

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1062

54th Legislature
1995 Regular Session

Passed by the House March 8, 1995
Yeas 98 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 5, 1995
Yeas 44 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1062** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1062

Passed Legislature - 1995 Regular Session

State of Washington 54th Legislature 1995 Regular Session

By House Committee on Corrections (originally sponsored by Representatives Ballasiotes, Koster, Cooke, Costa, Schoesler, Morris, Boldt, Benton, Foreman, Sheldon, Kremen, Mastin, Lisk, Chandler and Carlson)

Read first time 02/06/95.

1 AN ACT Relating to using juvenile serious violent offenses as
2 criminal history for purposes of adult sentencing; amending RCW
3 9.94A.030; and reenacting and amending RCW 9.94A.360.

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

5 **Sec. 1.** RCW 9.94A.360 and 1992 c 145 s 10 and 1992 c 75 s 4 are
6 each reenacted and amended to read as follows:

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

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

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

16 (2) Except as provided in subsection (4) of this section, class A
17 and sex prior felony convictions shall always be included in the
18 offender score. Class B prior felony convictions other than sex
19 offenses shall not be included in the offender score, if since the last

1 date of release from confinement (including full-time residential
2 treatment) pursuant to a felony conviction, if any, or entry of
3 judgment and sentence, the offender had spent ten consecutive years in
4 the community without being convicted of any felonies. Class C prior
5 felony convictions other than sex offenses shall not be included in the
6 offender score if, since the last date of release from confinement
7 (including full-time residential treatment) pursuant to a felony
8 conviction, if any, or entry of judgment and sentence, the offender had
9 spent five consecutive years in the community without being convicted
10 of any felonies. Serious traffic convictions shall not be included in
11 the offender score if, since the last date of release from confinement
12 (including full-time residential treatment) pursuant to a felony
13 conviction, if any, or entry of judgment and sentence, the offender
14 spent five years in the community without being convicted of any
15 serious traffic or felony traffic offenses. This subsection applies to
16 both adult and juvenile prior convictions.

17 (3) Out-of-state convictions for offenses shall be classified
18 according to the comparable offense definitions and sentences provided
19 by Washington law.

20 (4) Always include juvenile convictions for sex offenses and
21 serious violent offenses. Include other class A juvenile felonies only
22 if the offender was 15 or older at the time the juvenile offense was
23 committed. Include other class B and C juvenile felony convictions
24 only if the offender was 15 or older at the time the juvenile offense
25 was committed and the offender was less than 23 at the time the offense
26 for which he or she is being sentenced was committed.

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

30 (6) In the case of multiple prior convictions, for the purpose of
31 computing the offender score, count all convictions separately, except:

32 (a) Prior adult offenses which were found, under RCW
33 9.94A.400(1)(a), to encompass the same criminal conduct, shall be
34 counted as one offense, the offense that yields the highest offender
35 score. The current sentencing court shall determine with respect to
36 other prior adult offenses for which sentences were served concurrently
37 whether those offenses shall be counted as one offense or as separate
38 offenses, and if the court finds that they shall be counted as one

1 offense, then the offense that yields the highest offender score shall
2 be used;

3 (b) Juvenile prior convictions entered or sentenced on the same
4 date shall count as one offense, the offense that yields the highest
5 offender score, except for juvenile prior convictions for violent
6 offenses with separate victims, which shall count as separate offenses;
7 and

8 (c) In the case of multiple prior convictions for offenses
9 committed before July 1, 1986, for the purpose of computing the
10 offender score, count all adult convictions served concurrently as one
11 offense, and count all juvenile convictions entered on the same date as
12 one offense. Use the conviction for the offense that yields the
13 highest offender score.

14 (7) If the present conviction is one of the anticipatory offenses
15 of criminal attempt, solicitation, or conspiracy, count each prior
16 conviction as if the present conviction were for a completed offense.

17 (8) If the present conviction is for a nonviolent offense and not
18 covered by subsection (12) or (13) of this section, count one point for
19 each adult prior felony conviction and one point for each juvenile
20 prior violent felony conviction and 1/2 point for each juvenile prior
21 nonviolent felony conviction.

22 (9) If the present conviction is for a violent offense and not
23 covered in subsection (10), (11), (12), or (13) of this section, count
24 two points for each prior adult and juvenile violent felony conviction,
25 one point for each prior adult nonviolent felony conviction, and 1/2
26 point for each prior juvenile nonviolent felony conviction.

27 (10) If the present conviction is for Murder 1 or 2, Assault 1,
28 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count
29 three points for prior adult and juvenile convictions for crimes in
30 these categories, two points for each prior adult and juvenile violent
31 conviction (not already counted), one point for each prior adult
32 nonviolent felony conviction, and 1/2 point for each prior juvenile
33 nonviolent felony conviction.

34 (11) If the present conviction is for Burglary 1, count prior
35 convictions as in subsection (9) of this section; however count two
36 points for each prior adult Burglary 2 or residential burglary
37 conviction, and one point for each prior juvenile Burglary 2 or
38 residential burglary conviction.

1 (12) If the present conviction is for a felony traffic offense
2 count two points for each adult or juvenile prior conviction for
3 Vehicular Homicide or Vehicular Assault; for each felony offense or
4 serious traffic offense, count one point for each adult and 1/2 point
5 for each juvenile prior conviction.

6 (13) If the present conviction is for a drug offense count three
7 points for each adult prior felony drug offense conviction and two
8 points for each juvenile drug offense. All other adult and juvenile
9 felonies are scored as in subsection (9) of this section if the current
10 drug offense is violent, or as in subsection (8) of this section if the
11 current drug offense is nonviolent.

12 (14) If the present conviction is for Willful Failure to Return
13 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
14 Release, RCW 72.65.070, or Escape from Community Custody, RCW
15 72.09.310, count only prior escape convictions in the offender score.
16 Count adult prior escape convictions as one point and juvenile prior
17 escape convictions as 1/2 point.

18 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
19 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
20 juvenile prior convictions as 1/2 point.

21 (16) If the present conviction is for Burglary 2 or residential
22 burglary, count priors as in subsection (8) of this section; however,
23 count two points for each adult and juvenile prior Burglary 1
24 conviction, two points for each adult prior Burglary 2 or residential
25 burglary conviction, and one point for each juvenile prior Burglary 2
26 or residential burglary conviction.

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

30 (18) If the present conviction is for an offense committed while
31 the offender was under community placement, add one point.

32 **Sec. 2.** RCW 9.94A.030 and 1994 c 261 s 16 are each amended to read
33 as follows:

34 Unless the context clearly requires otherwise, the definitions in
35 this section apply throughout this chapter.

36 (1) "Collect," or any derivative thereof, "collect and remit," or
37 "collect and deliver," when used with reference to the department of
38 corrections, means that the department is responsible for monitoring

1 and enforcing the offender's sentence with regard to the legal
2 financial obligation, receiving payment thereof from the offender, and,
3 consistent with current law, delivering daily the entire payment to the
4 superior court clerk without depositing it in a departmental account.

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

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

10 (4) "Community custody" means that portion of an inmate's sentence
11 of confinement in lieu of earned early release time served in the
12 community subject to controls placed on the inmate's movement and
13 activities by the department of corrections.

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

21 (6) "Community service" means compulsory service, without
22 compensation, performed for the benefit of the community by the
23 offender.

24 (7) "Community supervision" means a period of time during which a
25 convicted offender is subject to crime-related prohibitions and other
26 sentence conditions imposed by a court pursuant to this chapter or RCW
27 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
28 may include crime-related prohibitions and other conditions imposed
29 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
30 for out-of-state supervision of parolees and probationers, RCW
31 9.95.270, community supervision is the functional equivalent of
32 probation and should be considered the same as probation by other
33 states.

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

36 (9) "Conviction" means an adjudication of guilt pursuant to Titles
37 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
38 acceptance of a plea of guilty.

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

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

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

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

37 (13) "Department" means the department of corrections.

38 (14) "Determinate sentence" means a sentence that states with
39 exactitude the number of actual years, months, or days of total

1 confinement, of partial confinement, of community supervision, the
2 number of actual hours or days of community service work, or dollars or
3 terms of a legal financial obligation. The fact that an offender
4 through "earned early release" can reduce the actual period of
5 confinement shall not affect the classification of the sentence as a
6 determinate sentence.

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

19 (16) "Drug offense" means:

20 (a) Any felony violation of chapter 69.50 RCW except possession of
21 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
22 controlled substance (RCW 69.50.403);

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

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

29 (17) "Escape" means:

30 (a) Escape in the first degree (RCW 9A.76.110), escape in the
31 second degree (RCW 9A.76.120), willful failure to return from furlough
32 (RCW 72.66.060), willful failure to return from work release (RCW
33 72.65.070), or willful failure to be available for supervision by the
34 department while in community custody (RCW 72.09.310); or

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

38 (18) "Felony traffic offense" means:

1 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
2 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
3 and-run injury-accident (RCW 46.52.020(4)); or

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

7 (19) "Fines" means the requirement that the offender pay a specific
8 sum of money over a specific period of time to the court.

9 (20)(a) "First-time offender" means any person who is convicted of
10 a felony (i) not classified as a violent offense or a sex offense under
11 this chapter, or (ii) that is not the manufacture, delivery, or
12 possession with intent to manufacture or deliver a controlled substance
13 classified in schedule I or II that is a narcotic drug or the selling
14 for profit of any controlled substance or counterfeit substance
15 classified in schedule I, RCW 69.50.204, except leaves and flowering
16 tops of marihuana, and except as provided in (b) of this subsection,
17 who previously has never been convicted of a felony in this state,
18 federal court, or another state, and who has never participated in a
19 program of deferred prosecution for a felony offense.

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

24 (21) "Most serious offense" means any of the following felonies or
25 a felony attempt to commit any of the following felonies, as now
26 existing or hereafter amended:

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

30 (b) Assault in the second degree;

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

32 (d) Child molestation in the second degree;

33 (e) Controlled substance homicide;

34 (f) Extortion in the first degree;

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

36 (h) Indecent liberties;

37 (i) Kidnapping in the second degree;

38 (j) Leading organized crime;

39 (k) Manslaughter in the first degree;

1 (l) Manslaughter in the second degree;
2 (m) Promoting prostitution in the first degree;
3 (n) Rape in the third degree;
4 (o) Robbery in the second degree;
5 (p) Sexual exploitation;
6 (q) Vehicular assault;
7 (r) Vehicular homicide, when proximately caused by the driving of
8 any vehicle by any person while under the influence of intoxicating
9 liquor or any drug as defined by RCW 46.61.502, or by the operation of
10 any vehicle in a reckless manner;
11 (s) Any other class B felony offense with a finding of sexual
12 motivation, as "sexual motivation" is defined under this section;
13 (t) Any other felony with a deadly weapon verdict under RCW
14 9.94A.125;
15 (u) Any felony offense in effect at any time prior to December 2,
16 1993, that is comparable to a most serious offense under this
17 subsection, or any federal or out-of-state conviction for an offense
18 that under the laws of this state would be a felony classified as a
19 most serious offense under this subsection.
20 (22) "Nonviolent offense" means an offense which is not a violent
21 offense.
22 (23) "Offender" means a person who has committed a felony
23 established by state law and is eighteen years of age or older or is
24 less than eighteen years of age but whose case has been transferred by
25 the appropriate juvenile court to a criminal court pursuant to RCW
26 13.40.110. Throughout this chapter, the terms "offender" and
27 "defendant" are used interchangeably.
28 (24) "Partial confinement" means confinement for no more than one
29 year in a facility or institution operated or utilized under contract
30 by the state or any other unit of government, or, if home detention or
31 work crew has been ordered by the court, in an approved residence, for
32 a substantial portion of each day with the balance of the day spent in
33 the community. Partial confinement includes work release, home
34 detention, work crew, and a combination of work crew and home detention
35 as defined in this section.
36 (25) "Persistent offender" is an offender who:
37 (a) Has been convicted in this state of any felony considered a
38 most serious offense; and

1 (b) Has, before the commission of the offense under (a) of this
2 subsection, been convicted as an offender on at least two separate
3 occasions, whether in this state or elsewhere, of felonies that under
4 the laws of this state would be considered most serious offenses and
5 would be included in the offender score under RCW 9.94A.360; provided
6 that of the two or more previous convictions, at least one conviction
7 must have occurred before the commission of any of the other most
8 serious offenses for which the offender was previously convicted.

9 (26) "Postrelease supervision" is that portion of an offender's
10 community placement that is not community custody.

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

15 (28) "Serious traffic offense" means:

16 (a) Driving while under the influence of intoxicating liquor or any
17 drug (RCW 46.61.502), actual physical control while under the influence
18 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
19 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
20 or

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

24 (29) "Serious violent offense" is a subcategory of violent offense
25 and means:

26 (a) Murder in the first degree, homicide by abuse, murder in the
27 second degree, assault in the first degree, kidnapping in the first
28 degree, or rape in the first degree, assault of a child in the first
29 degree, or an attempt, criminal solicitation, or criminal conspiracy to
30 commit one of these felonies; or

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

34 (30) "Sentence range" means the sentencing court's discretionary
35 range in imposing a nonappealable sentence.

36 (31) "Sex offense" means:

37 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
38 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal

1 attempt, criminal solicitation, or criminal conspiracy to commit such
2 crimes;

3 (b) A felony with a finding of sexual motivation under RCW
4 9.94A.127; or

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

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

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

15 (34) "Transition training" means written and verbal instructions
16 and assistance provided by the department to the offender during the
17 two weeks prior to the offender's successful completion of the work
18 ethic camp program. The transition training shall include instructions
19 in the offender's requirements and obligations during the offender's
20 period of community custody.

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

24 (36) "Violent offense" means:

25 (a) Any of the following felonies, as now existing or hereafter
26 amended: Any felony defined under any law as a class A felony or an
27 attempt to commit a class A felony, criminal solicitation of or
28 criminal conspiracy to commit a class A felony, manslaughter in the
29 first degree, manslaughter in the second degree, indecent liberties if
30 committed by forcible compulsion, kidnapping in the second degree,
31 arson in the second degree, assault in the second degree, assault of a
32 child in the second degree, extortion in the first degree, robbery in
33 the second degree, vehicular assault, and vehicular homicide, when
34 proximately caused by the driving of any vehicle by any person while
35 under the influence of intoxicating liquor or any drug as defined by
36 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

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

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

22 (39) "Work release" means a program of partial confinement
23 available to offenders who are employed or engaged as a student in a
24 regular course of study at school. Participation in work release shall
25 be conditioned upon the offender attending work or school at regularly
26 defined hours and abiding by the rules of the work release facility.

27 (40) "Home detention" means a program of partial confinement
28 available to offenders wherein the offender is confined in a private
29 residence subject to electronic surveillance. Home detention may not
30 be imposed for offenders convicted of a violent offense, any sex
31 offense, any drug offense, reckless burning in the first or second
32 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third
33 degree as defined in RCW 9A.36.031, assault of a child in the third
34 degree, unlawful imprisonment as defined in RCW 9A.40.040, or
35 harassment as defined in RCW 9A.46.020. Home detention may be imposed
36 for offenders convicted of possession of a controlled substance (RCW
37 69.50.401(d)) or forged prescription for a controlled substance (RCW
38 69.50.403) if the offender fulfills the participation conditions set
39 forth in this subsection and is monitored for drug use by treatment

1 alternatives to street crime (TASC) or a comparable court or agency-
2 referred program.

3 (a) Home detention may be imposed for offenders convicted of
4 burglary in the second degree as defined in RCW 9A.52.030 or
5 residential burglary conditioned upon the offender: (i) Successfully
6 completing twenty-one days in a work release program, (ii) having no
7 convictions for burglary in the second degree or residential burglary
8 during the preceding two years and not more than two prior convictions
9 for burglary or residential burglary, (iii) having no convictions for
10 a violent felony offense during the preceding two years and not more
11 than two prior convictions for a violent felony offense, (iv) having no
12 prior charges of escape, and (v) fulfilling the other conditions of the
13 home detention program.

14 (b) Participation in a home detention program shall be conditioned
15 upon: (i) The offender obtaining or maintaining current employment or
16 attending a regular course of school study at regularly defined hours,
17 or the offender performing parental duties to offspring or minors
18 normally in the custody of the offender, (ii) abiding by the rules of
19 the home detention program, and (iii) compliance with court-ordered
20 legal financial obligations. The home detention program may also be
21 made available to offenders whose charges and convictions do not
22 otherwise disqualify them if medical or health-related conditions,
23 concerns or treatment would be better addressed under the home
24 detention program, or where the health and welfare of the offender,
25 other inmates, or staff would be jeopardized by the offender's
26 incarceration. Participation in the home detention program for medical
27 or health-related reasons is conditioned on the offender abiding by the
28 rules of the home detention program and complying with court-ordered
29 restitution.

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