defendant was fifteen years of age or older at the time the offense  
29 was committed; and (iii) with respect to prior juvenile class B and C  
30 felonies or serious traffic offenses, the defendant was less than  
31 twenty-three years of age at the time the offense for which he or she  
32 is being sentenced was committed.))~~

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

37 (14) "Day reporting" means a program of enhanced supervision  
38 designed to monitor the defendant's daily activities and compliance  
39 with sentence conditions, and in which the defendant is required to

1 report daily to a specific location designated by the department or the  
2 sentencing judge.

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

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

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

24 (18) "Drug offense" means:

25 (a) Any felony violation of chapter 69.50 RCW except possession of  
26 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
27 controlled substance (RCW 69.50.403);

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

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

34 (19) "Escape" means:

35 (a) Escape in the first degree (RCW 9A.76.110), escape in the  
36 second degree (RCW 9A.76.120), willful failure to return from furlough  
37 (RCW 72.66.060), willful failure to return from work release (RCW  
38 72.65.070), or willful failure to be available for supervision by the  
39 department while in community custody (RCW 72.09.310); or

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

4 (20) "Felony traffic offense" means:

5 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
6 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
7 and-run injury-accident (RCW 46.52.020(4)); or

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

11 (21) "Fines" means the requirement that the offender pay a specific  
12 sum of money over a specific period of time to the court.

13 (22)((~~a~~)) "First-time offender" means any person who is convicted  
14 of a felony ((~~i~~)) (a) not classified as a violent offense or a sex  
15 offense under this chapter, or ((~~ii~~)) (b) that is not the  
16 manufacture, delivery, or possession with intent to manufacture or  
17 deliver a controlled substance classified in schedule I or II that is  
18 a narcotic drug, nor the manufacture, delivery, or possession with  
19 intent to deliver methamphetamine, its salts, isomers, and salts of its  
20 isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit  
21 of any controlled substance or counterfeit substance classified in  
22 schedule I, RCW 69.50.204, except leaves and flowering tops of  
23 marihuana, ((~~and except as provided in (b) of this subsection,~~)) who  
24 previously has never been convicted of a felony in this state, federal  
25 court, or another state, and who has never participated in a program of  
26 deferred prosecution for a felony offense.

27 ((~~(b) For purposes of (a) of this subsection, a juvenile~~  
28 ~~adjudication for an offense committed before the age of fifteen years~~  
29 ~~is not a previous felony conviction except for adjudications of sex~~  
30 ~~offenses and serious violent offenses.~~))

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

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

37 (b) Assault in the second degree;

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

39 (d) Child molestation in the second degree;

1 (e) Controlled substance homicide;  
2 (f) Drive-by shooting;  
3 (g) Extortion in the first degree;  
4 (~~(g)~~) (h) Incest when committed against a child under age  
5 fourteen;  
6 (~~(h)~~) (i) Indecent liberties;  
7 (~~(i)~~) (j) Kidnapping in the second degree;  
8 (~~(j)~~) (k) Leading organized crime;  
9 (~~(k)~~) (l) Manslaughter in the first degree;  
10 (~~(l)~~) (m) Manslaughter in the second degree;  
11 (~~(m)~~) (n) Promoting prostitution in the first degree;  
12 (~~(n)~~) (o) Rape in the third degree;  
13 (~~(o)~~) (p) Robbery in the second degree;  
14 (~~(p)~~) (q) Sexual exploitation;  
15 (~~(q)~~) (r) Vehicular assault;  
16 (~~(r)~~) (s) Vehicular homicide, when proximately caused by the  
17 driving of any vehicle by any person while under the influence of  
18 intoxicating liquor or any drug as defined by RCW 46.61.502, or by the  
19 operation of any vehicle in a reckless manner;  
20 (~~(s)~~) (t) Any other class B felony offense with a finding of  
21 sexual motivation, as "sexual motivation" is defined under this  
22 section;  
23 (~~(t)~~) (u) Any other felony with a deadly weapon verdict under RCW  
24 9.94A.125;  
25 (~~(u)~~) (v) Any felony offense in effect at any time prior to  
26 December 2, 1993, that is comparable to a most serious offense under  
27 this subsection, or any federal or out-of-state conviction for an  
28 offense that under the laws of this state would be a felony classified  
29 as a most serious offense under this subsection.  
30 (24) "Nonviolent offense" means an offense which is not a violent  
31 offense.  
32 (25) "Offender" means a person who has committed a felony  
33 established by state law and is eighteen years of age or older or is  
34 less than eighteen years of age but whose case is under superior court  
35 jurisdiction under RCW 13.04.030 or has been transferred by the  
36 appropriate juvenile court to a criminal court pursuant to RCW  
37 13.40.110. Throughout this chapter, the terms "offender" and  
38 "defendant" are used interchangeably.

1 (26) "Partial confinement" means confinement for no more than one  
2 year in a facility or institution operated or utilized under contract  
3 by the state or any other unit of government, or, if home detention or  
4 work crew has been ordered by the court, in an approved residence, for  
5 a substantial portion of each day with the balance of the day spent in  
6 the community. Partial confinement includes work release, home  
7 detention, work crew, and a combination of work crew and home detention  
8 as defined in this section.

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

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

12 (ii) Has, before the commission of the offense under (a) of this  
13 subsection, been convicted as an offender on at least two separate  
14 occasions, whether in this state or elsewhere, of felonies that under  
15 the laws of this state would be considered most serious offenses and  
16 would be included in the offender score under RCW 9.94A.360; provided  
17 that of the two or more previous convictions, at least one conviction  
18 must have occurred before the commission of any of the other most  
19 serious offenses for which the offender was previously convicted; or

20 (b)(i) Has been convicted of (A) rape in the first degree, rape in  
21 the second degree, or indecent liberties by forcible compulsion; (B)  
22 murder in the first degree, murder in the second degree, kidnapping in  
23 the first degree, kidnapping in the second degree, assault in the first  
24 degree, assault in the second degree, or burglary in the first degree,  
25 with a finding of sexual motivation; or (C) an attempt to commit any  
26 crime listed in this subsection (27)(b)(i); and

27 (ii) Has, before the commission of the offense under (b)(i) of this  
28 subsection, been convicted as an offender on at least one occasion,  
29 whether in this state or elsewhere, of an offense listed in (b)(i) of  
30 this subsection.

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

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

37 (30) "Serious traffic offense" means:

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

1 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
2 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
3 or

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

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

9 (a) Murder in the first degree, homicide by abuse, murder in the  
10 second degree, assault in the first degree, kidnapping in the first  
11 degree, or rape in the first degree, assault of a child in the first  
12 degree, or an attempt, criminal solicitation, or criminal conspiracy to  
13 commit one of these felonies; or

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

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

19 (33) "Sex offense" means:

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

24 (b) A felony with a finding of sexual motivation under RCW  
25 9.94A.127 or 13.40.135; or

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

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

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

36 (36) "Transition training" means written and verbal instructions  
37 and assistance provided by the department to the offender during the  
38 two weeks prior to the offender's successful completion of the work  
39 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, drive-by shooting, vehicular assault, and vehicular  
16 homicide, when proximately caused by the driving of any vehicle by any  
17 person while under the influence of intoxicating liquor or any drug as  
18 defined by RCW 46.61.502, or by the operation of any vehicle in a  
19 reckless manner;

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

23 (c) 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 violent  
25 offense under (a) or (b) of this subsection.

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

38 (40) "Work ethic camp" means an alternative incarceration program  
39 designed to reduce recidivism and lower the cost of corrections by

1 requiring offenders to complete a comprehensive array of real-world job  
2 and vocational experiences, character-building work ethics training,  
3 life management skills development, substance abuse rehabilitation,  
4 counseling, literacy training, and basic adult education.

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

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

13 **Sec. 3.** RCW 9.94A.040 and 1996 c 232 s 1 are each amended to read  
14 as follows:

15 (1) A sentencing guidelines commission is established as an agency  
16 of state government.

17 (2) The legislature finds that the commission, having accomplished  
18 its original statutory directive to implement this chapter, and having  
19 expertise in sentencing practice and policies, shall:

20 (a) Evaluate state sentencing policy, to include whether the  
21 sentencing ranges and standards are consistent with and further:

22 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

23 (ii) The intent of the legislature to emphasize confinement for the  
24 violent offender and alternatives to confinement for the nonviolent  
25 offender.

26 The commission shall provide the governor and the legislature with  
27 its evaluation and recommendations under this subsection not later than  
28 December 1, 1996, and every two years thereafter;

29 (b) Recommend to the legislature revisions or modifications to the  
30 standard sentence ranges, state sentencing policy, prosecuting  
31 standards, and other standards. If implementation of the revisions or  
32 modifications would result in exceeding the capacity of correctional  
33 facilities, then the commission shall accompany its recommendation with  
34 an additional list of standard sentence ranges which are consistent  
35 with correction capacity;

36 (c) Study the existing criminal code and from time to time make  
37 recommendations to the legislature for modification;

1 (d)(i) Serve as a clearinghouse and information center for the  
2 collection, preparation, analysis, and dissemination of information on  
3 state and local adult and juvenile sentencing practices; (ii) develop  
4 and maintain a computerized adult and juvenile sentencing information  
5 system by individual superior court judge consisting of offender,  
6 offense, history, and sentence information entered from judgment and  
7 sentence forms for all adult felons; and (iii) conduct ongoing research  
8 regarding adult and juvenile sentencing guidelines, use of total  
9 confinement and alternatives to total confinement, plea bargaining, and  
10 other matters relating to the improvement of the adult criminal justice  
11 system and the juvenile justice system;

12 (e) Assume the powers and duties of the juvenile disposition  
13 standards commission after June 30, 1996;

14 (f) Evaluate the effectiveness of existing disposition standards  
15 and related statutes in implementing policies set forth in RCW  
16 13.40.010 generally, specifically review the guidelines relating to the  
17 confinement of minor and first offenders as well as the use of  
18 diversion, and review the application of current and proposed juvenile  
19 sentencing standards and guidelines for potential adverse impacts on  
20 the sentencing outcomes of racial and ethnic minority youth;

21 (g) Solicit the comments and suggestions of the juvenile justice  
22 community concerning disposition standards, and make recommendations to  
23 the legislature regarding revisions or modifications of the standards  
24 (~~in accordance with RCW 9.94A.045~~). The evaluations shall be  
25 submitted to the legislature on December 1 of each odd-numbered year.  
26 The department of social and health services shall provide the  
27 commission with available data concerning the implementation of the  
28 disposition standards and related statutes and their effect on the  
29 performance of the department's responsibilities relating to juvenile  
30 offenders, and with recommendations for modification of the disposition  
31 standards. The office of the administrator for the courts shall  
32 provide the commission with available data on diversion and  
33 dispositions of juvenile offenders under chapter 13.40 RCW; and

34 (h) Not later than December 1, 1997, and at least every two years  
35 thereafter, based on available information, report to the governor and  
36 the legislature on:

37 (i) Racial disproportionality in juvenile and adult sentencing;

38 (ii) The capacity of state and local juvenile and adult facilities  
39 and resources; and

1 (iii) Recidivism information on adult and juvenile offenders.

2 (3) Each of the commission's recommended standard sentence ranges  
3 shall include one or more of the following: Total confinement, partial  
4 confinement, community supervision, community service, and a fine.

5 (4) The standard sentence ranges of total and partial confinement  
6 under this chapter are subject to the following limitations:

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

12 (b) If the maximum term in the range is greater than one year, the  
13 minimum term in the range shall be no less than seventy-five percent of  
14 the maximum term in the range; and

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

17 (5) The commission shall exercise its duties under this section in  
18 conformity with chapter 34.05 RCW.

19 **Sec. 4.** RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c  
20 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as  
21 follows:

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

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

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

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

35 (4) A persistent offender shall be sentenced to a term of total  
36 confinement for life without the possibility of parole or, when  
37 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
38 first degree, sentenced to death, notwithstanding the maximum sentence

1 under any other law. An offender convicted of the crime of murder in  
2 the first degree shall be sentenced to a term of total confinement not  
3 less than twenty years. An offender convicted of the crime of assault  
4 in the first degree or assault of a child in the first degree where the  
5 offender used force or means likely to result in death or intended to  
6 kill the victim shall be sentenced to a term of total confinement not  
7 less than five years. An offender convicted of the crime of rape in  
8 the first degree shall be sentenced to a term of total confinement not  
9 less than five years. The foregoing minimum terms of total confinement  
10 are mandatory and shall not be varied or modified as provided in  
11 subsection (2) of this section. In addition, all offenders subject to  
12 the provisions of this subsection shall not be eligible for community  
13 custody, earned early release time, furlough, home detention, partial  
14 confinement, work crew, work release, or any other form of early  
15 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),  
16 or any other form of authorized leave of absence from the correctional  
17 facility while not in the direct custody of a corrections officer or  
18 officers during such minimum terms of total confinement except in the  
19 case of an offender in need of emergency medical treatment or for the  
20 purpose of commitment to an inpatient treatment facility in the case of  
21 an offender convicted of the crime of rape in the first degree.

22 (5) In sentencing a first-time offender the court may waive the  
23 imposition of a sentence within the sentence range and impose a  
24 sentence which may include up to ninety days of confinement in a  
25 facility operated or utilized under contract by the county and a  
26 requirement that the offender refrain from committing new offenses.  
27 The sentence may also include up to two years of community supervision,  
28 which, in addition to crime-related prohibitions, may include  
29 requirements that the offender perform any one or more of the  
30 following:

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

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

35 (c) Pursue a prescribed, secular course of study or vocational  
36 training;

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

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

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

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

7 (i) The offender is convicted of the manufacture, delivery, or  
8 possession with intent to manufacture or deliver a controlled substance  
9 classified in Schedule I or II that is a narcotic drug or a felony that  
10 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,  
11 criminal solicitation, or criminal conspiracy to commit such crimes,  
12 and the violation does not involve a sentence enhancement under RCW  
13 9.94A.310 (3) or (4);

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

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

20 (b) If the midpoint of the standard range is greater than one year  
21 and the sentencing judge determines that the offender is eligible for  
22 this option and that the offender and the community will benefit from  
23 the use of the special drug offender sentencing alternative, the judge  
24 may waive imposition of a sentence within the standard range and impose  
25 a sentence that must include a period of total confinement in a state  
26 facility for one-half of the midpoint of the standard range. During  
27 incarceration in the state facility, offenders sentenced under this  
28 subsection shall undergo a comprehensive substance abuse assessment and  
29 receive, within available resources, treatment services appropriate for  
30 the offender. The treatment services shall be designed by the division  
31 of alcohol and substance abuse of the department of social and health  
32 services, in cooperation with the department of corrections. If the  
33 midpoint of the standard range is twenty-four months or less, no more  
34 than three months of the sentence may be served in a work release  
35 status. The court shall also impose one year of concurrent community  
36 custody and community supervision that must include appropriate  
37 outpatient substance abuse treatment, crime-related prohibitions  
38 including a condition not to use illegal controlled substances, and a  
39 requirement to submit to urinalysis or other testing to monitor that

1 status. The court may require that the monitoring for controlled  
2 substances be conducted by the department or by a treatment  
3 alternatives to street crime program or a comparable court or agency-  
4 referred program. The offender may be required to pay thirty dollars  
5 per month while on community custody to offset the cost of monitoring.  
6 In addition, the court shall impose three or more of the following  
7 conditions:

8 (i) Devote time to a specific employment or training;

9 (ii) Remain within prescribed geographical boundaries and notify  
10 the court or the community corrections officer before any change in the  
11 offender's address or employment;

12 (iii) Report as directed to a community corrections officer;

13 (iv) Pay all court-ordered legal financial obligations;

14 (v) Perform community service work;

15 (vi) Stay out of areas designated by the sentencing judge.

16 (c) If the offender violates any of the sentence conditions in (b)  
17 of this subsection, the department shall impose sanctions  
18 administratively, with notice to the prosecuting attorney and the  
19 sentencing court. Upon motion of the court or the prosecuting  
20 attorney, a violation hearing shall be held by the court. If the court  
21 finds that conditions have been willfully violated, the court may  
22 impose confinement consisting of up to the remaining one-half of the  
23 midpoint of the standard range. All total confinement served during  
24 the period of community custody shall be credited to the offender,  
25 regardless of whether the total confinement is served as a result of  
26 the original sentence, as a result of a sanction imposed by the  
27 department, or as a result of a violation found by the court. The term  
28 of community supervision shall be tolled by any period of time served  
29 in total confinement as a result of a violation found by the court.

30 (d) The department shall determine the rules for calculating the  
31 value of a day fine based on the offender's income and reasonable  
32 obligations which the offender has for the support of the offender and  
33 any dependents. These rules shall be developed in consultation with  
34 the administrator for the courts, the office of financial management,  
35 and the commission.

36 (7) If a sentence range has not been established for the  
37 defendant's crime, the court shall impose a determinate sentence which  
38 may include not more than one year of confinement, community service  
39 work, a term of community supervision not to exceed one year, and/or

1 other legal financial obligations. The court may impose a sentence  
2 which provides more than one year of confinement if the court finds,  
3 considering the purpose of this chapter, that there are substantial and  
4 compelling reasons justifying an exceptional sentence.

5 (8)(a)(i) When an offender is convicted of a sex offense other than  
6 a violation of RCW 9A.44.050 or a sex offense that is also a serious  
7 violent offense and has no prior convictions for a sex offense or any  
8 other felony sex offenses in this or any other state, the sentencing  
9 court, on its own motion or the motion of the state or the defendant,  
10 may order an examination to determine whether the defendant is amenable  
11 to treatment.

12 The report of the examination shall include at a minimum the  
13 following: The defendant's version of the facts and the official  
14 version of the facts, the defendant's offense history, an assessment of  
15 problems in addition to alleged deviant behaviors, the offender's  
16 social and employment situation, and other evaluation measures used.  
17 The report shall set forth the sources of the evaluator's information.

18 The examiner shall assess and report regarding the defendant's  
19 amenability to treatment and relative risk to the community. A  
20 proposed treatment plan shall be provided and shall include, at a  
21 minimum:

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

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

25 (C) Monitoring plans, including any requirements regarding living  
26 conditions, lifestyle requirements, and monitoring by family members  
27 and others;

28 (D) Anticipated length of treatment; and

29 (E) Recommended crime-related prohibitions.

30 The court on its own motion may order, or on a motion by the state  
31 shall order, a second examination regarding the offender's amenability  
32 to treatment. The evaluator shall be selected by the party making the  
33 motion. The defendant shall pay the cost of any second examination  
34 ordered unless the court finds the defendant to be indigent in which  
35 case the state shall pay the cost.

36 (ii) After receipt of the reports, the court shall consider whether  
37 the offender and the community will benefit from use of this special  
38 sexual offender sentencing alternative and consider the victim's  
39 opinion whether the offender should receive a treatment disposition

1 under this subsection. If the court determines that this special sex  
2 offender sentencing alternative is appropriate, the court shall then  
3 impose a sentence within the sentence range. If this sentence is less  
4 than eight years of confinement, the court may suspend the execution of  
5 the sentence and impose the following conditions of suspension:

6 (A) The court shall place the defendant on community custody for  
7 the length of the suspended sentence or three years, whichever is  
8 greater, and require the offender to comply with any conditions imposed  
9 by the department of corrections under subsection (14) of this section;  
10 and

11 (B) The court shall order treatment for any period up to three  
12 years in duration. The court in its discretion shall order outpatient  
13 sex offender treatment or inpatient sex offender treatment, if  
14 available. A community mental health center may not be used for such  
15 treatment unless it has an appropriate program designed for sex  
16 offender treatment. The offender shall not change sex offender  
17 treatment providers or treatment conditions without first notifying the  
18 prosecutor, the community corrections officer, and the court, and shall  
19 not change providers without court approval after a hearing if the  
20 prosecutor or community corrections officer object to the change. In  
21 addition, as conditions of the suspended sentence, the court may impose  
22 other sentence conditions including up to six months of confinement,  
23 not to exceed the sentence range of confinement for that offense,  
24 crime-related prohibitions, and requirements that the offender perform  
25 any one or more of the following:

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

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

30 (III) Report as directed to the court and a community corrections  
31 officer;

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

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

37 (iii) The sex offender therapist shall submit quarterly reports on  
38 the defendant's progress in treatment to the court and the parties.  
39 The report shall reference the treatment plan and include at a minimum

1 the following: Dates of attendance, defendant's compliance with  
2 requirements, treatment activities, the defendant's relative progress  
3 in treatment, and any other material as specified by the court at  
4 sentencing.

5 (iv) At the time of sentencing, the court shall set a treatment  
6 termination hearing for three months prior to the anticipated date for  
7 completion of treatment. Prior to the treatment termination hearing,  
8 the treatment professional and community corrections officer shall  
9 submit written reports to the court and parties regarding the  
10 defendant's compliance with treatment and monitoring requirements, and  
11 recommendations regarding termination from treatment, including  
12 proposed community supervision conditions. Either party may request  
13 and the court may order another evaluation regarding the advisability  
14 of termination from treatment. The defendant shall pay the cost of any  
15 additional evaluation ordered unless the court finds the defendant to  
16 be indigent in which case the state shall pay the cost. At the  
17 treatment termination hearing the court may: (A) Modify conditions of  
18 community custody, and either (B) terminate treatment, or (C) extend  
19 treatment for up to the remaining period of community custody.

20 (v) If a violation of conditions occurs during community custody,  
21 the department shall either impose sanctions as provided for in RCW  
22 9.94A.205(2)(a) or refer the violation to the court and recommend  
23 revocation of the suspended sentence as provided for in (a)(vi) of this  
24 subsection.

25 (vi) The court may revoke the suspended sentence at any time during  
26 the period of community custody and order execution of the sentence if:  
27 (A) The defendant violates the conditions of the suspended sentence, or  
28 (B) the court finds that the defendant is failing to make satisfactory  
29 progress in treatment. All confinement time served during the period  
30 of community custody shall be credited to the offender if the suspended  
31 sentence is revoked.

32 (vii) Except as provided in (a) (viii) of this subsection, after  
33 July 1, 1991, examinations and treatment ordered pursuant to this  
34 subsection shall only be conducted by sex offender treatment providers  
35 certified by the department of health pursuant to chapter 18.155 RCW.

36 (viii) A sex offender therapist who examines or treats a sex  
37 offender pursuant to this subsection (8) does not have to be certified  
38 by the department of health pursuant to chapter 18.155 RCW if the court  
39 finds that: (A) The offender has already moved to another state or

1 plans to move to another state for reasons other than circumventing the  
2 certification requirements; (B) no certified providers are available  
3 for treatment within a reasonable geographical distance of the  
4 offender's home; and (C) the evaluation and treatment plan comply with  
5 this subsection (8) and the rules adopted by the department of health.

6 (ix) For purposes of this subsection (8), "victim" means any person  
7 who has sustained emotional, psychological, physical, or financial  
8 injury to person or property as a result of the crime charged.  
9 "Victim" also means a parent or guardian of a victim who is a minor  
10 child unless the parent or guardian is the perpetrator of the offense.

11 (x) If the defendant was less than eighteen years of age when the  
12 charge was filed, the state shall pay for the cost of initial  
13 evaluation and treatment.

14 (b) When an offender commits any felony sex offense on or after  
15 July 1, 1987, and is sentenced to a term of confinement of more than  
16 one year but less than six years, the sentencing court may, on its own  
17 motion or on the motion of the offender or the state, request the  
18 department of corrections to evaluate whether the offender is amenable  
19 to treatment and the department may place the offender in a treatment  
20 program within a correctional facility operated by the department.

21 Except for an offender who has been convicted of a violation of RCW  
22 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
23 before the expiration of his or her term of confinement, the department  
24 of corrections may request the court to convert the balance of  
25 confinement to community supervision and to place conditions on the  
26 offender including crime-related prohibitions and requirements that the  
27 offender perform any one or more of the following:

- 28 (i) Devote time to a specific employment or occupation;
- 29 (ii) Remain within prescribed geographical boundaries and notify  
30 the court or the community corrections officer prior to any change in  
31 the offender's address or employment;
- 32 (iii) Report as directed to the court and a community corrections  
33 officer;
- 34 (iv) Undergo available outpatient treatment.

35 If the offender violates any of the terms of his or her community  
36 supervision, the court may order the offender to serve out the balance  
37 of his or her community supervision term in confinement in the custody  
38 of the department of corrections.

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

5 (c) Offenders convicted and sentenced for a sex offense committed  
6 prior to July 1, 1987, may, subject to available funds, request an  
7 evaluation by the department of corrections to determine whether they  
8 are amenable to treatment. If the offender is determined to be  
9 amenable to treatment, the offender may request placement in a  
10 treatment program within a correctional facility operated by the  
11 department. Placement in such treatment program is subject to  
12 available funds.

13 (9)(a) When a court sentences a person to a term of total  
14 confinement to the custody of the department of corrections for an  
15 offense categorized as a sex offense or a serious violent offense  
16 committed after July 1, 1988, but before July 1, 1990, assault in the  
17 second degree, assault of a child in the second degree, any crime  
18 against a person where it is determined in accordance with RCW  
19 9.94A.125 that the defendant or an accomplice was armed with a deadly  
20 weapon at the time of commission, or any felony offense under chapter  
21 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,  
22 committed on or after July 1, 1988, the court shall in addition to the  
23 other terms of the sentence, sentence the offender to a one-year term  
24 of community placement beginning either upon completion of the term of  
25 confinement or at such time as the offender is transferred to community  
26 custody in lieu of earned early release in accordance with RCW  
27 9.94A.150 (1) and (2). When the court sentences an offender under this  
28 subsection to the statutory maximum period of confinement then the  
29 community placement portion of the sentence shall consist entirely of  
30 such community custody to which the offender may become eligible, in  
31 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
32 custody actually served shall be credited against the community  
33 placement portion of the sentence.

34 (b) When a court sentences a person to a term of total confinement  
35 to the custody of the department of corrections for an offense  
36 categorized as a sex offense committed on or after July 1, 1990, but  
37 before June 6, 1996, a serious violent offense, vehicular homicide, or  
38 vehicular assault, committed on or after July 1, 1990, the court shall  
39 in addition to other terms of the sentence, sentence the offender to

1 community placement for two years or up to the period of earned early  
2 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is  
3 longer. The community placement shall begin either upon completion of  
4 the term of confinement or at such time as the offender is transferred  
5 to community custody in lieu of earned early release in accordance with  
6 RCW 9.94A.150 (1) and (2). When the court sentences an offender under  
7 this subsection to the statutory maximum period of confinement then the  
8 community placement portion of the sentence shall consist entirely of  
9 the community custody to which the offender may become eligible, in  
10 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
11 custody actually served shall be credited against the community  
12 placement portion of the sentence. Unless a condition is waived by the  
13 court, the terms of community placement for offenders sentenced  
14 pursuant to this section shall include the following conditions:

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

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

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

21 (iv) An offender in community custody shall not unlawfully possess  
22 controlled substances;

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

25 (vi) The residence location and living arrangements are subject to  
26 the prior approval of the department of corrections during the period  
27 of community placement.

28 (c) As a part of any sentence imposed under (a) or (b) of this  
29 subsection, the court may also order any of the following special  
30 conditions:

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

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

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

37 (iv) The offender shall not consume alcohol;

38 (v) The offender shall comply with any crime-related prohibitions;

39 or

1 (vi) For an offender convicted of a felony sex offense against a  
2 minor victim after June 6, 1996, the offender shall comply with any  
3 terms and conditions of community placement imposed by the department  
4 of corrections relating to contact between the sex offender and a minor  
5 victim or a child of similar age or circumstance as a previous victim.

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

10 (10)(a) When a court sentences a person to the custody of the  
11 department of corrections for an offense categorized as a sex offense  
12 committed on or after June 6, 1996, the court shall, in addition to  
13 other terms of the sentence, sentence the offender to community custody  
14 for three years or up to the period of earned early release awarded  
15 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The  
16 community custody shall begin either upon completion of the term of  
17 confinement or at such time as the offender is transferred to community  
18 custody in lieu of earned early release in accordance with RCW  
19 9.94A.150 (1) and (2).

20 (b) Unless a condition is waived by the court, the terms of  
21 community custody shall be the same as those provided for in subsection  
22 (9)(b) of this section and may include those provided for in subsection  
23 (9)(c) of this section. As part of any sentence that includes a term  
24 of community custody imposed under this subsection, the court shall  
25 also require the offender to comply with any conditions imposed by the  
26 department of corrections under subsection (14) of this section.

27 (c) At any time prior to the completion of a sex offender's term of  
28 community custody, if the court finds that public safety would be  
29 enhanced, the court may impose and enforce an order extending any or  
30 all of the conditions imposed pursuant to this section for a period up  
31 to the maximum allowable sentence for the crime as it is classified in  
32 chapter 9A.20 RCW, regardless of the expiration of the offender's term  
33 of community custody. If a violation of a condition extended under  
34 this subsection occurs after the expiration of the offender's term of  
35 community custody, it shall be deemed a violation of the sentence for  
36 the purposes of RCW 9.94A.195 and may be punishable as contempt of  
37 court as provided for in RCW 7.21.040.

38 (11) If the court imposes a sentence requiring confinement of  
39 thirty days or less, the court may, in its discretion, specify that the

1 sentence be served on consecutive or intermittent days. A sentence  
2 requiring more than thirty days of confinement shall be served on  
3 consecutive days. Local jail administrators may schedule court-ordered  
4 intermittent sentences as space permits.

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

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

30 (14) All offenders sentenced to terms involving community  
31 supervision, community service, community placement, or legal financial  
32 obligation shall be under the supervision of the department of  
33 corrections and shall follow explicitly the instructions and conditions  
34 of the department of corrections.

35 (a) The instructions shall include, at a minimum, reporting as  
36 directed to a community corrections officer, remaining within  
37 prescribed geographical boundaries, notifying the community corrections  
38 officer of any change in the offender's address or employment, and  
39 paying the supervision fee assessment.

1 (b) For sex offenders sentenced to terms involving community  
2 custody for crimes committed on or after June 6, 1996, the department  
3 may include, in addition to the instructions in (a) of this subsection,  
4 any appropriate conditions of supervision, including but not limited  
5 to, prohibiting the offender from having contact with any other  
6 specified individuals or specific class of individuals. The conditions  
7 authorized under this subsection (14)(b) may be imposed by the  
8 department prior to or during a sex offender's community custody term.  
9 If a violation of conditions imposed by the court or the department  
10 pursuant to subsection (10) of this section occurs during community  
11 custody, it shall be deemed a violation of community placement for the  
12 purposes of RCW 9.94A.207 and shall authorize the department to  
13 transfer an offender to a more restrictive confinement status as  
14 provided in RCW 9.94A.205. At any time prior to the completion of a  
15 sex offender's term of community custody, the department may recommend  
16 to the court that any or all of the conditions imposed by the court or  
17 the department pursuant to subsection (10) of this section be continued  
18 beyond the expiration of the offender's term of community custody as  
19 authorized in subsection (10)(c) of this section.

20 The department may require offenders to pay for special services  
21 rendered on or after July 25, 1993, including electronic monitoring,  
22 day reporting, and telephone reporting, dependent upon the offender's  
23 ability to pay. The department may pay for these services for  
24 offenders who are not able to pay.

25 (15) All offenders sentenced to terms involving community  
26 supervision, community service, or community placement under the  
27 supervision of the department of corrections shall not own, use, or  
28 possess firearms or ammunition. Offenders who own, use, or are found  
29 to be in actual or constructive possession of firearms or ammunition  
30 shall be subject to the appropriate violation process and sanctions.  
31 "Constructive possession" as used in this subsection means the power  
32 and intent to control the firearm or ammunition. "Firearm" as used in  
33 this subsection means a weapon or device from which a projectile may be  
34 fired by an explosive such as gunpowder.

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

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

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

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

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

24 (21) All court-ordered legal financial obligations collected by the  
25 department and remitted to the county clerk shall be credited and paid  
26 where restitution is ordered. Restitution shall be paid prior to any  
27 other payments of monetary obligations.

28 **Sec. 5.** RCW 9.94A.360 and 1995 c 316 s 1 and 1995 c 101 s 1 are  
29 each reenacted and amended to read as follows:

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

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

34 (1) A prior conviction is a conviction which exists before the date  
35 of sentencing for the offense for which the offender score is being  
36 computed. Convictions entered or sentenced on the same date as the  
37 conviction for which the offender score is being computed shall be  
38 deemed "other current offenses" within the meaning of RCW 9.94A.400.

1       (2) (~~Except as provided in subsection (4) of this section,~~) Class  
2 A and sex prior felony convictions shall always be included in the  
3 offender score. Class B prior felony convictions other than sex  
4 offenses shall not be included in the offender score, if since the last  
5 date of release from confinement (including full-time residential  
6 treatment) pursuant to a felony conviction, if any, or entry of  
7 judgment and sentence, the offender had spent ten consecutive years in  
8 the community without committing any crime that subsequently results in  
9 a conviction. Class C prior felony convictions other than sex offenses  
10 shall not be included in the offender score if, since the last date of  
11 release from confinement (including full-time residential treatment)  
12 pursuant to a felony conviction, if any, or entry of judgment and  
13 sentence, the offender had spent five consecutive years in the  
14 community without committing any crime that subsequently results in a  
15 conviction. Serious traffic convictions shall not be included in the  
16 offender score if, since the last date of release from confinement  
17 (including full-time residential treatment) pursuant to a felony  
18 conviction, if any, or entry of judgment and sentence, the offender  
19 spent five years in the community without committing any crime that  
20 subsequently results in a conviction. This subsection applies to both  
21 adult and juvenile prior convictions.

22       (3) Out-of-state convictions for offenses shall be classified  
23 according to the comparable offense definitions and sentences provided  
24 by Washington law. Federal convictions for offenses shall be  
25 classified according to the comparable offense definitions and  
26 sentences provided by Washington law. If there is no clearly  
27 comparable offense under Washington law or the offense is one that is  
28 usually considered subject to exclusive federal jurisdiction, the  
29 offense shall be scored as a class C felony equivalent if it was a  
30 felony under the relevant federal statute.

31       (4) (~~Always include juvenile convictions for sex offenses and~~  
32 ~~serious violent offenses. Include other class A juvenile felonies only~~  
33 ~~if the offender was 15 or older at the time the juvenile offense was~~  
34 ~~committed. Include other class B and C juvenile felony convictions~~  
35 ~~only if the offender was 15 or older at the time the juvenile offense~~  
36 ~~was committed and the offender was less than 23 at the time the offense~~  
37 ~~for which he or she is being sentenced was committed.~~

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

4       ~~((6))~~ (5)(a) In the case of multiple prior convictions, for the  
5 purpose of computing the offender score, count all convictions  
6 separately, except:

7       (i) Prior ~~((adult))~~ offenses which were found, under RCW  
8 9.94A.400(1)(a), to encompass the same criminal conduct, shall be  
9 counted as one offense, the offense that yields the highest offender  
10 score. The current sentencing court shall determine with respect to  
11 other prior adult offenses for which sentences were served concurrently  
12 or prior juvenile offenses for which sentences were served  
13 consecutively, whether those offenses shall be counted as one offense  
14 or as separate offenses using the "same criminal conduct" analysis  
15 found in RCW 9.94A.400(1)(a), and if the court finds that they shall be  
16 counted as one offense, then the offense that yields the highest  
17 offender score shall be used. The current sentencing court may presume  
18 that such other prior ~~((adult))~~ offenses were not the same criminal  
19 conduct from sentences imposed on separate dates, or in separate  
20 counties or jurisdictions, or in separate complaints, indictments, or  
21 informations; and

22       (ii) ~~((Juvenile prior convictions entered or sentenced on the same~~  
23 ~~date shall count as one offense, the offense that yields the highest~~  
24 ~~offender score, except for juvenile prior convictions for violent~~  
25 ~~offenses with separate victims, which shall count as separate offenses;~~  
26 ~~and~~

27       ~~((iii))~~) In the case of multiple prior convictions for offenses  
28 committed before July 1, 1986, for the purpose of computing the  
29 offender score, count all adult convictions served concurrently as one  
30 offense, and count all juvenile convictions entered on the same date as  
31 one offense. Use the conviction for the offense that yields the  
32 highest offender score.

33       (b) As used in this subsection ~~((6))~~ (5), "served concurrently"  
34 means that: (i) The latter sentence was imposed with specific  
35 reference to the former; (ii) the concurrent relationship of the  
36 sentences was judicially imposed; and (iii) the concurrent timing of  
37 the sentences was not the result of a probation or parole revocation on  
38 the former offense.

1       (~~(7)~~) (6) If the present conviction is one of the anticipatory  
2 offenses of criminal attempt, solicitation, or conspiracy, count each  
3 prior conviction as if the present conviction were for a completed  
4 offense.

5       (~~(8)~~) (7) If the present conviction is for a nonviolent offense  
6 and not covered by subsection (11) or (12) (~~(or (13))~~) of this section,  
7 count one point for each adult prior felony conviction and one point  
8 for each juvenile prior violent felony conviction and « point for each  
9 juvenile prior nonviolent felony conviction.

10       (~~(9)~~) (8) If the present conviction is for a violent offense and  
11 not covered in subsection (9), (10), (11), or (12) (~~(, or (13))~~) of this  
12 section, count two points for each prior adult and juvenile violent  
13 felony conviction, one point for each prior adult nonviolent felony  
14 conviction, and « point for each prior juvenile nonviolent felony  
15 conviction.

16       (~~(10)~~) (9) If the present conviction is for Murder 1 or 2,  
17 Assault 1, Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or  
18 Rape 1, count three points for prior adult and juvenile convictions for  
19 crimes in these categories, two points for each prior adult and  
20 juvenile violent conviction (not already counted), one point for each  
21 prior adult nonviolent felony conviction, and « point for each prior  
22 juvenile nonviolent felony conviction.

23       (~~(11)~~) (10) If the present conviction is for Burglary 1, count  
24 prior convictions as in subsection (~~(9)~~) (8) of this section; however  
25 count two points for each prior adult Burglary 2 or residential  
26 burglary conviction, and one point for each prior juvenile Burglary 2  
27 or residential burglary conviction.

28       (~~(12)~~) (11) If the present conviction is for a felony traffic  
29 offense count two points for each adult or juvenile prior conviction  
30 for Vehicular Homicide or Vehicular Assault; for each felony offense or  
31 serious traffic offense, count one point for each adult and « point for  
32 each juvenile prior conviction.

33       (~~(13)~~) (12) If the present conviction is for a drug offense count  
34 three points for each adult prior felony drug offense conviction and  
35 two points for each juvenile drug offense. All other adult and  
36 juvenile felonies are scored as in subsection (~~(9)~~) (8) of this  
37 section if the current drug offense is violent, or as in subsection  
38 (~~(8)~~) (7) of this section if the current drug offense is nonviolent.

1       (~~(14)~~) (13) If the present conviction is for Willful Failure to  
2 Return from Furlough, RCW 72.66.060, Willful Failure to Return from  
3 Work Release, RCW 72.65.070, or Escape from Community Custody, RCW  
4 72.09.310, count only prior escape convictions in the offender score.  
5 Count adult prior escape convictions as one point and juvenile prior  
6 escape convictions as « point.

7       (~~(15)~~) (14) If the present conviction is for Escape 1, RCW  
8 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as  
9 one point and juvenile prior convictions as « point.

10       (~~(16)~~) (15) If the present conviction is for Burglary 2 or  
11 residential burglary, count priors as in subsection (~~(8)~~) (7) of this  
12 section; however, count two points for each adult and juvenile prior  
13 Burglary 1 conviction, two points for each adult prior Burglary 2 or  
14 residential burglary conviction, and one point for each juvenile prior  
15 Burglary 2 or residential burglary conviction.

16       (~~(17)~~) (16) If the present conviction is for a sex offense, count  
17 priors as in subsections (~~(8)~~) (7) through (~~(16)~~) (15) of this  
18 section; however count three points for each adult and juvenile prior  
19 sex offense conviction.

20       (~~(18)~~) (17) If the present conviction is for an offense committed  
21 while the offender was under community placement, add one point.

22       **Sec. 6.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are  
23 each reenacted and amended to read as follows:

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

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

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

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

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

35       (e) Relating to juveniles alleged or found to have committed  
36 offenses, traffic or civil infractions, or violations as provided in  
37 RCW 13.40.020 through 13.40.230, unless:

1 (i) The juvenile court transfers jurisdiction of a particular  
2 juvenile to adult criminal court pursuant to RCW 13.40.110; or  
3 (ii) The statute of limitations applicable to adult prosecution for  
4 the offense, traffic infraction, or violation has expired; or  
5 (iii) The alleged offense or infraction is a traffic, fish,  
6 boating, or game offense, or traffic or civil infraction committed by  
7 a juvenile sixteen years of age or older and would, if committed by an  
8 adult, be tried or heard in a court of limited jurisdiction, in which  
9 instance the appropriate court of limited jurisdiction shall have  
10 jurisdiction over the alleged offense or infraction, and no guardian ad  
11 litem is required in any such proceeding due to the juvenile's age:  
12 PROVIDED, That if such an alleged offense or infraction and an alleged  
13 offense or infraction subject to juvenile court jurisdiction arise out  
14 of the same event or incident, the juvenile court may have jurisdiction  
15 of both matters: PROVIDED FURTHER, That the jurisdiction under this  
16 subsection does not constitute "transfer" or a "decline" for purposes  
17 of RCW 13.40.110(1) or (e)(i) of this subsection: PROVIDED FURTHER,  
18 That courts of limited jurisdiction which confine juveniles for an  
19 alleged offense or infraction may place juveniles in juvenile detention  
20 facilities under an agreement with the officials responsible for the  
21 administration of the juvenile detention facility in RCW 13.04.035 and  
22 13.20.060; or  
23 (iv) The juvenile is sixteen or seventeen years old and the alleged  
24 offense is: (A) A serious violent offense as defined in RCW 9.94A.030  
25 or burglary in the first degree if the juvenile has been previously  
26 adjudicated of a criminal offense, or robbery in the first degree, rape  
27 of a child in the first degree, or drive-by shooting, committed on or  
28 after June 13, 1994; or (B) a violent offense as defined in RCW  
29 9.94A.030 committed on or after June 13, 1994, but before the effective  
30 date of this act, and the juvenile has a criminal history consisting  
31 of: (I) One or more prior serious violent offenses; (II) two or more  
32 prior violent offenses; or (III) three or more of any combination of  
33 the following offenses: Any class A felony, any class B felony,  
34 vehicular assault, or manslaughter in the second degree, all of which  
35 must have been committed after the juvenile's thirteenth birthday and  
36 prosecuted separately; or (C) a violent offense as defined in RCW  
37 9.94A.030 committed on or after the effective date of this act and the  
38 offender was armed with a deadly weapon during the commission of the

1 offense. In such a case the adult criminal court shall have exclusive  
2 original jurisdiction.

3 If the juvenile challenges the state's determination of the  
4 juvenile's criminal history, the state may establish the offender's  
5 criminal history by a preponderance of the evidence. If the criminal  
6 history consists of adjudications entered upon a plea of guilty, the  
7 state shall not bear a burden of establishing the knowing and  
8 voluntariness of the plea;

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

11 (g) Relating to termination of a diversion agreement under RCW  
12 13.40.080, including a proceeding in which the divertee has attained  
13 eighteen years of age;

14 (h) Relating to court validation of a voluntary consent to an out-  
15 of-home placement under chapter 13.34 RCW, by the parent or Indian  
16 custodian of an Indian child, except if the parent or Indian custodian  
17 and child are residents of or domiciled within the boundaries of a  
18 federally recognized Indian reservation over which the tribe exercises  
19 exclusive jurisdiction; and

20 (i) Relating to petitions to compel disclosure of information filed  
21 by the department of social and health services pursuant to RCW  
22 74.13.042.

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

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

31 **Sec. 7.** RCW 13.40.010 and 1992 c 205 s 101 are each amended to  
32 read as follows:

33 (1) This chapter shall be known and cited as the Juvenile Justice  
34 Act of 1977.

35 (2) It is the intent of the legislature that a system capable of  
36 having primary responsibility for, being accountable for, and  
37 responding to the needs of youthful offenders, as defined by this  
38 chapter, be established. It is the further intent of the legislature

1 that youth, in turn, be held accountable for their offenses and that  
2 (~~both~~) communities, families, and the juvenile courts carry out their  
3 functions consistent with this intent. To effectuate these policies,  
4 the legislature declares the following to be equally important purposes  
5 of this chapter:

6 (a) Protect the citizenry from criminal behavior;

7 (b) Provide for determining whether accused juveniles have  
8 committed offenses as defined by this chapter;

9 (c) Make the juvenile offender accountable for his or her criminal  
10 behavior;

11 (d) Provide for punishment commensurate with the age, crime, and  
12 criminal history of the juvenile offender;

13 (e) Provide due process for juveniles alleged to have committed an  
14 offense;

15 (f) Provide necessary treatment, supervision, and custody for  
16 juvenile offenders;

17 (g) Provide for the handling of juvenile offenders by communities  
18 whenever consistent with public safety;

19 (h) Provide for restitution to victims of crime;

20 (i) Develop effective standards and goals for the operation,  
21 funding, and evaluation of all components of the juvenile justice  
22 system and related services at the state and local levels; (~~and~~)

23 (j) Provide for a clear policy to determine what types of offenders  
24 shall receive punishment, treatment, or both, and to determine the  
25 jurisdictional limitations of the courts, institutions, and community  
26 services; and

27 (k) Encourage the parents, guardian, or custodian of the juvenile  
28 to actively participate in the juvenile justice process.

29 **Sec. 8.** RCW 13.40.020 and 1995 c 395 s 2 and 1995 c 134 s 1 are  
30 each reenacted and amended to read as follows:

31 For the purposes of this chapter:

32 (1) (~~"Serious offender" means a person fifteen years of age or~~  
33 ~~older who has committed an offense which if committed by an adult would~~  
34 ~~be:~~

35 (~~a) A class A felony, or an attempt to commit a class A felony;~~

36 (~~b) Manslaughter in the first degree; or~~

37 (~~c) Assault in the second degree, extortion in the first degree,~~  
38 ~~child molestation in the second degree, kidnapping in the second~~

1 ~~degree, robbery in the second degree, residential burglary, or burglary~~  
2 ~~in the second degree, where such offenses include the infliction of~~  
3 ~~bodily harm upon another or where during the commission of or immediate~~  
4 ~~withdrawal from such an offense the perpetrator is armed with a deadly~~  
5 ~~weapon;~~

6       ~~(2))~~) "Community service" means compulsory service, without  
7 compensation, performed for the benefit of the community by the  
8 offender as punishment for committing an offense. Community service  
9 may be performed through public or private organizations or through  
10 work crews;

11       ~~((3))~~) (2) "Community supervision" means an order of disposition  
12 by the court of an adjudicated youth not committed to the department or  
13 an order granting a deferred ~~((adjudication))~~ disposition pursuant to  
14 RCW 13.40.125. A community supervision order for a single offense may  
15 be for a period of up to two years for a sex offense as defined by RCW  
16 9.94A.030 and up to one year for other offenses. As a mandatory  
17 condition of any term of community supervision, the court shall order  
18 the juvenile to refrain from committing new offenses. As a mandatory  
19 condition of community supervision, the court shall order the juvenile  
20 to comply with the mandatory school attendance provisions of chapter  
21 28A.225 RCW and to inform the school of the existence of this  
22 requirement. Community supervision is an individualized program  
23 comprised of one or more of the following:

- 24       (a) Community-based sanctions;
- 25       (b) Community-based rehabilitation;
- 26       (c) Monitoring and reporting requirements;
- 27       (d) Posting of a probation bond ~~((imposed pursuant to RCW~~  
28 ~~13.40.0357))~~;

29       ~~((4))~~) (3) Community-based sanctions may include one or more of  
30 the following:

- 31       (a) A fine, not to exceed ~~((one))~~ five hundred dollars;
- 32       (b) Community service not to exceed one hundred fifty hours of  
33 service;

34       ~~((5))~~) (4) "Community-based rehabilitation" means one or more of  
35 the following: Employment; attendance of information classes;  
36 counseling, outpatient substance abuse treatment programs, outpatient  
37 mental health programs, anger management classes, education or  
38 outpatient treatment programs to prevent animal cruelty, or other  
39 services; or attendance at school or other educational programs

1 appropriate for the juvenile as determined by the school district.  
2 Placement in community-based rehabilitation programs is subject to  
3 available funds;

4 ~~((+6))~~ (5) "Monitoring and reporting requirements" means one or  
5 more of the following: Curfews; requirements to remain at home,  
6 school, work, or court-ordered treatment programs during specified  
7 hours; restrictions from leaving or entering specified geographical  
8 areas; requirements to report to the probation officer as directed and  
9 to remain under the probation officer's supervision; and other  
10 conditions or limitations as the court may require which may not  
11 include confinement;

12 ~~((+7))~~ (6) "Confinement" means physical custody by the department  
13 of social and health services in a facility operated by or pursuant to  
14 a contract with the state, or physical custody in a detention facility  
15 operated by or pursuant to a contract with any county. The county may  
16 operate or contract with vendors to operate county detention  
17 facilities. The department may operate or contract to operate  
18 detention facilities for juveniles committed to the department.  
19 Pretrial confinement or confinement of less than thirty-one days  
20 imposed as part of a disposition or modification order may be served  
21 consecutively or intermittently, in the discretion of the court;

22 ~~((+8))~~ (7) "Court," ~~((7))~~ when used without further qualification,  
23 means the juvenile court judge(s) or commissioner(s);

24 ~~((+9))~~ (8) "Criminal history" includes all criminal complaints  
25 against the respondent for which, prior to the commission of a current  
26 offense:

27 (a) The allegations were found correct by a court. If a respondent  
28 is convicted of two or more charges arising out of the same course of  
29 conduct, only the highest charge from among these shall count as an  
30 offense for the purposes of this chapter; or

31 (b) The criminal complaint was diverted by a prosecutor pursuant to  
32 the provisions of this chapter on agreement of the respondent and after  
33 an advisement to the respondent that the criminal complaint would be  
34 considered as part of the respondent's criminal history. A  
35 successfully completed deferred adjudication that was entered before  
36 the effective date of this act or a deferred disposition shall not be  
37 considered part of the respondent's criminal history;

38 ~~((+10))~~ (9) "Department" means the department of social and health  
39 services;

1       (~~(11)~~) (10) "Detention facility" means a county facility, paid  
2 for by the county, for the physical confinement of a juvenile alleged  
3 to have committed an offense or an adjudicated offender subject to a  
4 disposition or modification order. "Detention facility" includes  
5 county group homes, inpatient substance abuse programs, juvenile basic  
6 training camps, and electronic monitoring;

7       (~~(12)~~) (11) "Diversion unit" means any probation counselor who  
8 enters into a diversion agreement with an alleged youthful offender, or  
9 any other person, community accountability board, or other entity  
10 except a law enforcement official or entity, with whom the juvenile  
11 court administrator has contracted to arrange and supervise such  
12 agreements pursuant to RCW 13.40.080, or any person, community  
13 accountability board, or other entity specially funded by the  
14 legislature to arrange and supervise diversion agreements in accordance  
15 with the requirements of this chapter. For purposes of this  
16 subsection, "community accountability board" means a board comprised of  
17 members of the local community in which the juvenile offender resides.  
18 The superior court shall appoint the members. The boards shall consist  
19 of at least three and not more than seven members. If possible, the  
20 board should include a variety of representatives from the community,  
21 such as a law enforcement officer, teacher or school administrator,  
22 high school student, parent, and business owner, and should represent  
23 the cultural diversity of the local community;

24       (~~(13)~~) (12) "Institution" means a juvenile facility established  
25 pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

26       (~~(14)~~) (13) "Juvenile," "youth," and "child" mean any individual  
27 who is under the chronological age of eighteen years and who has not  
28 been previously transferred to adult court pursuant to RCW 13.40.110 or  
29 who is otherwise under adult court jurisdiction;

30       (~~(15)~~) (14) "Juvenile offender" means any juvenile who has been  
31 found by the juvenile court to have committed an offense, including a  
32 person eighteen years of age or older over whom jurisdiction has been  
33 extended under RCW 13.40.300;

34       (15) "Local sanctions" mean one or more of the following: (a) 0-30  
35 days of confinement; (b) 0-12 months of community supervision; (c)  
36 0-150 hours of community service; or (d) \$0-\$500 fine;

37       (16) "Manifest injustice" means a disposition that would either  
38 impose an excessive penalty on the juvenile or would impose a serious,  
39 and clear danger to society in light of the purposes of this chapter;

1       ~~(17) ("Middle offender" means a person who has committed an~~  
2 ~~offense and who is neither a minor or first offender nor a serious~~  
3 ~~offender;~~

4       ~~(18) "Minor or first offender" means a person whose current~~  
5 ~~offense(s) and criminal history fall entirely within one of the~~  
6 ~~following categories:~~

7       ~~(a) Four misdemeanors;~~

8       ~~(b) Two misdemeanors and one gross misdemeanor;~~

9       ~~(c) One misdemeanor and two gross misdemeanors; and~~

10       ~~(d) Three gross misdemeanors.~~

11       ~~For purposes of this definition, current violations shall be~~  
12 ~~counted as misdemeanors;~~

13       ~~(19))~~ "Offense" means an act designated a violation or a crime if  
14 committed by an adult under the law of this state, under any ordinance  
15 of any city or county of this state, under any federal law, or under  
16 the law of another state if the act occurred in that state;

17       ~~((20))~~ (18) "Respondent" means a juvenile who is alleged or  
18 proven to have committed an offense;

19       ~~((21))~~ (19) "Restitution" means financial reimbursement by the  
20 offender to the victim, and shall be limited to easily ascertainable  
21 damages for injury to or loss of property, actual expenses incurred for  
22 medical treatment for physical injury to persons, lost wages resulting  
23 from physical injury, and costs of the victim's counseling reasonably  
24 related to the offense if the offense is a sex offense. Restitution  
25 shall not include reimbursement for damages for mental anguish, pain  
26 and suffering, or other intangible losses. Nothing in this chapter  
27 shall limit or replace civil remedies or defenses available to the  
28 victim or offender;

29       ~~((22))~~ (20) "Secretary" means the secretary of the department of  
30 social and health services. "Assistant secretary" means the assistant  
31 secretary for juvenile rehabilitation for the department;

32       ~~((23))~~ (21) "Services" mean services which provide alternatives  
33 to incarceration for those juveniles who have pleaded or been  
34 adjudicated guilty of an offense or have signed a diversion agreement  
35 pursuant to this chapter;

36       ~~((24))~~ (22) "Sex offense" means an offense defined as a sex  
37 offense in RCW 9.94A.030;

1       (~~(25)~~) (23) "Sexual motivation" means that one of the purposes  
2 for which the respondent committed the offense was for the purpose of  
3 his or her sexual gratification;

4       (~~(26)~~) (24) "Foster care" means temporary physical care in a  
5 foster family home or group care facility as defined in RCW 74.15.020  
6 and licensed by the department, or other legally authorized care;

7       (~~(27)~~) (25) "Violation" means an act or omission, which if  
8 committed by an adult, must be proven beyond a reasonable doubt, and is  
9 punishable by sanctions which do not include incarceration;

10       (~~(28)~~) (26) "Violent offense" means a violent offense as defined  
11 in RCW 9.94A.030;

12       (~~(29)~~) (27) "Probation bond" means a bond, posted with sufficient  
13 security by a surety justified and approved by the court, to secure the  
14 offender's appearance at required court proceedings and compliance with  
15 court-ordered community supervision or conditions of release ordered  
16 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of  
17 cash or posting of other collateral in lieu of a bond if approved by  
18 the court;

19       (~~(30)~~) (28) "Surety" means an entity licensed under state  
20 insurance laws or by the state department of licensing, to write  
21 corporate, property, or probation bonds within the state, and justified  
22 and approved by the superior court of the county having jurisdiction of  
23 the case.

24       **Sec. 9.** RCW 13.40.0357 and 1996 c 205 s 6 are each amended to read  
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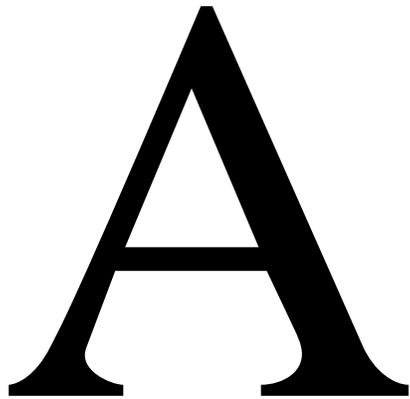
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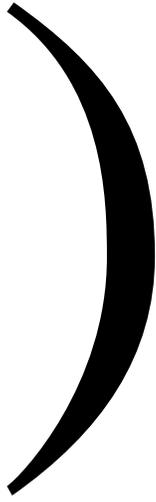
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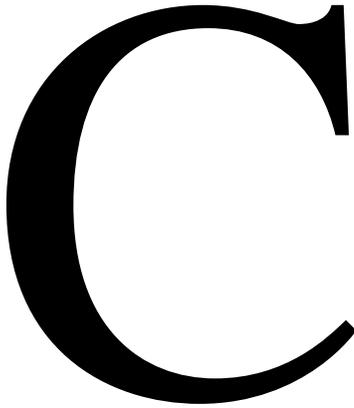
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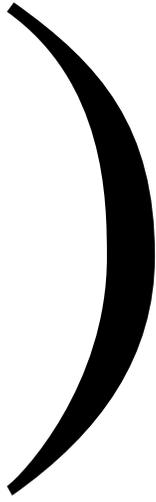
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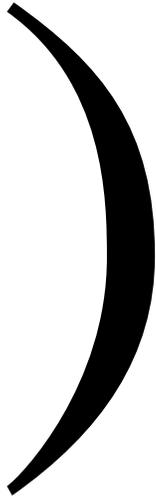
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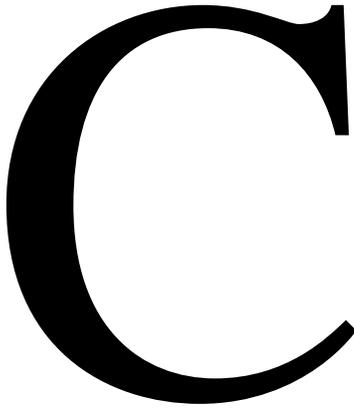
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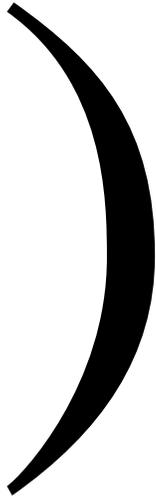
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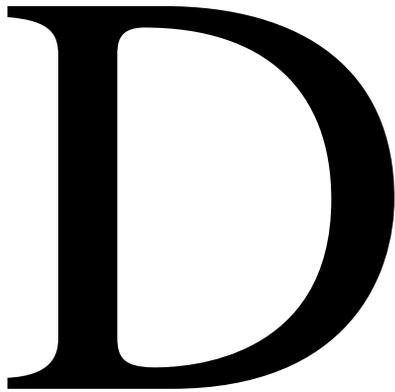
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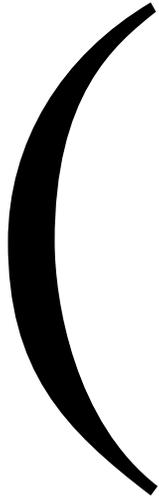
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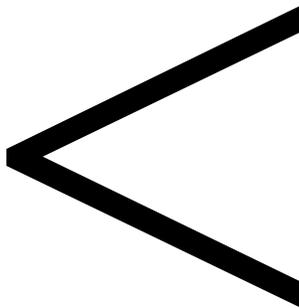
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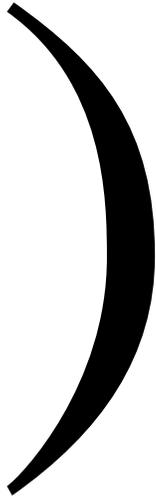
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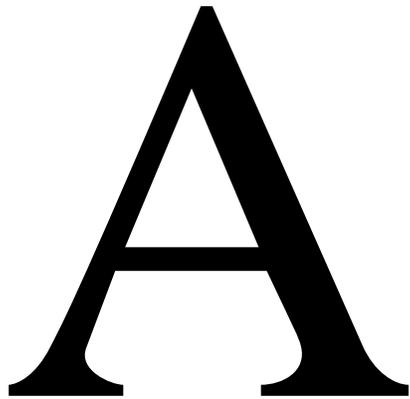
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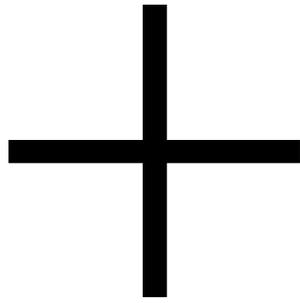
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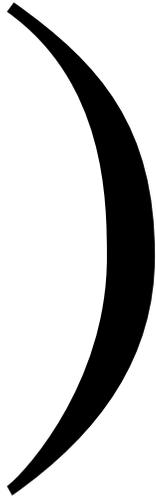
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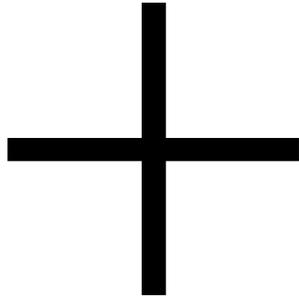
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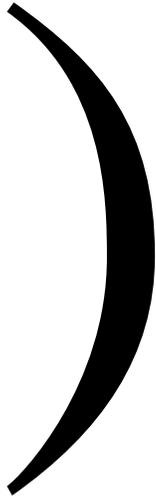
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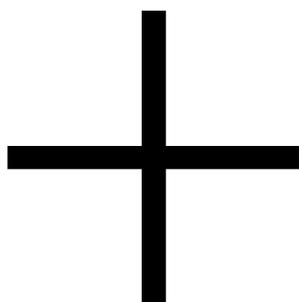
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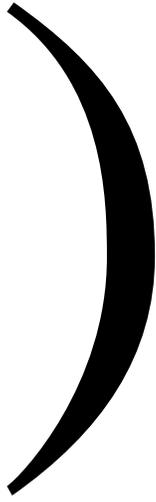
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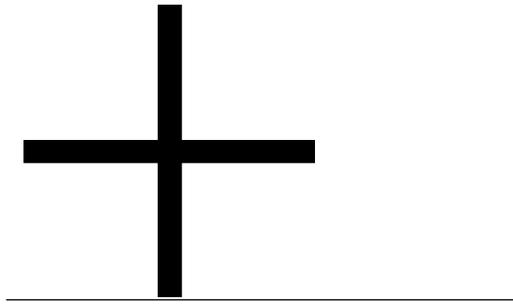


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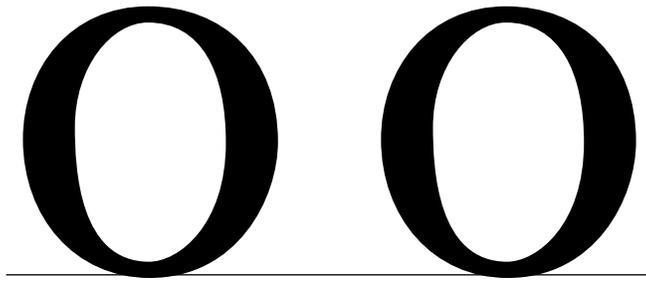
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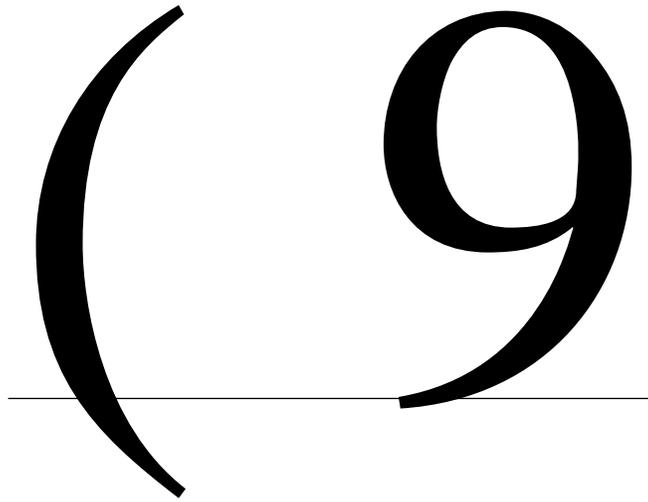
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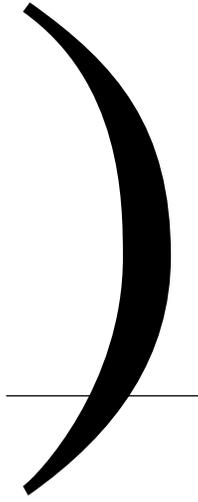
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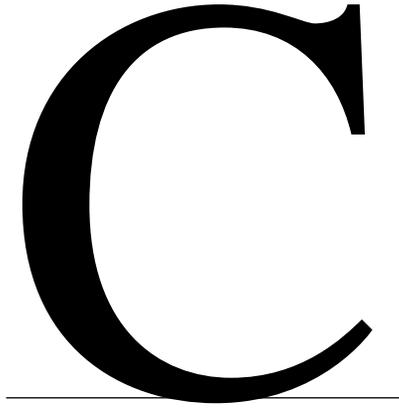
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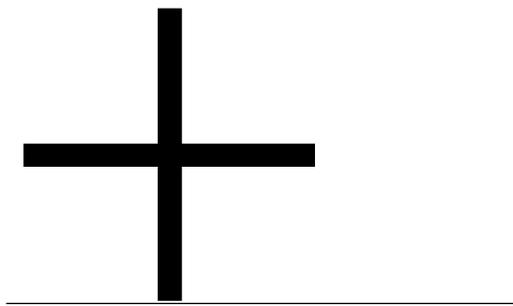
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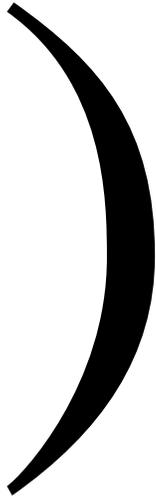
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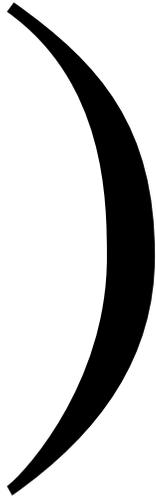
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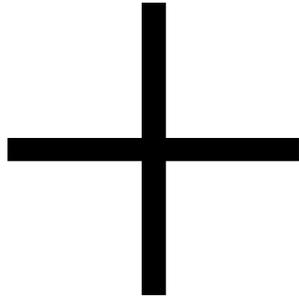
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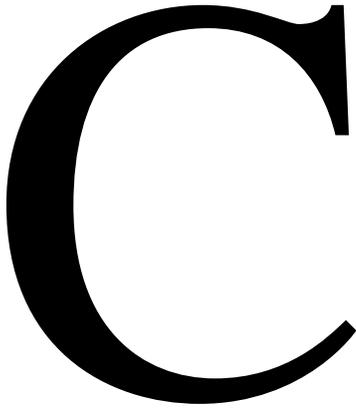
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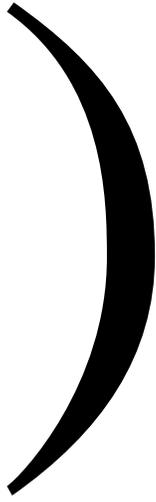
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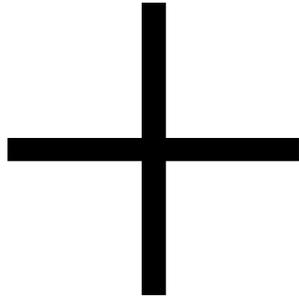
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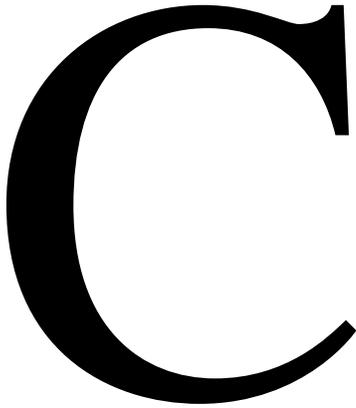
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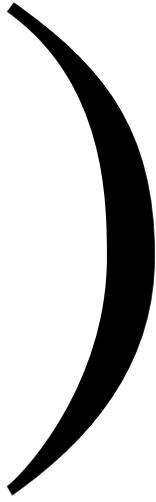
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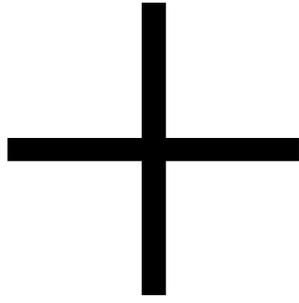
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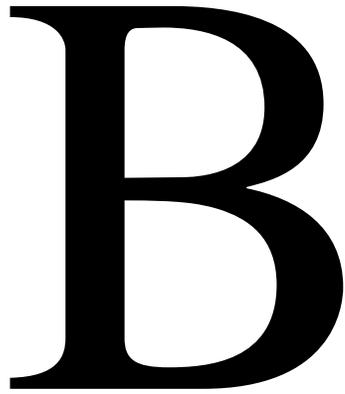
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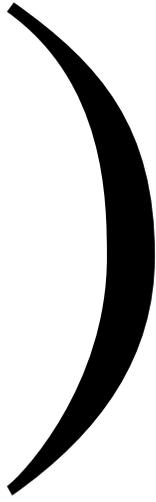
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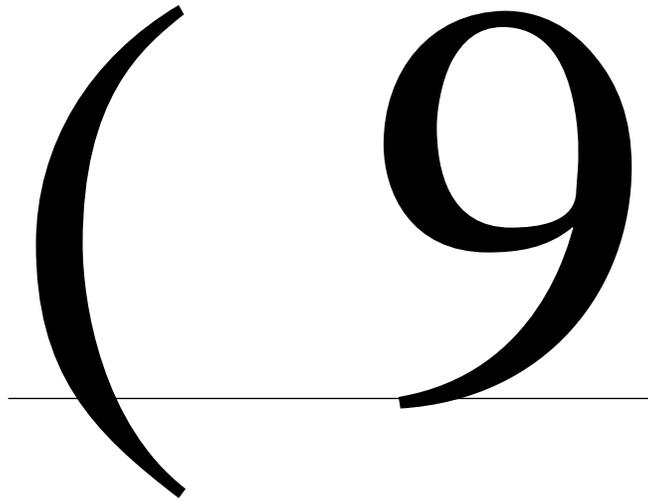
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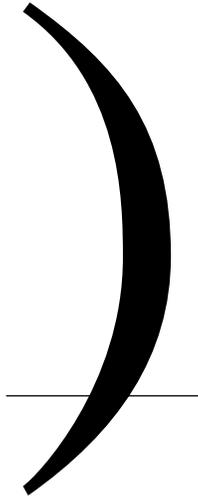
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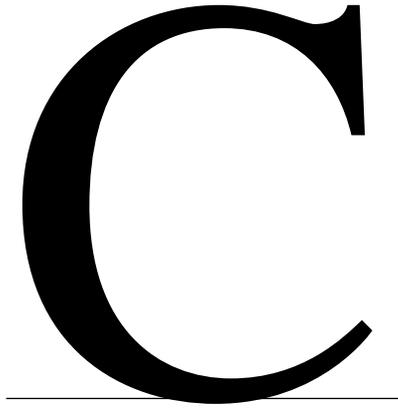
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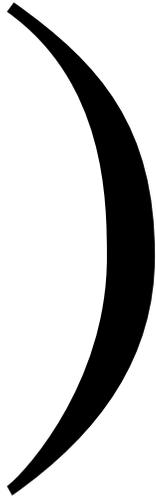
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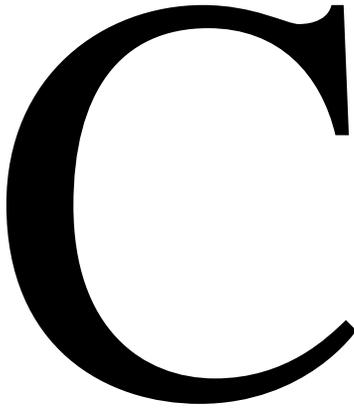
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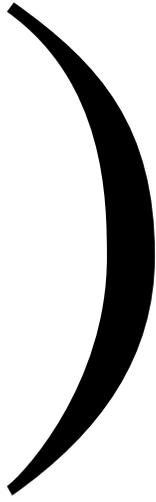
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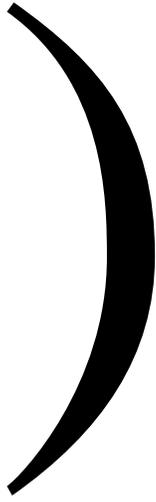
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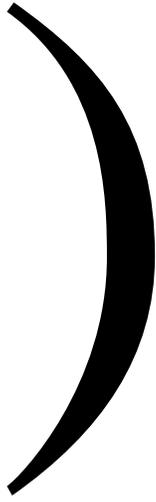
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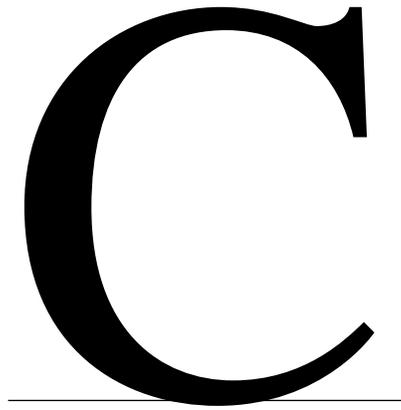
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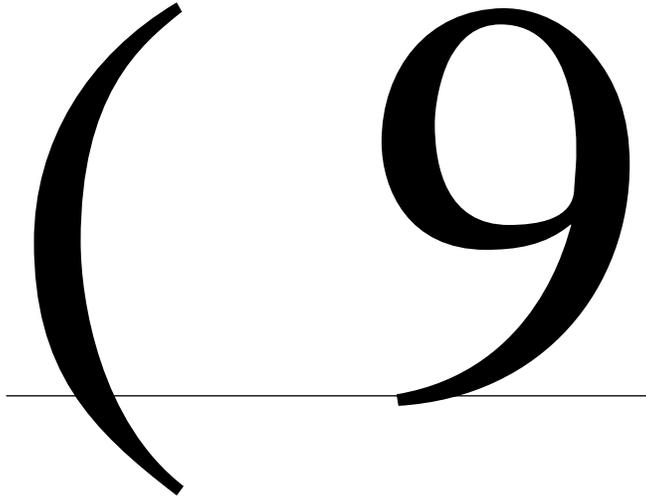
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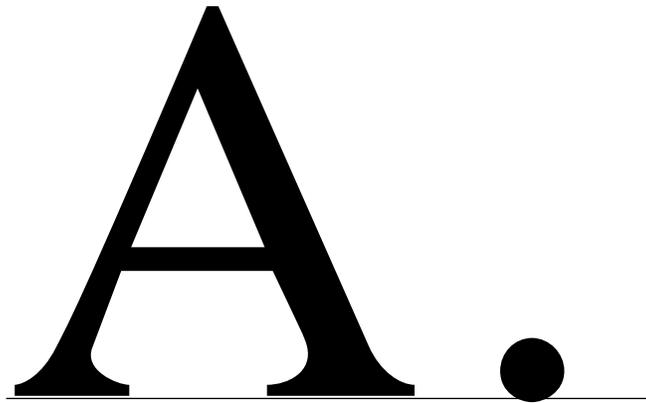
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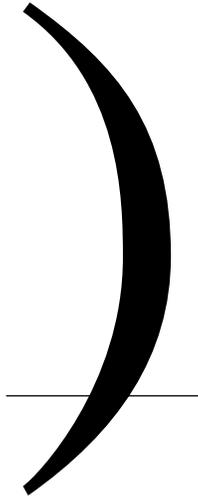
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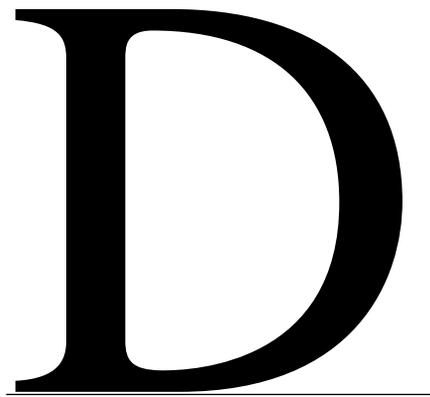
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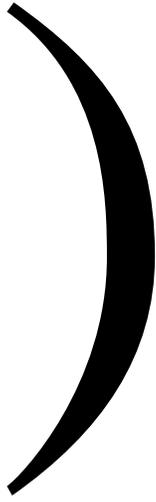
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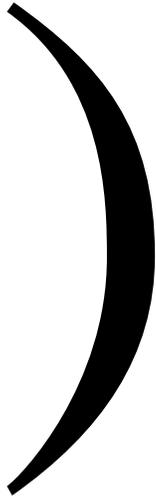
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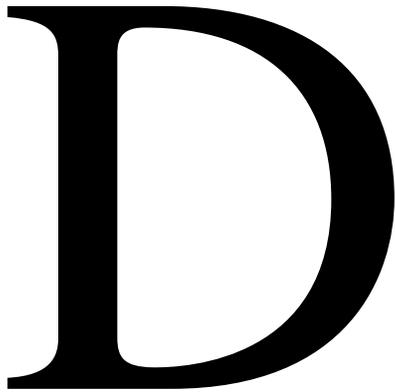
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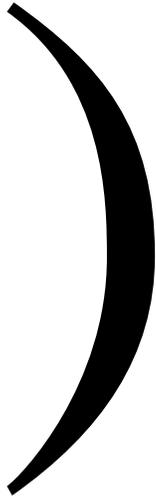
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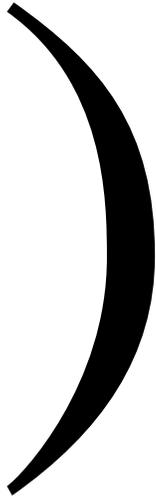
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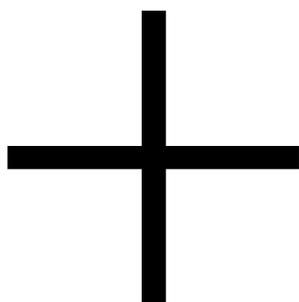
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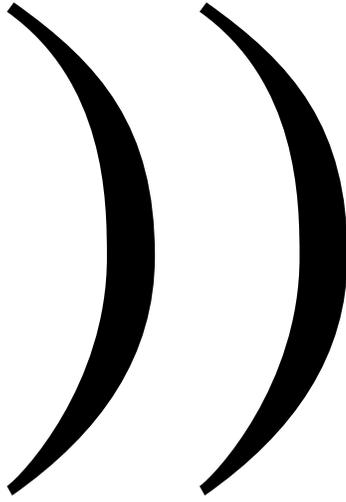
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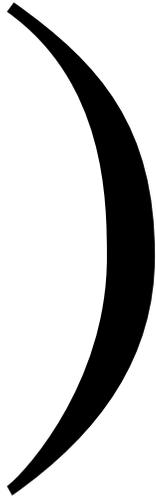
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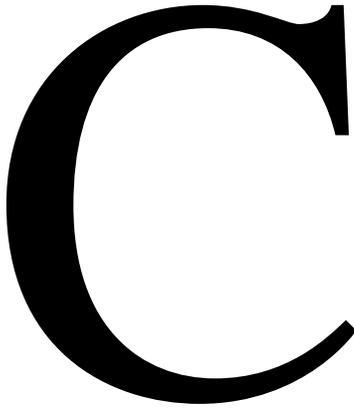
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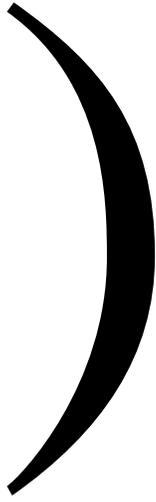
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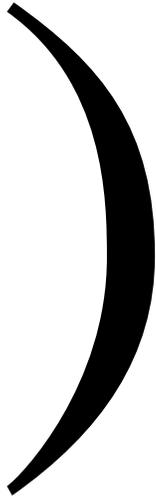
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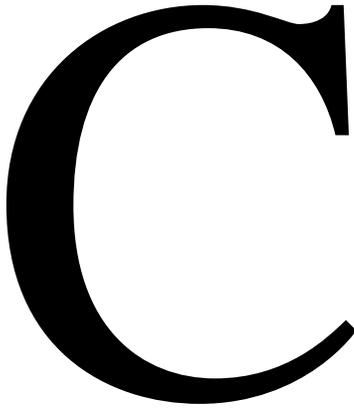
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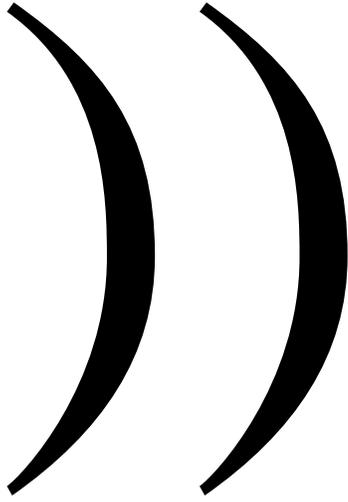
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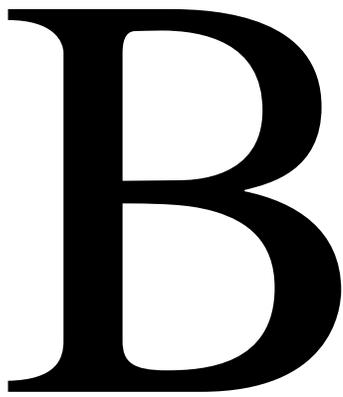
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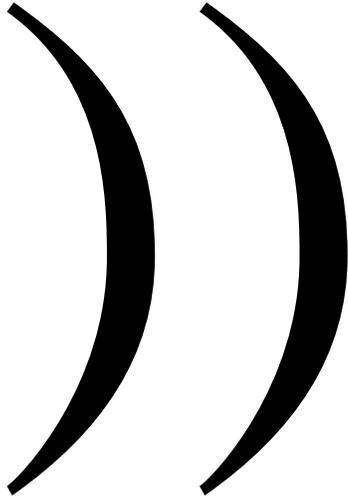
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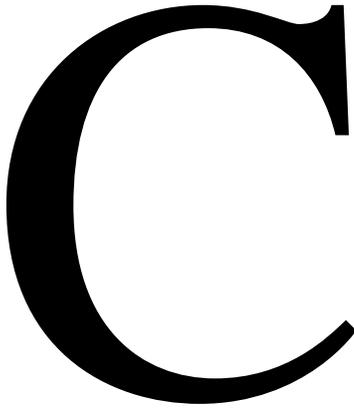
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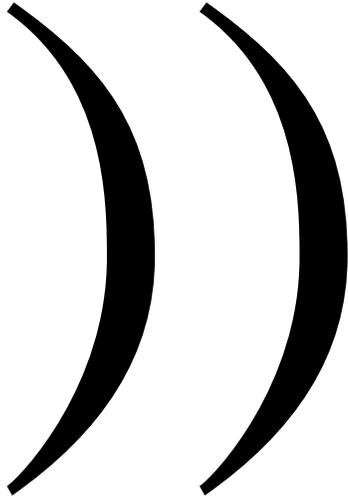
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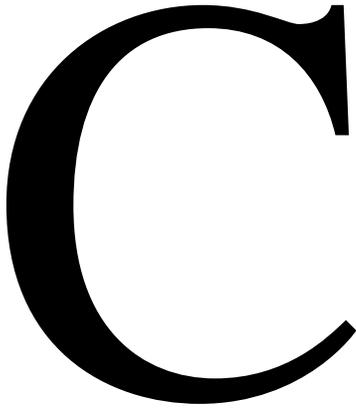
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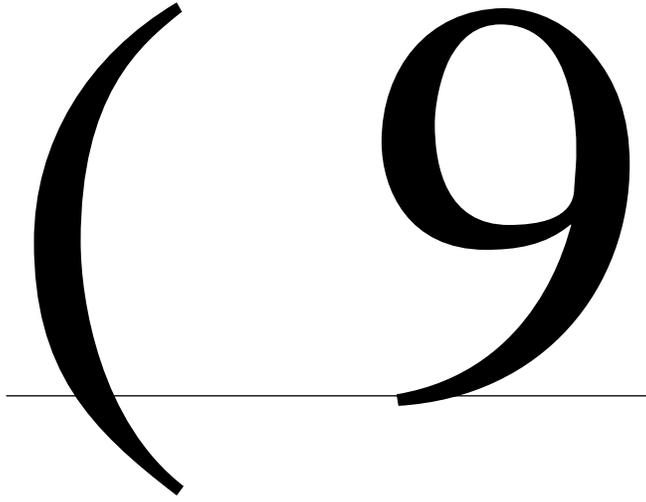
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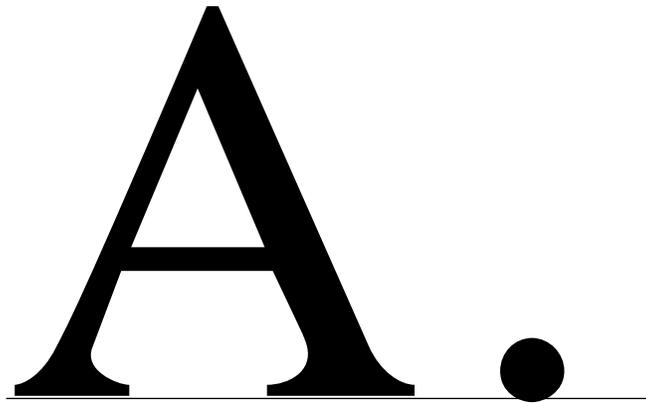
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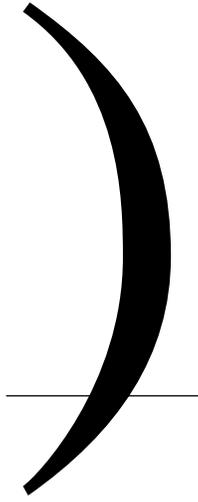
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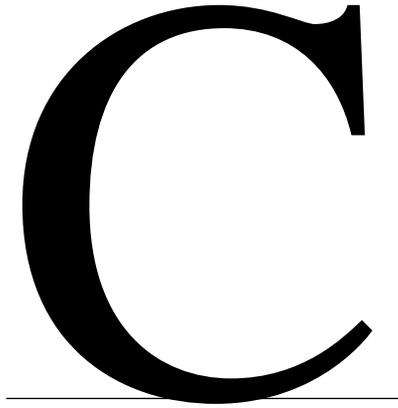
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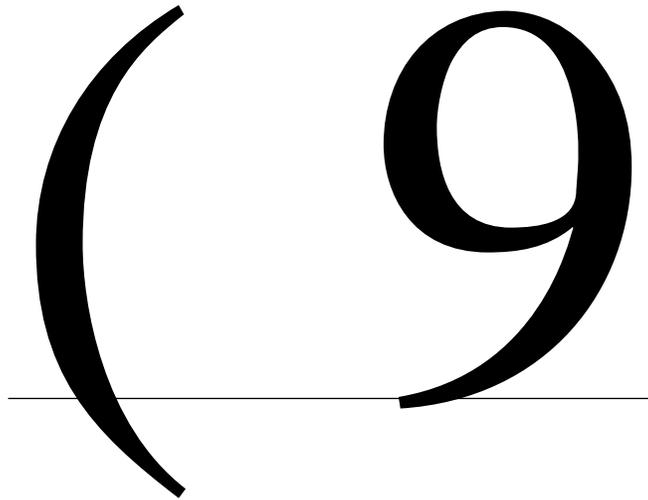
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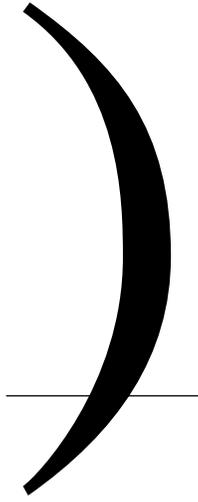
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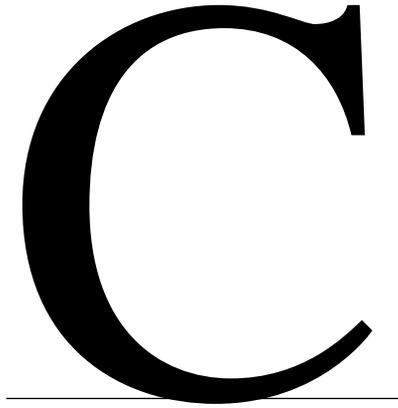
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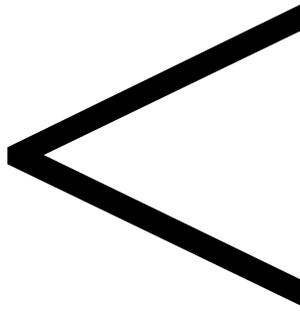
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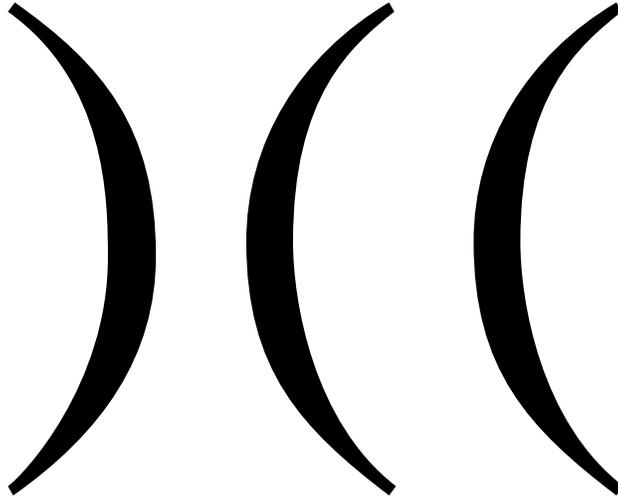
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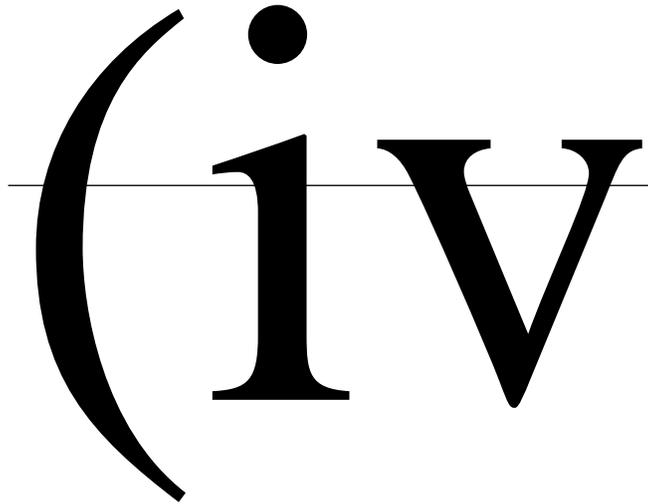
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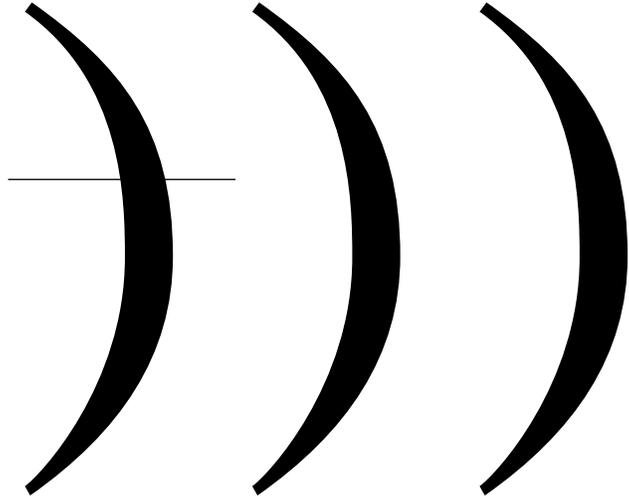
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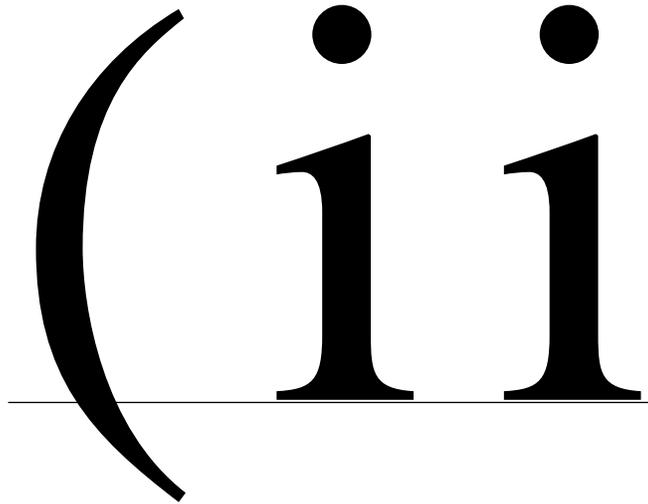
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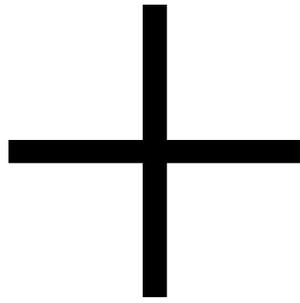
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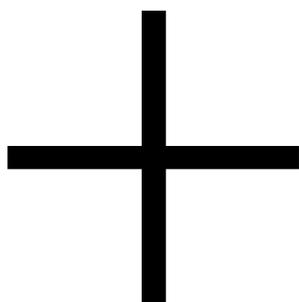
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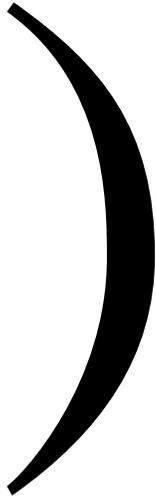
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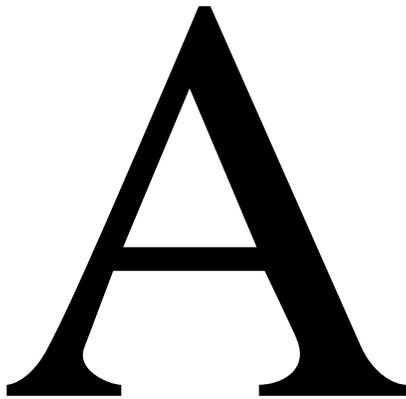
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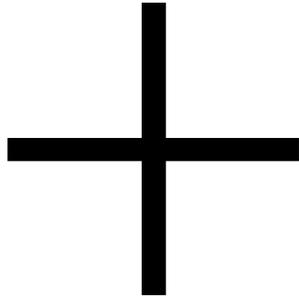


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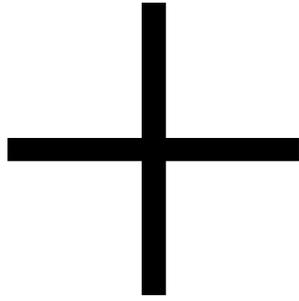
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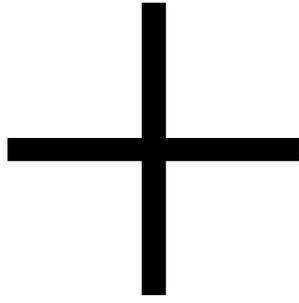
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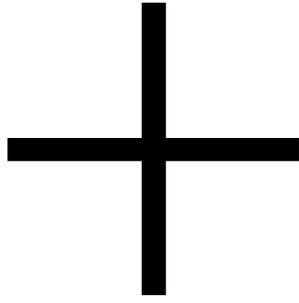
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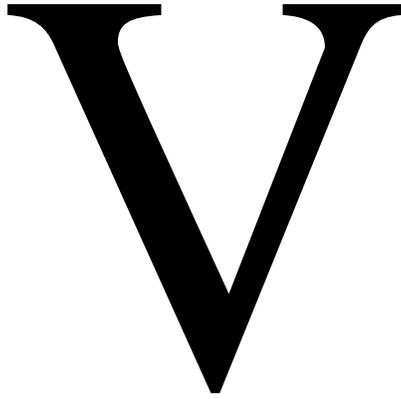
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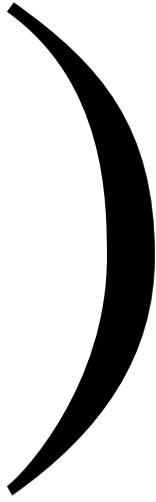
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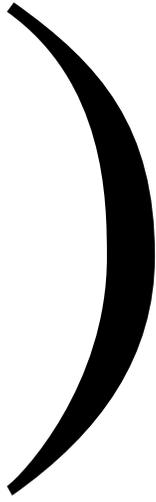
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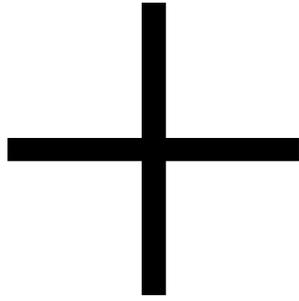
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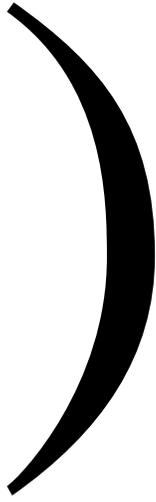
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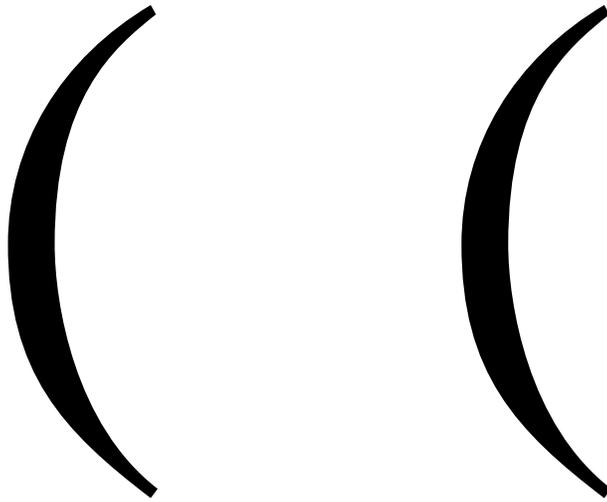
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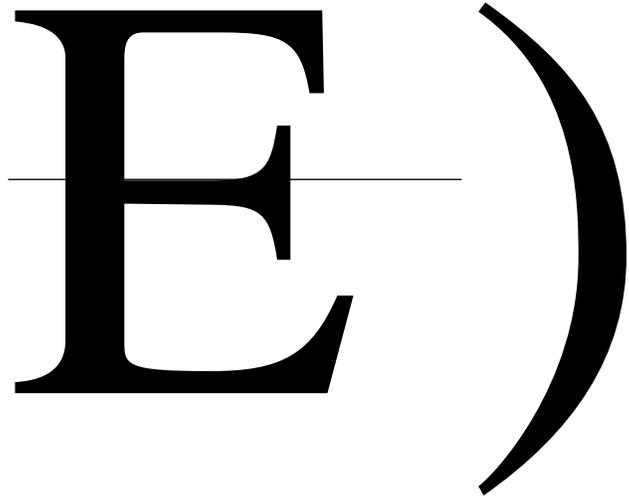
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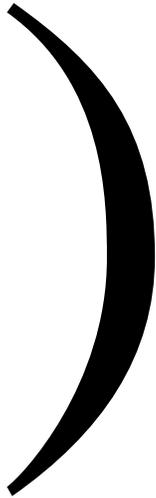
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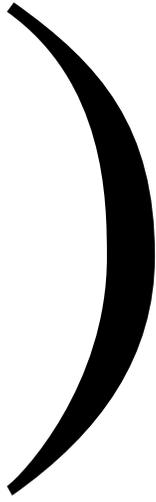
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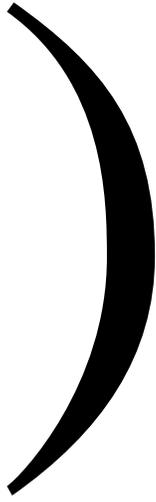
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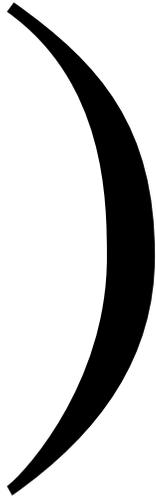
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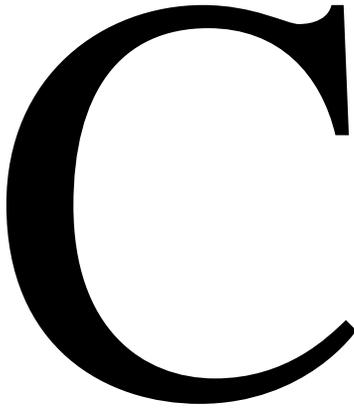
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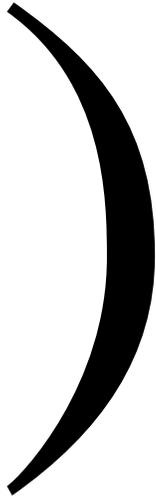


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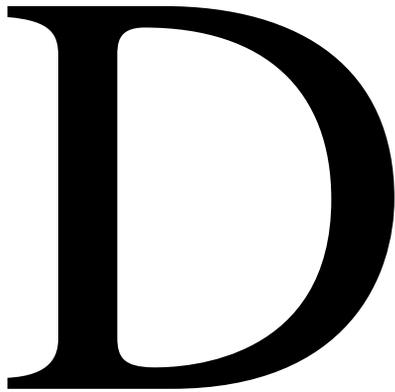
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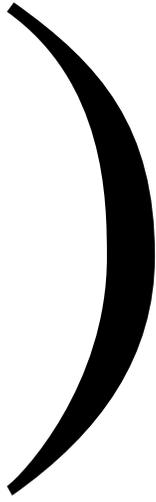
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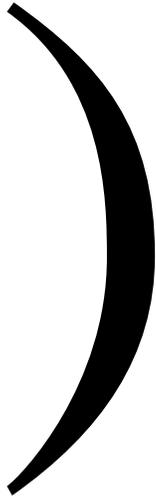
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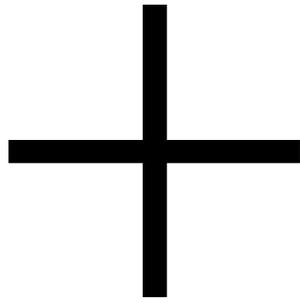
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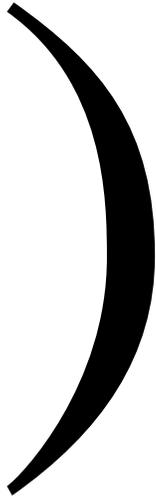
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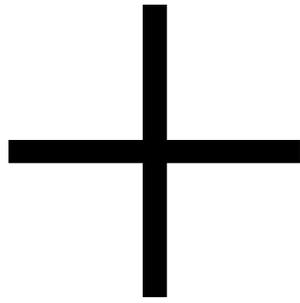
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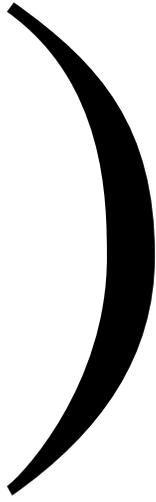
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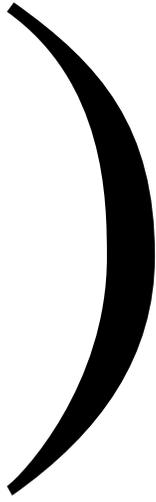
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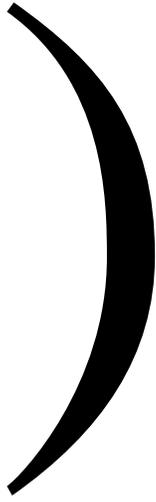
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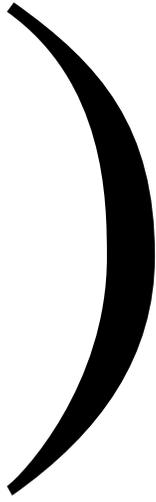
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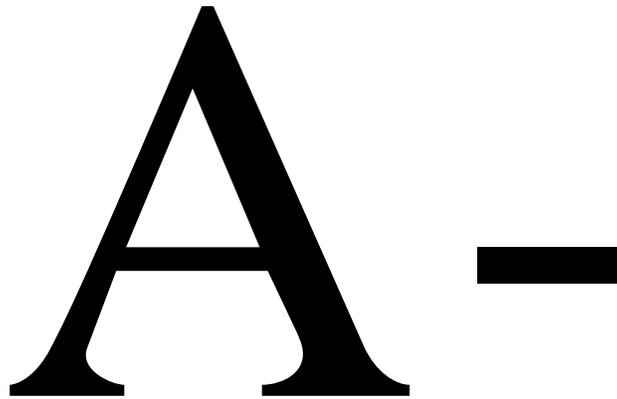
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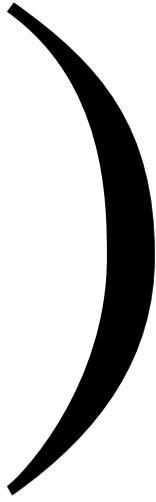
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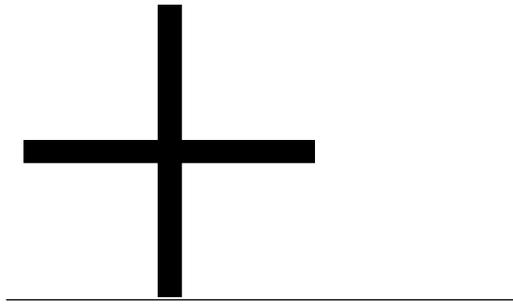
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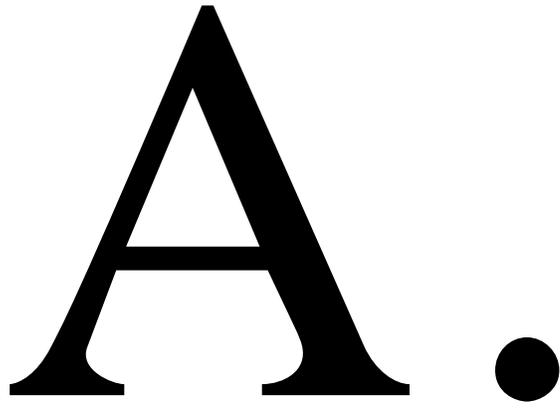
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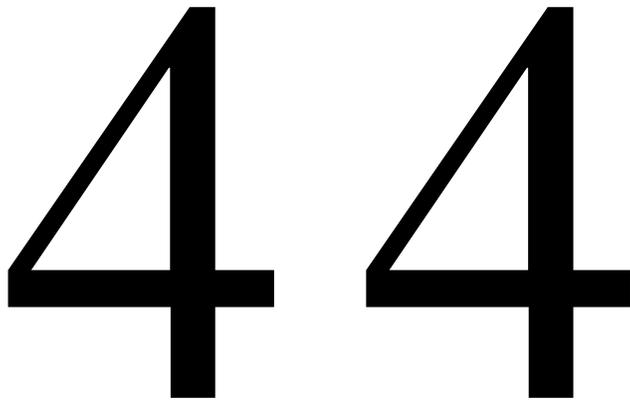
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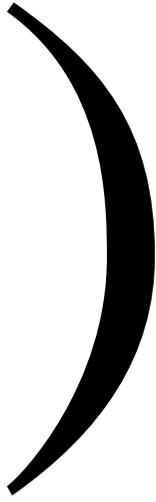
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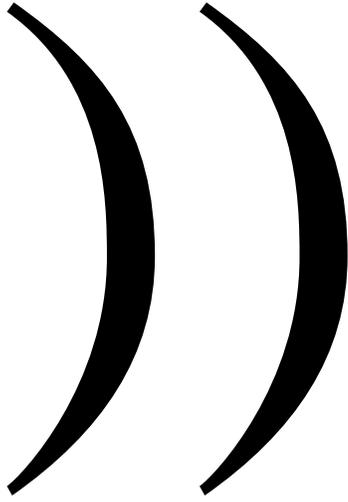
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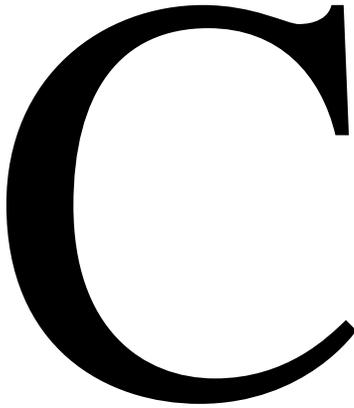
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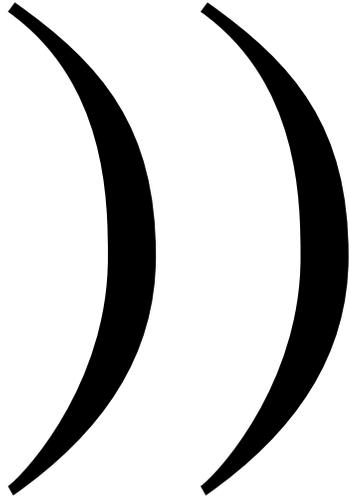
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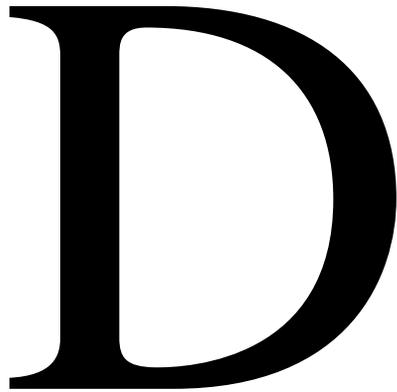
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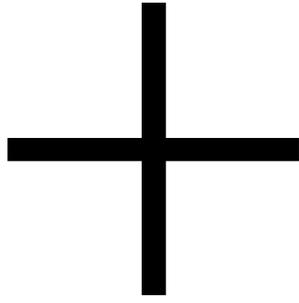


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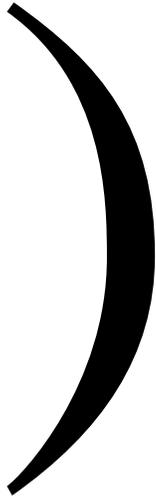
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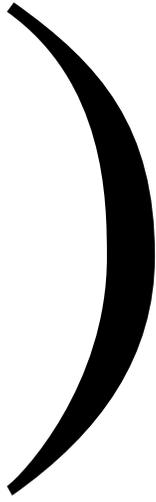
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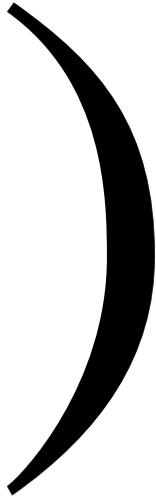
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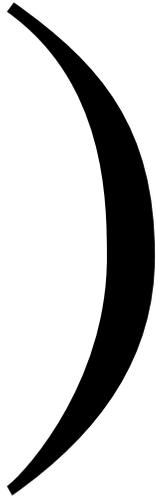
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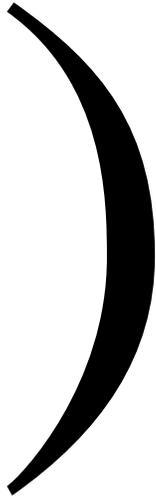
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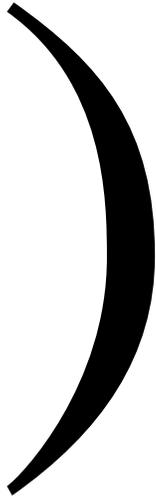
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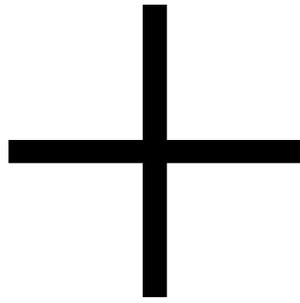


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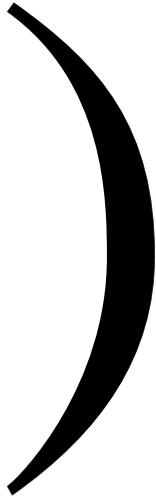
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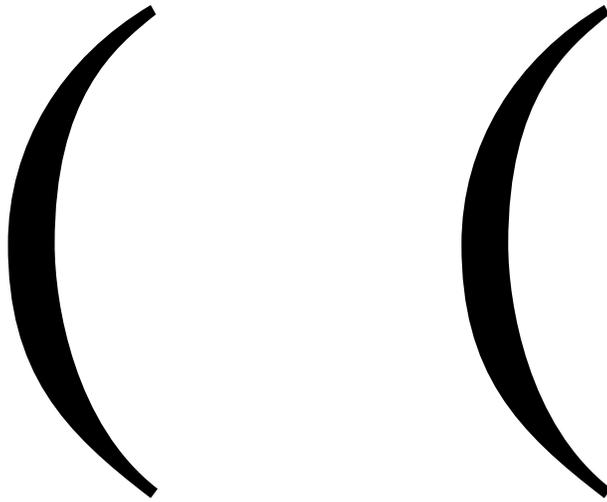
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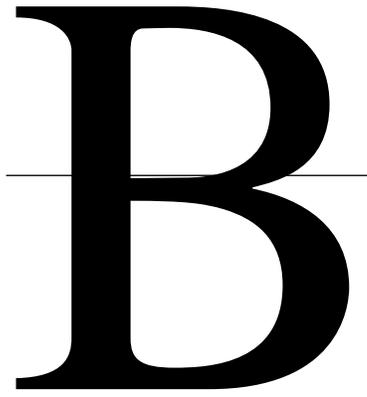
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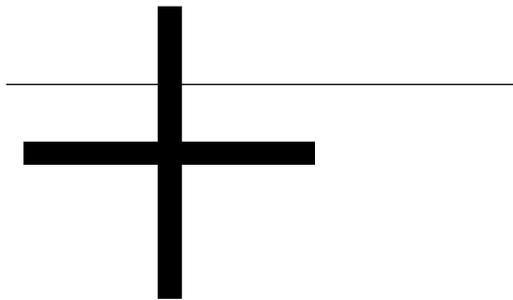
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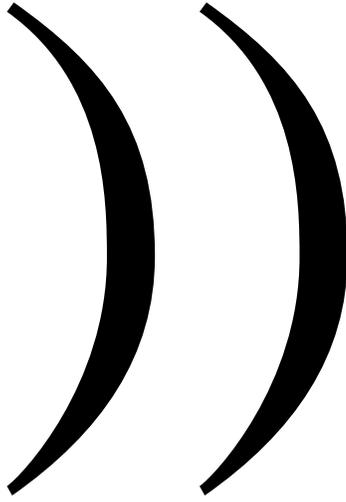
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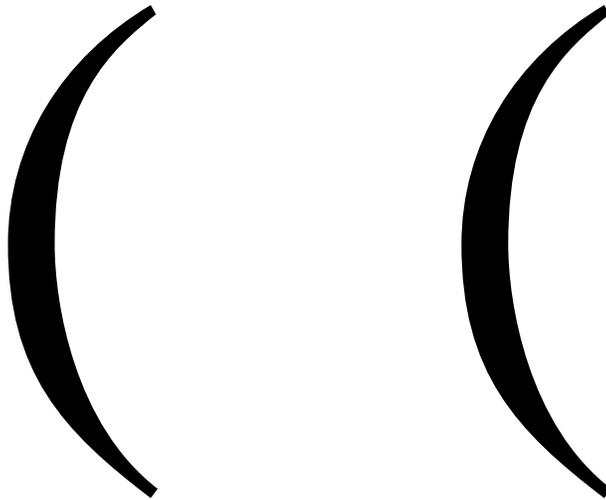
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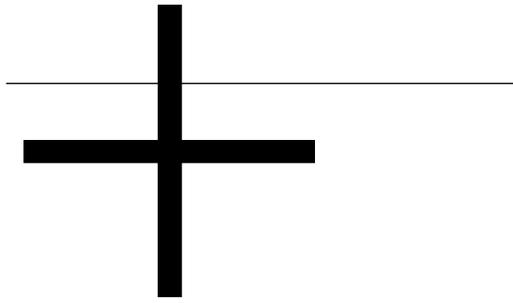
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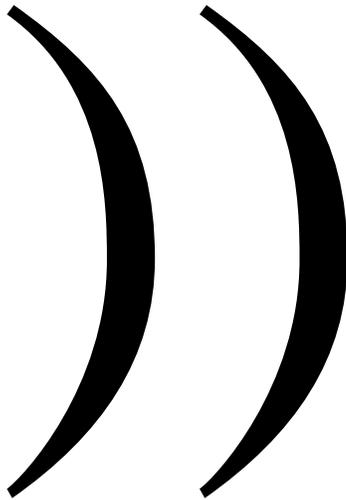
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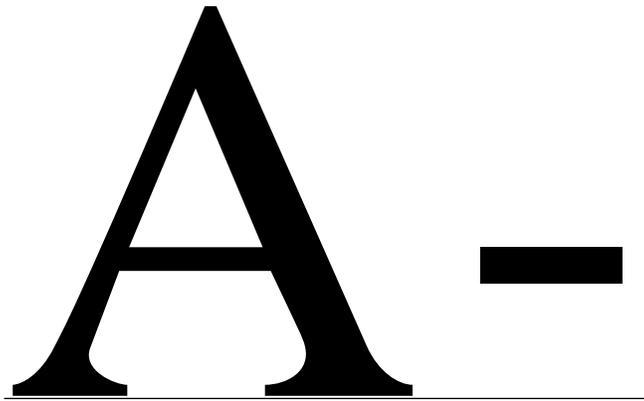
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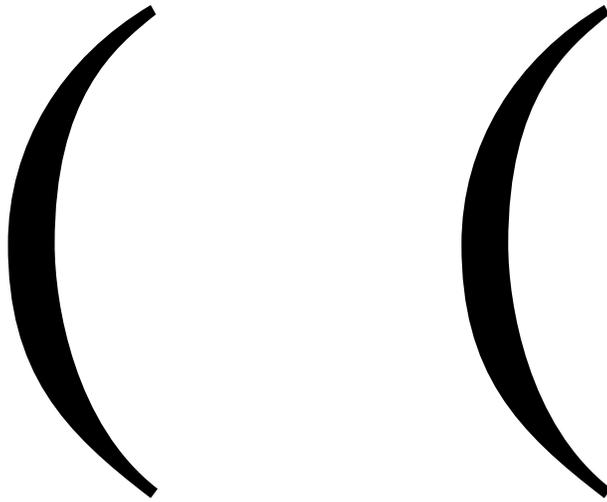
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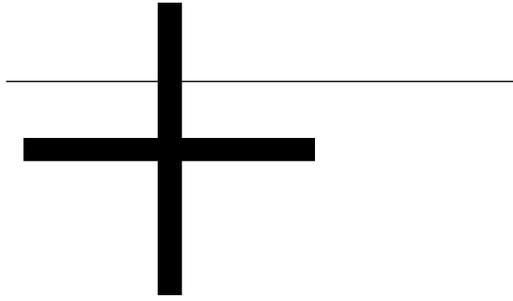
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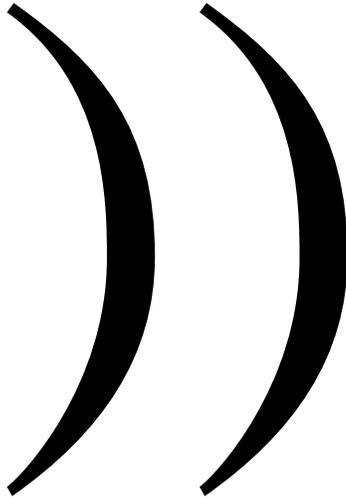
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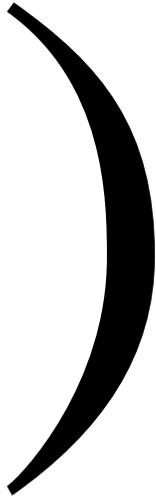
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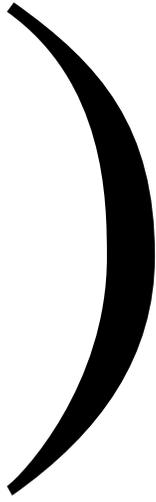
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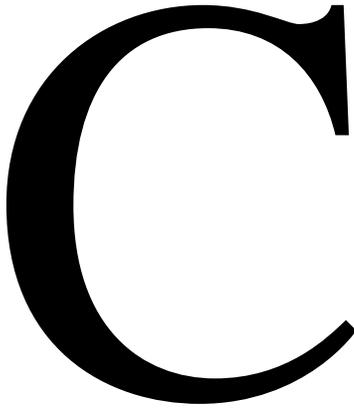
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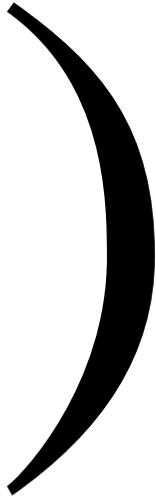
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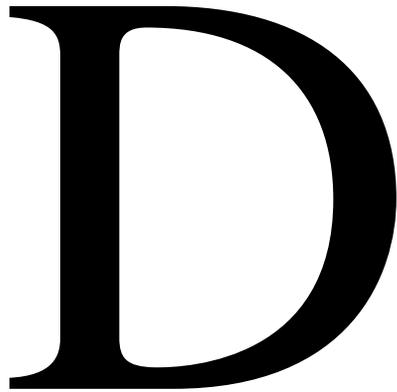
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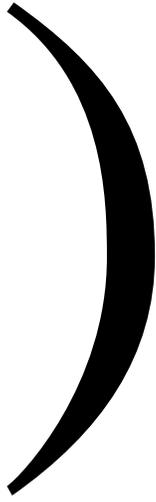
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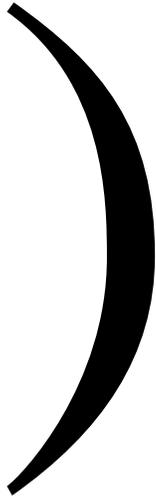
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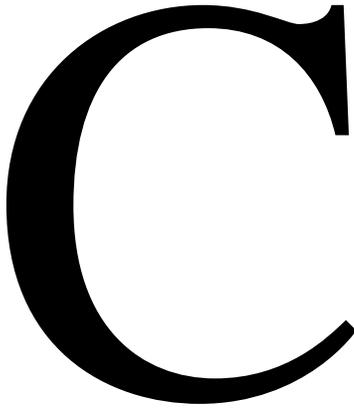
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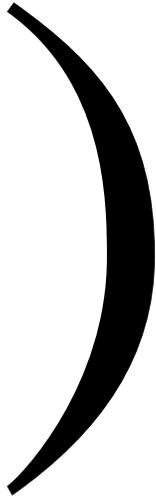
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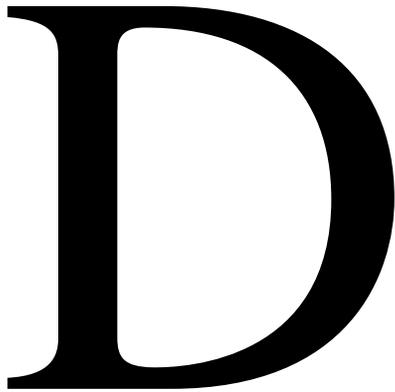
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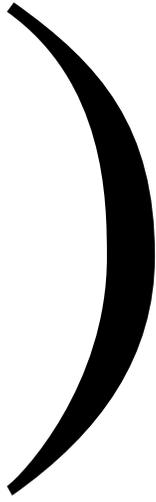
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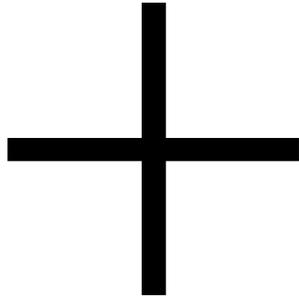
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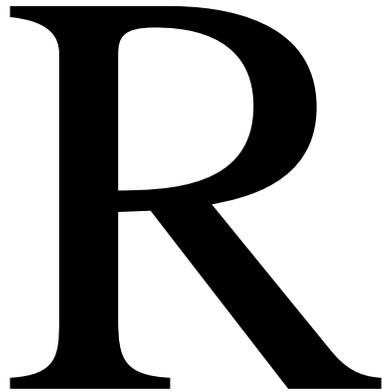
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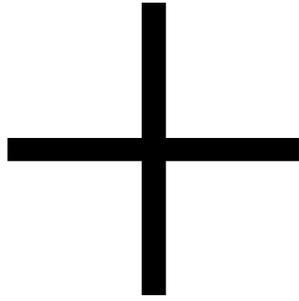
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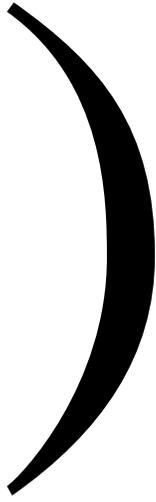
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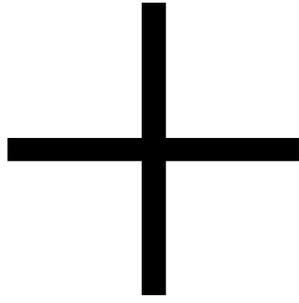
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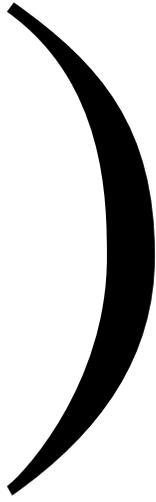
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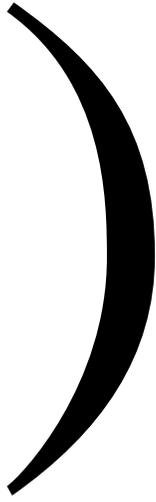
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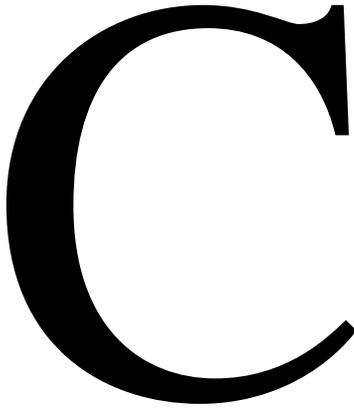
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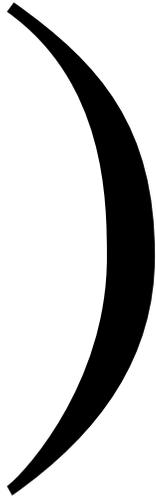
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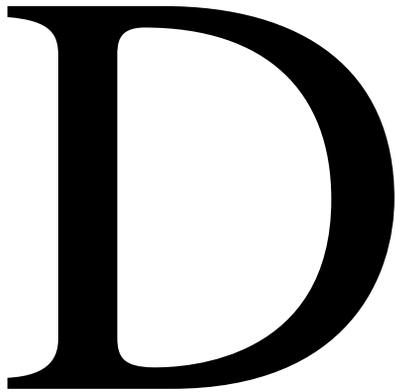
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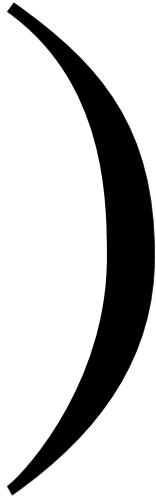


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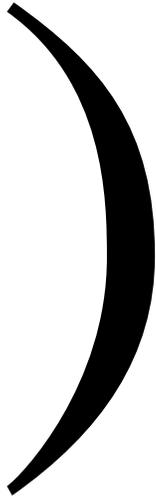
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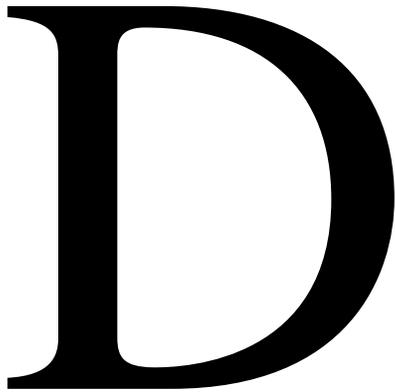
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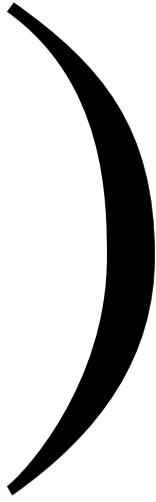
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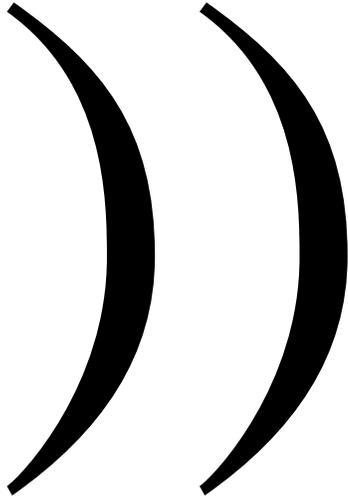
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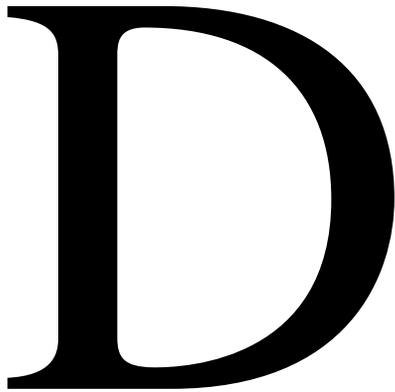
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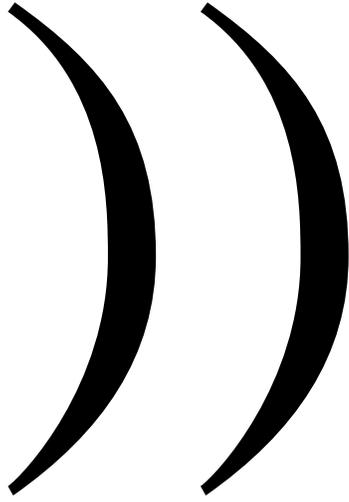
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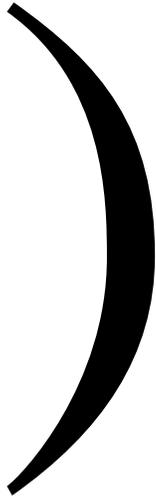
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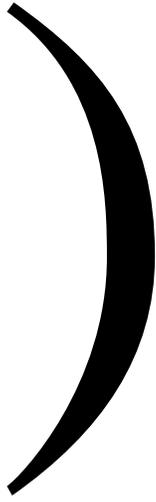
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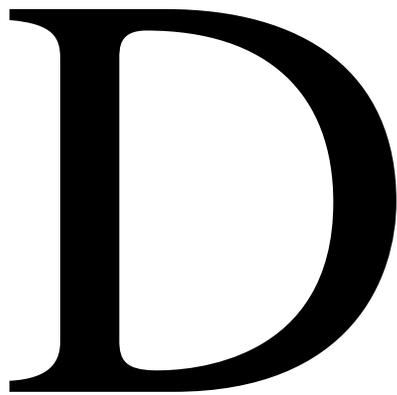
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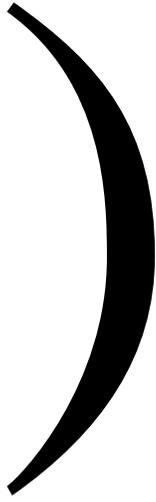
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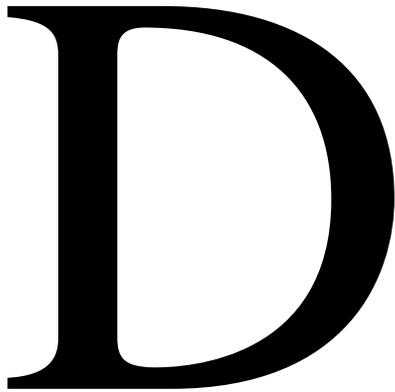
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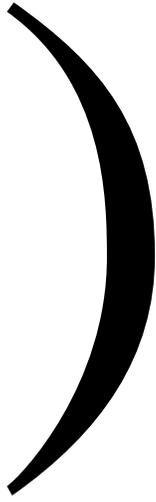
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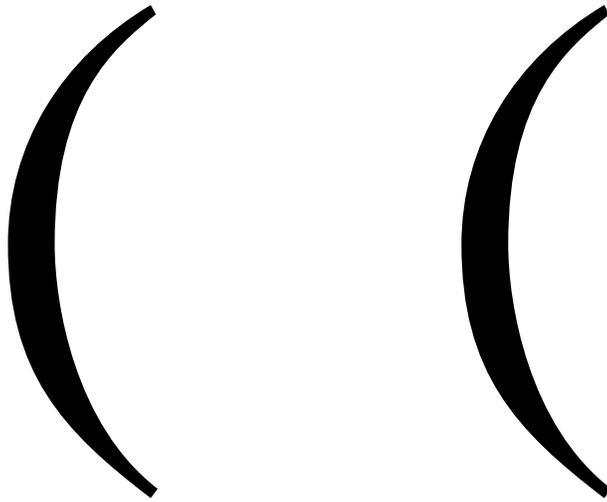
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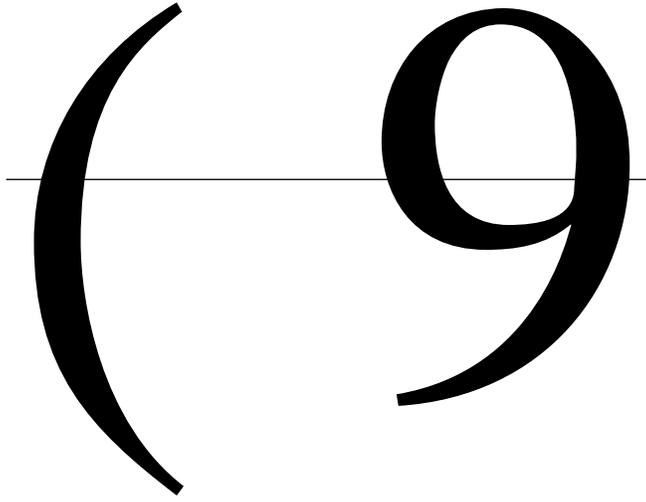
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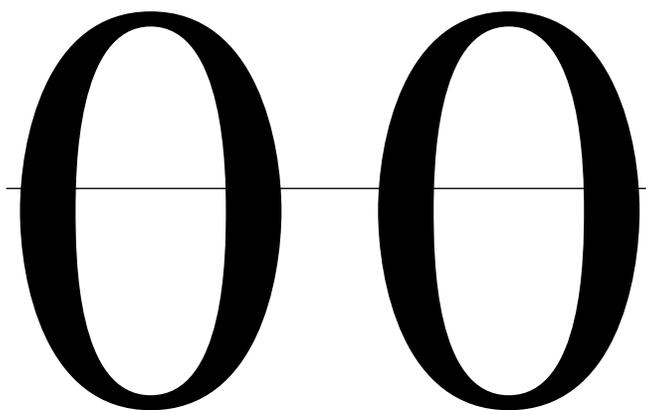


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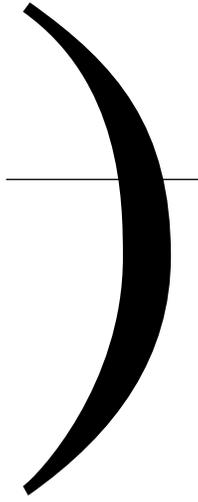
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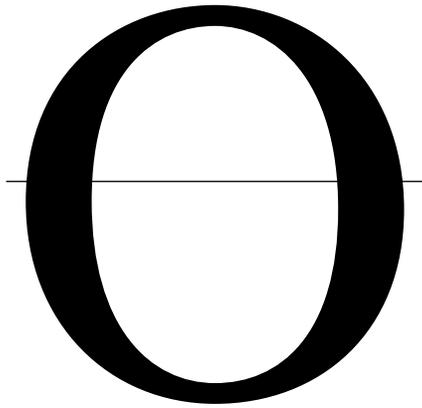
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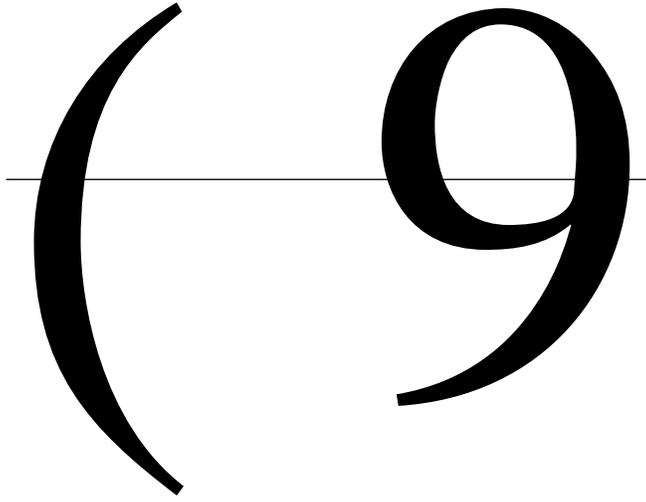
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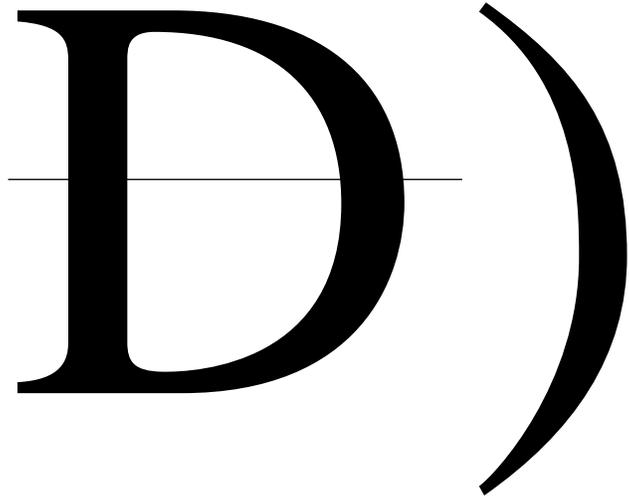
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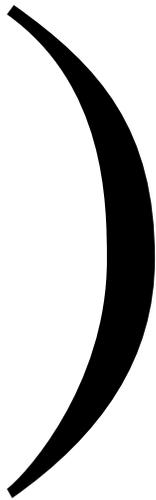
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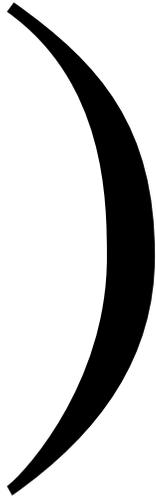
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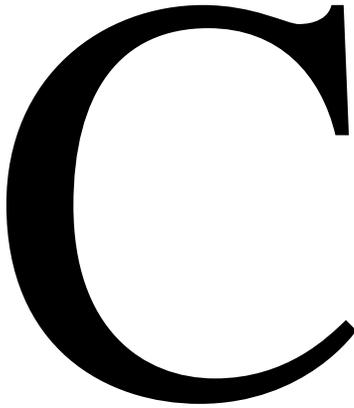
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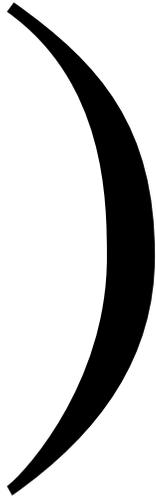
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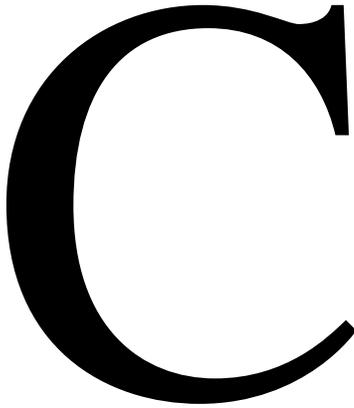
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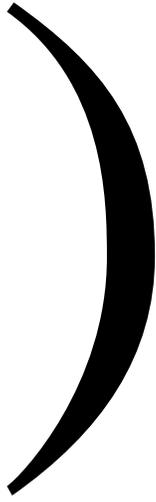
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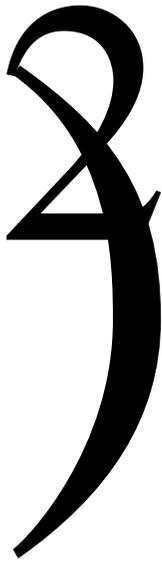
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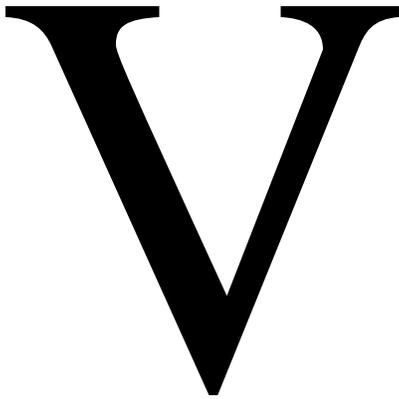
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1 Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
2 and the standard range is established as follows:

3 1st escape or attempted escape during 12-month period - 4 weeks  
4 confinement

5 2nd escape or attempted escape during 12-month period - 8 weeks  
6 confinement

7 3rd and subsequent escape or attempted escape during 12-month  
8 period - 12 weeks confinement

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

11 ~~(( SCHEDULE B~~  
12 ~~PRIOR OFFENSE INCREASE FACTOR~~

13 ~~For use with all CURRENT OFFENSES occurring on or after July 1,~~  
14 ~~1989.~~

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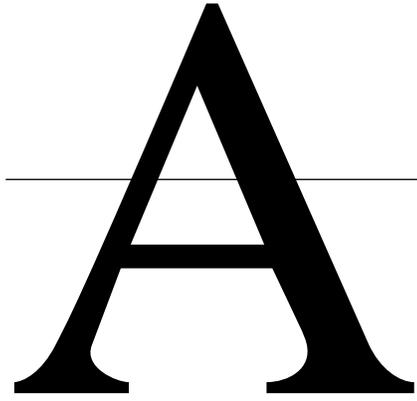
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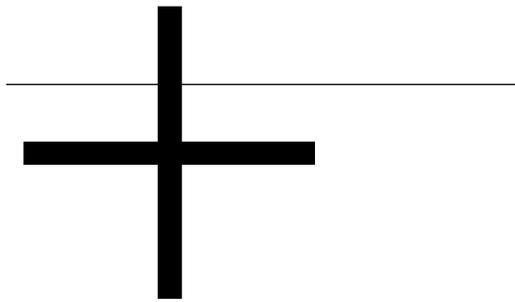
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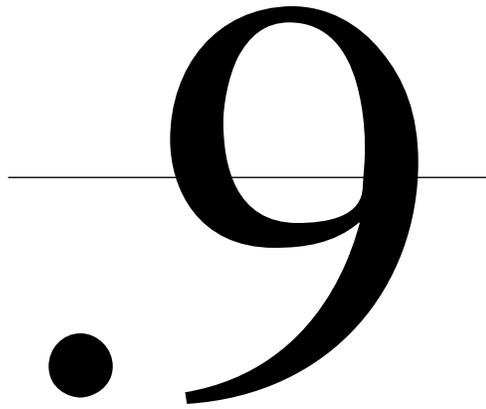
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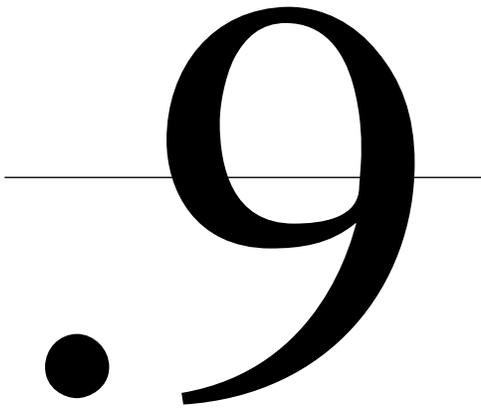
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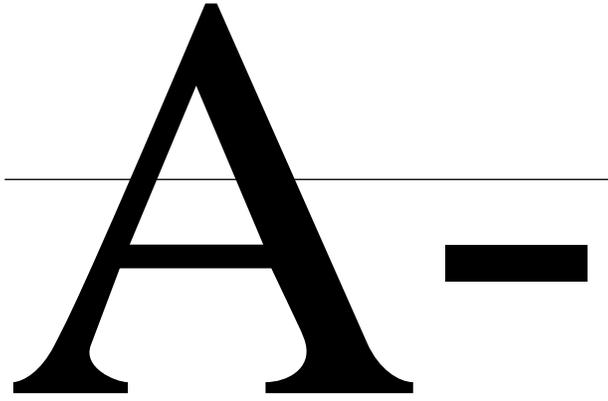
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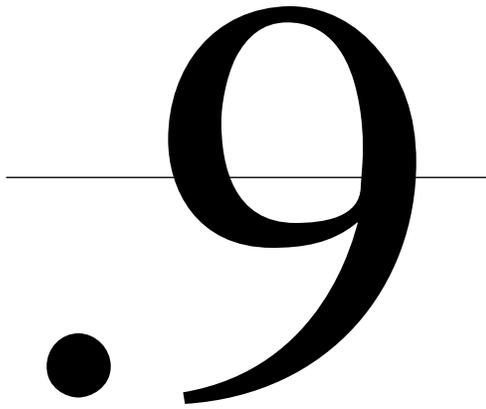
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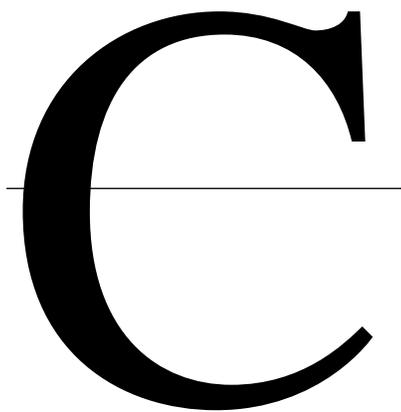
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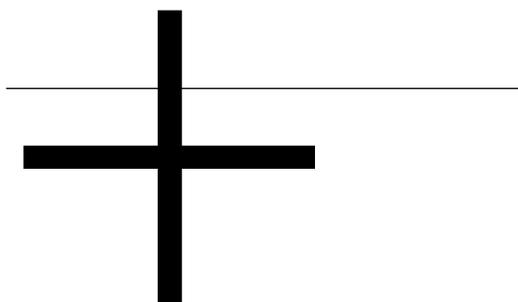


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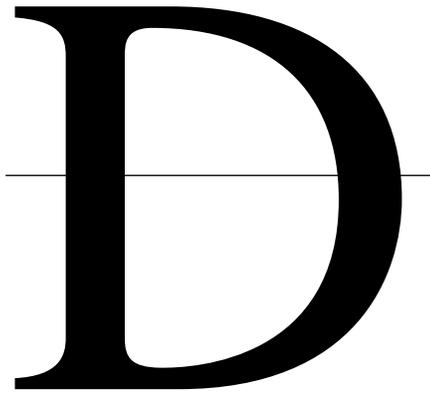
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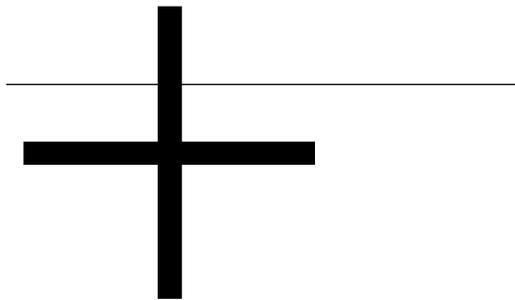
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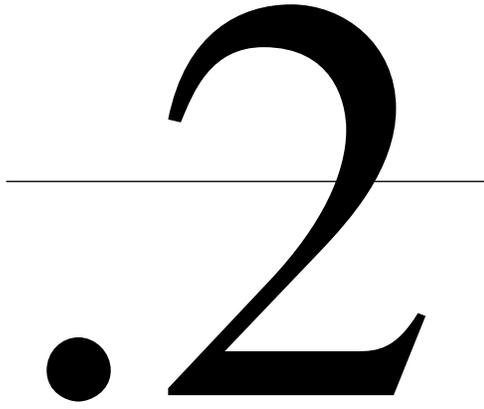
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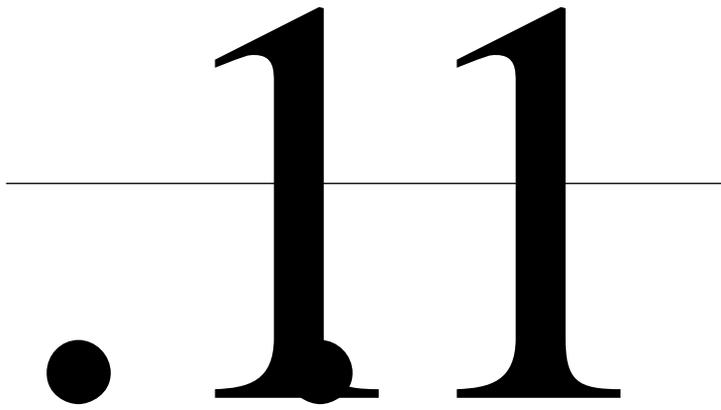
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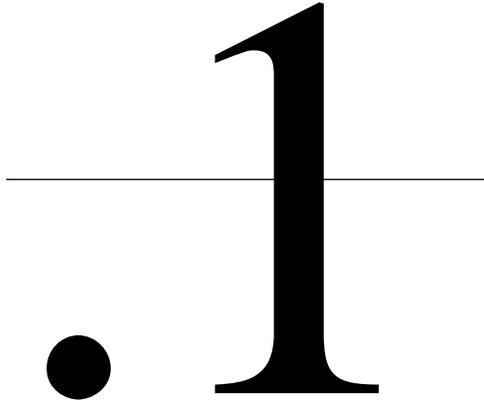


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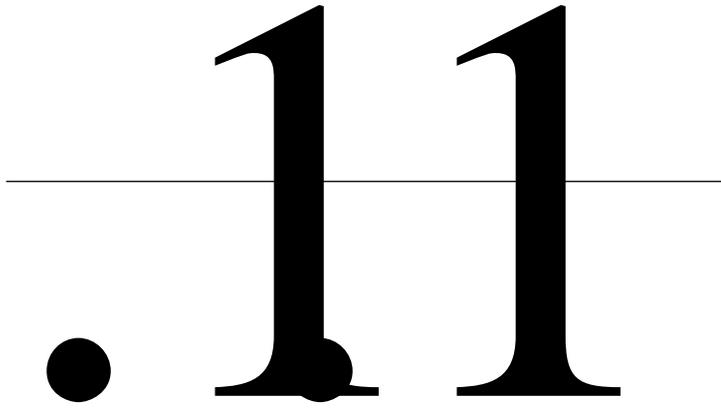


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1 ~~Prior history — Any offense in which a diversion agreement or counsel~~  
2 ~~and release form was signed, or any offense which has been adjudicated~~  
3 ~~by court to be correct prior to the commission of the current~~  
4 ~~offense(s).~~

5 ~~SCHEDULE C~~

6 ~~CURRENT OFFENSE POINTS~~

7 ~~For use with all CURRENT OFFENSES occurring on or after July 1,~~  
8 ~~1989.~~

9 ~~AGE~~

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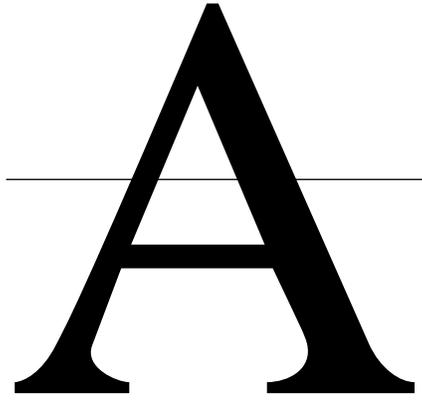
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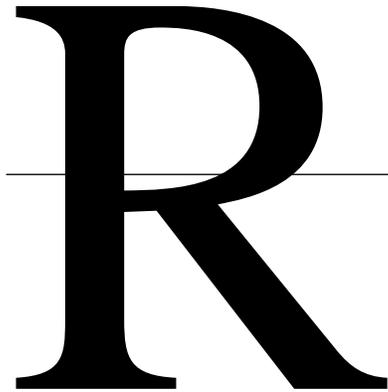
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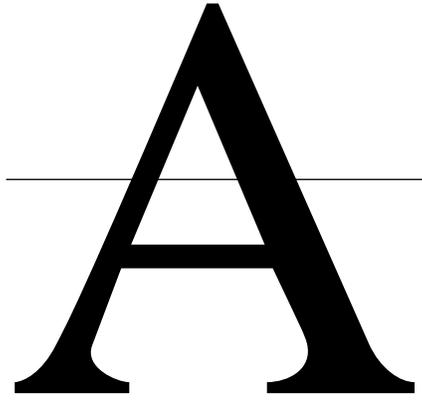
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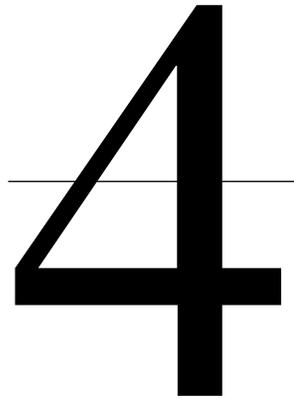
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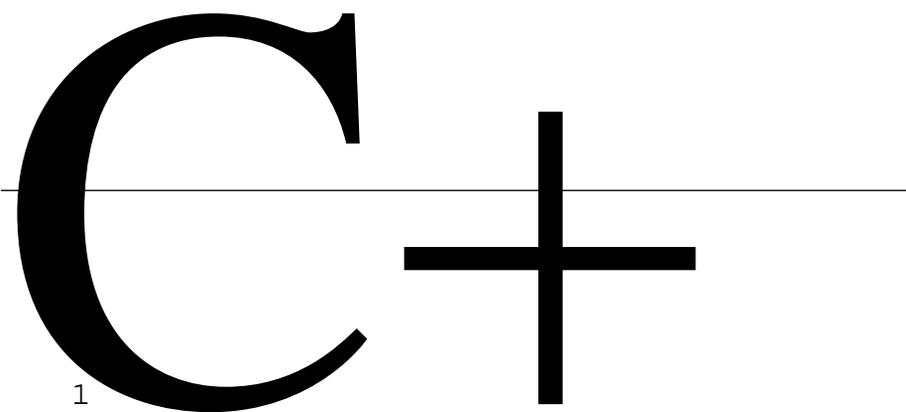
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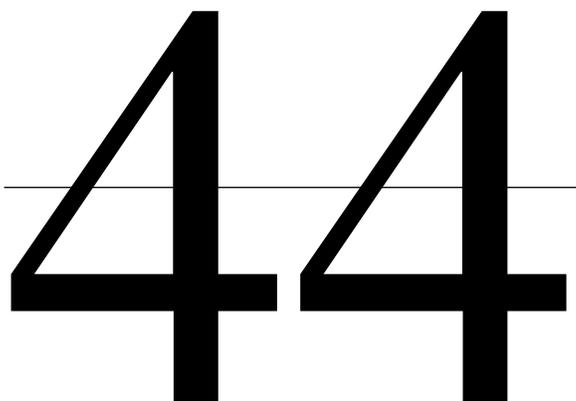
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A large black letter 'C' and a plus sign '+' are positioned on a horizontal line. A small number '1' is located below the 'C'.

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Two large black numbers '44' are positioned on a horizontal line.

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**JUVENILE SENTENCING STANDARDS**

2

**~~(( SCHEDULE D-1 ))~~**

3 This schedule ~~((may only))~~ must be used for ~~((minor/first))~~ juvenile  
4 offenders. ~~((After the determination is made that a youth is a~~  
5 ~~minor/first offender,))~~ The court ~~((has the discretion to))~~ may select  
6 sentencing option A, B, or C.

7

**~~(( MINOR/FIRST OFFENDER~~**

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**~~OPTION A~~**

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**~~STANDARD RANGE~~**

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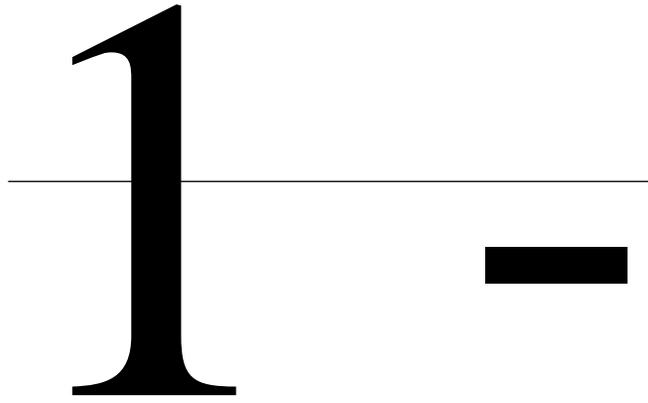
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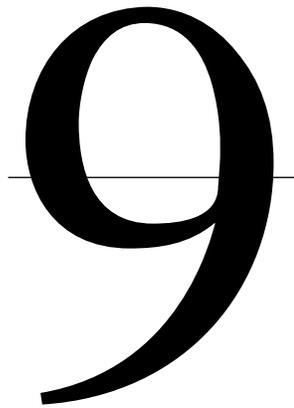
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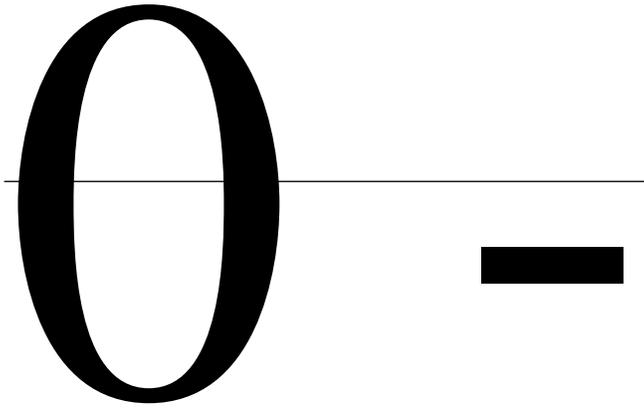
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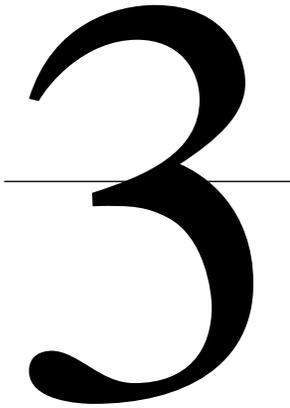
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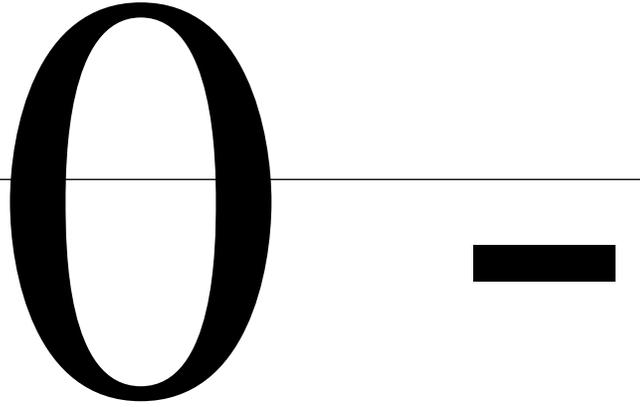
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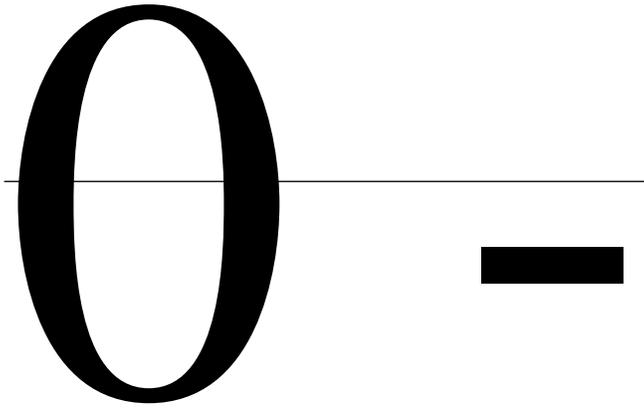
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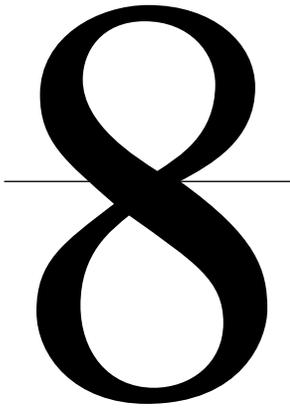
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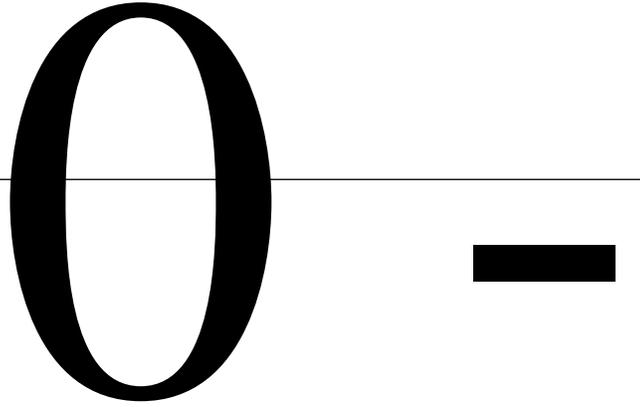
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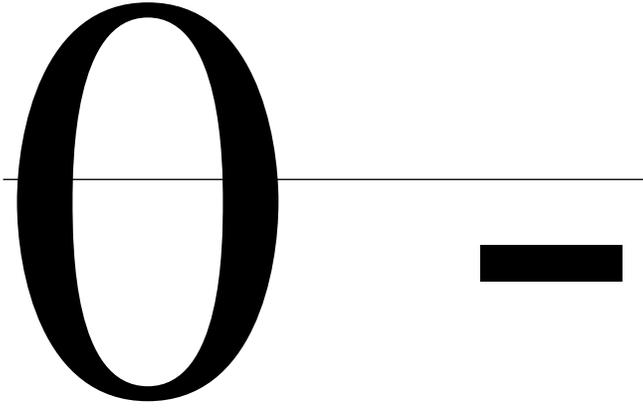
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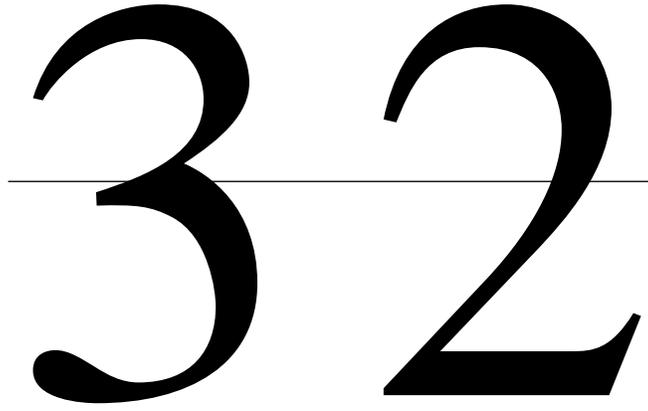
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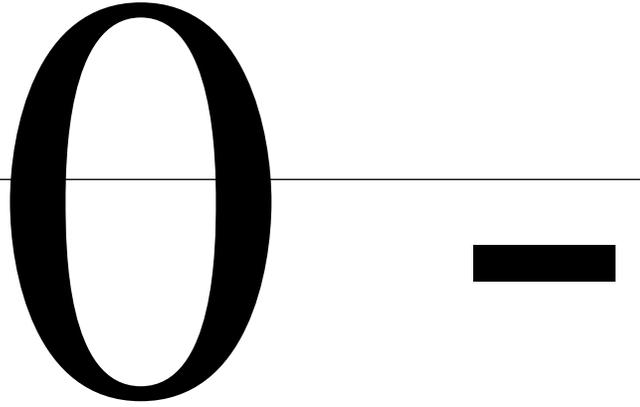
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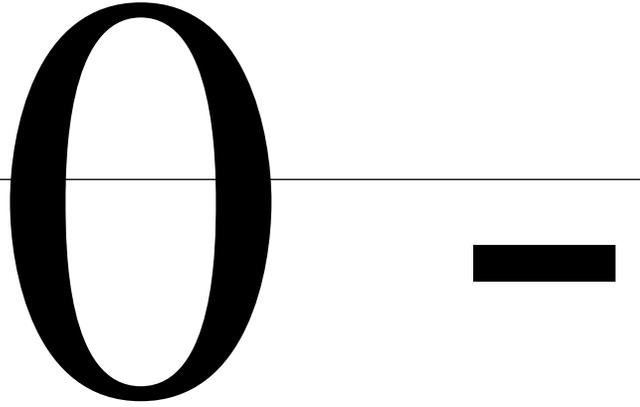
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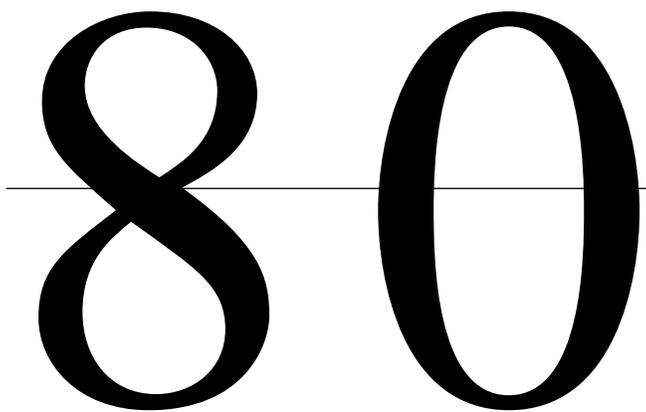
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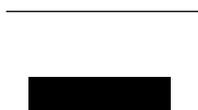
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**OR**

**OPTION B**

**STATUTORY OPTION**

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

~~A term of community supervision with a maximum of 150 hours, \$100.00 fine, and 12 months supervision.~~

**OR**

**OPTION C**

**MANIFEST INJUSTICE**

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

**JUVENILE SENTENCING STANDARDS**

**SCHEDULE D-2**

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

**MIDDLE OFFENDER**

**OPTION A**

**STANDARD RANGE**

Points	Community		Confinement	
	Supervision	Service	Fine	Days Weeks
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10

1	60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
2	70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
3	80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
4	90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
5	110-129				8-12
6	130-149				13-16
7	150-199				21-28
8	200-249				30-40
9	250-299				52-65
10	300-374				80-100
11	375+				103-129

12 ~~Middle offenders with 110 points or more do not have to be committed.~~  
13 ~~They may be assigned community supervision under option B.~~  
14 ~~All A+ offenses (180-224 weeks) )~~

