
SENATE BILL 5006

State of Washington**55th Legislature****1997 Regular Session**

By Senators Long, Hargrove, McCaslin, Haugen, Sheldon, Winsley, Goings, Deccio, McAuliffe, Franklin, Rasmussen, Hale, Johnson and Oke

Read first time 01/13/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to enhanced sentencing and supervision of sex
2 offenders; amending RCW 72.04A.070, 72.04A.080, 9A.20.021, 9A.44.060,
3 9A.44.079, 9A.44.086, 9A.44.089, 9A.44.100, 9A.64.020, 9.41.010,
4 9.94.070, 9.94A.230, 9.94A.310, 9.94A.386, 9.95.062, 9A.20.010,
5 9A.28.020, 9A.28.040, 9A.44.140, 9A.76.080, 9A.76.170, 9A.83.010,
6 10.64.025, 13.40.0357, and 13.40.070; reenacting and amending RCW
7 9.94A.120, 9.94A.030, 9.94A.320, and 13.04.030; reenacting RCW
8 9.94A.360; adding new sections to chapter 9.94A RCW; creating a new
9 section; prescribing penalties; providing an effective date; and
10 declaring an emergency.

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

12 NEW SECTION. **Sec. 1.** Since passage of the sentencing reform act
13 of 1981, the legislature has recognized that certain offenders should
14 be subject to supervision after release from prison. Also, the
15 determinate sentencing system has been criticized for releasing
16 offenders at the end of their sentence even if they continue to pose a
17 substantial threat to public safety. In regard to sex offenders, more
18 information may be known about the offender at the time of release from
19 prison than was known by the judge at the time of sentencing. The

1 legislature finds that in order to further enhance public safety and
2 reduce recidivism by sex offenders, the sentencing reform act should be
3 revised to require consideration of the future dangerousness of sex
4 offenders before their release from prison. Also, the authority to
5 impose, monitor, and enforce conditions on the release of a sex
6 offender should be enhanced.

7 **Sec. 2.** RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c
8 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as
9 follows:

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

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

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

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

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

1 custody, earned early release time, furlough, home detention, partial
2 confinement, work crew, work release, or any other form of early
3 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),
4 or any other form of authorized leave of absence from the correctional
5 facility while not in the direct custody of a corrections officer or
6 officers during such minimum terms of total confinement except in the
7 case of an offender in need of emergency medical treatment or for the
8 purpose of commitment to an inpatient treatment facility in the case of
9 an offender convicted of the crime of rape in the first degree.

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

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

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

23 (c) Pursue a prescribed, secular course of study or vocational
24 training;

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

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

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

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

34 (i) The offender is convicted of the manufacture, delivery, or
35 possession with intent to manufacture or deliver a controlled substance
36 classified in Schedule I or II that is a narcotic drug or a felony that
37 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
38 criminal solicitation, or criminal conspiracy to commit such crimes,

1 and the violation does not involve a sentence enhancement under RCW
2 9.94A.310 (3) or (4);

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

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

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

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

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

- 1 (iii) Report as directed to a community corrections officer;
- 2 (iv) Pay all court-ordered legal financial obligations;
- 3 (v) Perform community service work;
- 4 (vi) Stay out of areas designated by the sentencing judge.

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

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

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

33 (8)(a)(i) When an offender is convicted of any felony sex offense
34 committed on or after July 1, 1997, the court shall impose a sentence
35 that consists of a maximum term which shall be the maximum sentence
36 provided by RCW 9A.20.021 for the offense, and a minimum term of
37 confinement which shall be within the standard range for the offense,
38 except that the minimum term may be outside the standard sentence range
39 if the court finds justification to impose an exceptional sentence as

1 provided in subsection (2) of this section. The court shall also order
2 the offender to be on community supervision or community placement for
3 the length of the maximum sentence.

4 (ii) Except for offenders sentenced under the special sex offender
5 sentencing alternative, offenders sentenced to twelve or more months
6 shall not be released from custody until the sex offender sentence
7 review board has determined that the offender may be released. At
8 least sixty days before the expiration of the offender's minimum term
9 of confinement, minus any earned early release credits, the board shall
10 review each offender's case and make a determination of whether the
11 offender will be released or retained in confinement.

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

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

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

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

38 The report of the examination shall include at a minimum the
39 following: The defendant's version of the facts and the official

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

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

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

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

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

15 (D) Anticipated length of treatment; and

16 (E) Recommended crime-related prohibitions.

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

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

35 (A) The court shall place the defendant on community custody for
36 the length of the (~~suspended~~) maximum sentence (~~or three years,~~
37 ~~whichever is greater,~~) and require the offender to comply with any
38 conditions imposed by the department of corrections under subsection
39 (14) of this section; and

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

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

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

20 (III) Report as directed to the court and a community corrections
21 officer;

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

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

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

34 (iv) At the time of sentencing, the court shall set a treatment
35 termination hearing for three months prior to the anticipated date for
36 completion of treatment. Prior to the treatment termination hearing,
37 the treatment professional and community corrections officer shall
38 submit written reports to the court and parties regarding the
39 defendant's compliance with treatment and monitoring requirements, and

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

11 (v) If a violation of conditions occurs during community custody,
12 the department shall either impose sanctions as provided for in RCW
13 9.94A.205(2)(a) or refer the violation to the court and recommend
14 revocation of the suspended sentence as provided for in (a)(vi) of this
15 subsection.

16 (vi) The court may revoke the suspended ~~((sentence))~~ minimum term
17 at any time ~~((during the period of community custody))~~ before the
18 expiration of the maximum sentence and order execution of the sentence
19 if: (A) The defendant violates the conditions of the suspended
20 sentence, or (B) the court finds that the defendant is failing to make
21 satisfactory progress in treatment. All confinement time served during
22 the period of community custody shall be credited to the offender if
23 the suspended sentence is revoked.

24 (vii) If an offender's suspended minimum term is revoked, the
25 offender shall be required to serve the minimum term established by the
26 court in total confinement. The offender shall become subject to the
27 jurisdiction of the sex offender sentence review board which shall
28 determine whether the offender may be released upon completion of the
29 minimum term.

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

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

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

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

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

18 Except for an offender who has been convicted of a violation of RCW
19 9A.44.040 or 9A.44.050, if the offender completes the treatment program
20 before the expiration of his or her term of confinement, the department
21 of corrections may request the court to convert the balance of
22 confinement to community supervision and to place conditions on the
23 offender including crime-related prohibitions and requirements that the
24 offender perform any one or more of the following:

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

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

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

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

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

30 (b) When a court sentences a person to a term of total confinement
31 to the custody of the department of corrections for an offense
32 categorized as a sex offense committed on or after July 1, 1990, but
33 before June 6, 1996, a serious violent offense, vehicular homicide, or
34 vehicular assault, committed on or after July 1, 1990, the court shall
35 in addition to other terms of the sentence, sentence the offender to
36 community placement for two years or up to the period of earned early
37 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is
38 longer. The community placement shall begin either upon completion of
39 the term of confinement or at such time as the offender is transferred

1 to community custody in lieu of earned early release in accordance with
2 RCW 9.94A.150 (1) and (2). When the court sentences an offender under
3 this subsection to the statutory maximum period of confinement then the
4 community placement portion of the sentence shall consist entirely of
5 the community custody to which the offender may become eligible, in
6 accordance with RCW 9.94A.150 (1) and (2). Any period of community
7 custody actually served shall be credited against the community
8 placement portion of the sentence. Unless a condition is waived by the
9 court, the terms of community placement for offenders sentenced
10 pursuant to this section shall include the following conditions:

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

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

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

17 (iv) An offender in community custody shall not unlawfully possess
18 controlled substances;

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

21 (vi) The residence location and living arrangements are subject to
22 the prior approval of the department of corrections during the period
23 of community placement.

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

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

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

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

33 (iv) The offender shall not consume alcohol;

34 (v) The offender shall comply with any crime-related prohibitions;
35 or

36 (vi) For an offender convicted of a felony sex offense against a
37 minor victim after June 6, 1996, the offender shall comply with any
38 terms and conditions of community placement imposed by the department

1 of corrections relating to contact between the sex offender and a minor
2 victim or a child of similar age or circumstance as a previous victim.

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

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

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

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

35 (11) If the court imposes a sentence requiring confinement of
36 thirty days or less, the court may, in its discretion, specify that the
37 sentence be served on consecutive or intermittent days. A sentence
38 requiring more than thirty days of confinement shall be served on

1 consecutive days. Local jail administrators may schedule court-ordered
2 intermittent sentences as space permits.

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

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

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

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

38 (b) For sex offenders sentenced to terms involving community
39 custody for crimes committed on or after June 6, 1996, the department

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

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

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

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

37 (17) A departure from the standards in RCW 9.94A.400 (1) and (2)
38 governing whether sentences are to be served consecutively or
39 concurrently is an exceptional sentence subject to the limitations in

1 subsections (2) and (3) of this section, and may be appealed by the
2 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

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

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

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

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

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

27 (1) Review sentences of offenders convicted of a sex offense that
28 results in total confinement in prison, including offenders who were
29 sentenced under the special sex offender sentencing alternative whose
30 suspended minimum term was revoked, to determine whether the offender
31 should be released upon completion of the minimum sentence or if the
32 offender should remain in custody;

33 (2) Establish conditions of release for any offenders who are
34 released;

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

37 (4) Establish procedures for periodic review of offenders who
38 remain in confinement beyond the minimum term of confinement.

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

6 (2) All persons appointed by the governor shall have background,
7 education, training, or experience in the treatment, supervision,
8 investigation, or prosecution of sex offenders. The governor shall
9 seek recommendations from law enforcement and from prosecutors for at
10 least two of the positions on the board. At least one or more members
11 appointed by the governor shall have current experience in the
12 evaluation and treatment of sex offenders.

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

17 (4) In the event of the inability of any member to act, the
18 governor shall appoint a competent person to act in the member's stead
19 during the continuance of such inability.

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

23 (6) The members of the board and its officers and employees shall
24 not engage in any other business or profession or hold any other public
25 office; nor shall they, at the time of appointment or employment or
26 during their incumbency, serve as the representative of any political
27 party on an executive committee or other governing body thereof, or as
28 an executive officer or employee of any political committee or
29 association.

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

34 (8) The board may employ and fix, with the approval of the
35 governor, the compensation of and prescribe the duties of such
36 employees, assistants, or experts as necessary, and provide necessary
37 quarters, supplies, and equipment. The board also may hire on a
38 contract basis such experts as it may find necessary to assist it in
39 its duties.

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

7 The superintendents of the different correctional institutions
8 shall provide suitable quarters for the board while in the discharge of
9 its duties.

10 NEW SECTION. **Sec. 6.** (1) When deciding whether an offender should
11 be released, the sex offender sentence review board shall give public
12 safety considerations the highest priority. An offender shall not be
13 released unless the board finds that the offender's risk to the
14 community can be reasonably managed under release conditions
15 established by the board. All relevant information shall be considered
16 by the board, including but not limited to, information relating to:

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

19 (b) Whether the offender has a history of substance abuse, the
20 extent of any such abuse, and the offender's performance in any
21 substance abuse treatment;

22 (c) Whether the offender has an adequate plan for his or her
23 residence and employment upon release;

24 (d) The offender's performance in any sex offender treatment,
25 refusal to participate in treatment, or lack of amenability to
26 treatment;

27 (e) The offender's future dangerousness;

28 (f) Infractions committed by the offender while in the custody of
29 the department; and

30 (g) Any other relevant information.

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

34 NEW SECTION. **Sec. 7.** The sex offender sentence review board may
35 meet and transact business in panels. Each board panel shall consist
36 of at least three members of the board. In all matters concerning the
37 internal affairs of the board and policy-making decisions, a majority

1 of the full board must concur. The chair of the board with the consent
2 of a majority of the board may designate any three members to exercise
3 all the powers and duties of the board in connection with any hearing
4 before the board. If the three members so designated cannot
5 unanimously agree as to the disposition of the hearing assigned to
6 them, the hearing shall be reheard by the full board. All actions of
7 the full board shall be by concurrence of a majority of the board
8 members.

9 NEW SECTION. **Sec. 8.** (1) At the time the sex offender is
10 transported to the custody of the department of corrections, the
11 prosecuting attorney shall provide the sex offender sentence review
12 board a statement of all the facts concerning the offender's crime and
13 any other information the prosecuting attorney has about the offender.

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

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

1 NEW SECTION. **Sec. 10.** At the time of release of a sex offender,
2 the sex offender sentence review board shall establish conditions of
3 release. When establishing the conditions of release, the board shall
4 consider any recommendations for release conditions made by the
5 department, the sentencing court, or the prosecutor. At a minimum, the
6 offender shall be required to comply with the following:

7 (1) No law violations;

8 (2) No illegal drug use;

9 (3) Report as required to the department; and

10 (4) No contact with any victims or witnesses except as specifically
11 allowed by the board.

12 NEW SECTION. **Sec. 11.** (1) Whenever the sex offender sentence
13 review board or a community corrections officer of this state has
14 reason to believe a sex offender has violated a condition of his or her
15 release, the law of any state, or the rules and regulations of the
16 board, any community corrections officer may arrest or cause the arrest
17 and detention and suspension of release of the offender pending a
18 determination by the board whether the release shall be revoked. All
19 facts and circumstances surrounding the violation by the offender shall
20 be reported to the board by the community corrections officer, with
21 recommendations. The board, after consultation with the secretary of
22 corrections, shall make rules concerning procedural matters, including
23 the time when community corrections officers shall file with the board
24 reports required by this section.

25 (2) On the basis of the report by the community corrections
26 officer, or at any time upon its own discretion, the board may revise
27 or modify the conditions of release or order the revocation of release
28 by the issuance of a written order. The order shall be sufficient
29 warrant for all peace officers to take into custody any offender who
30 may be on release and retain the offender in their custody until
31 arrangements can be made by the board for the offender's return to a
32 state correctional institution. Any revision or modification of the
33 conditions of release or the order revoking release shall be personally
34 served upon the offender.

35 (3) Any offender arrested and detained in physical custody by the
36 authority of a community corrections officer, or upon the written order
37 of the board, shall not be released from custody on bail or personal
38 recognizance, except upon approval of the board and the issuance by the

1 board of an order of reinstatement on release on the same or modified
2 conditions of release.

3 (4) Whenever a released sex offender is accused of a violation of
4 his or her release, other than conviction for a felony or misdemeanor
5 under the laws of this state or the laws of any other state, the
6 offender is entitled to a fair and impartial hearing on the violations
7 within thirty days from the time the offender is served with notice of
8 the violation of conditions of release. The hearing shall be held
9 before one or more members of the board at a place or places within
10 this state and reasonably near the site of the alleged violation.

11 (5) In the event that the board revokes a release by reason of an
12 alleged violation or pending the disposition of a new criminal charge,
13 the board may nullify the order of revocation and release the offender
14 under previous conditions or any new conditions that the board may
15 determine advisable. Before the board may nullify an order of
16 revocation and release an offender, the board must determine that the
17 interests of society and the individual are best served by such release
18 rather than a return to total confinement.

19 NEW SECTION. **Sec. 12.** Within fifteen days from the date of notice
20 to the department of corrections of the arrest and detention of a sex
21 offender alleged to have violated conditions of release, the offender,
22 shall be personally served by a community corrections officer with a
23 copy of the factual allegations of the violation of the conditions of
24 release, and, at the same time shall be advised of his or her right to
25 an on-site release revocation hearing and other rights and privileges
26 as provided in sections 11 through 17 of this act. The offender, after
27 service of the allegations of violations of the conditions of release
28 and the advice of rights may waive the on-site release revocation
29 hearing, and admit one or more of the alleged violations. If the board
30 accepts the waiver it shall either, (1) reinstate the offender's
31 release under the same or modified conditions, or (2) revoke the
32 release of the offender and return the offender to state custody. A
33 determination of a new minimum sentence shall be made within thirty
34 days of return to state custody which shall not exceed the maximum
35 sentence as provided by law for the crime of which the offender was
36 originally convicted.

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

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

17 NEW SECTION. **Sec. 14.** (1) In conducting on-site release
18 revocation hearings, the sex offender sentence review board may
19 administer oaths and affirmations, examine witnesses, receive evidence,
20 and issue subpoenas for the compulsory attendance of witnesses and the
21 production of evidence for presentation at such hearings. Subpoenas
22 issued by the board shall be effective throughout the state. Witnesses
23 in attendance at any on-site hearing shall be paid the same fees as
24 provided for witnesses in chapter 2.40 RCW.

25 (2) If any person fails or refuses to obey a subpoena issued by the
26 board, or obeys the subpoena but refuses to testify concerning any
27 matter under examination at the hearing, the board may petition the
28 superior court of the county where the hearing is being conducted for
29 enforcement of the subpoena. The petition shall be accompanied by a
30 copy of the subpoena and proof of service, and shall state specifically
31 how the subpoena has not been complied with, and shall ask an order of
32 the court to compel the witness to appear and testify before the board.
33 The court, upon such petition, shall enter an order directing the
34 witness to appear before the court at a time and place to be fixed in
35 the order to show cause why he or she has not responded to the subpoena
36 or has refused to testify. A copy of the order shall be served upon
37 the witness. If it appears to the court that the subpoena was properly

1 issued and that the particular questions the witness refuses to answer
2 are reasonable and relevant, the court shall enter an order that the
3 witness appear at the time and place fixed in the order and testify or
4 produce the required papers. Upon failure to obey the order, the
5 witness may be found in contempt of court.

6 NEW SECTION. **Sec. 15.** (1) At all on-site release revocation
7 hearings the community corrections officers of the department of
8 corrections, having made the allegations of the violations of the
9 conditions of release, may be represented by the attorney general. The
10 attorney general may make independent recommendations to the sex
11 offender sentence review board about whether the violations constitute
12 sufficient cause for the revocation of the release and the return of
13 the sex offender to total confinement.

14 (2) The hearings shall be open to the public unless the board for
15 specifically stated reasons closes the hearing in whole or in part.
16 The hearings shall be recorded either manually or by a mechanical
17 recording device. The offender may be requested to testify and any
18 such testimony shall not be used against him or her in any criminal
19 prosecution.

20 (3) The board shall adopt rules governing the procedures authorized
21 by chapter . . . , Laws of 1997 (this act) and make rules of practice
22 before the board in on-site release revocation hearings, together with
23 forms and instructions.

24 NEW SECTION. **Sec. 16.** After the on-site release revocation
25 hearing has been concluded, the members of the sex offender sentence
26 review board having heard the matter shall enter their decision of
27 record within ten days, and make findings and conclusions upon the
28 allegations of the violations of the conditions of release. If the
29 member, or members having heard the matter, should conclude that the
30 allegations have not been proven by a preponderance of the evidence,
31 or, those which have been proven by a preponderance of the evidence are
32 not sufficient cause for the revocation of release, then the release
33 shall be reinstated on the same or modified conditions of release. For
34 violations not resulting in new convictions, modified conditions of
35 release may include sanctions according to an administrative sanction
36 grid. If the member or members having heard the matter should conclude
37 that the allegations have been proven by a preponderance of the

1 evidence and constitute sufficient cause for the revocation of release,
2 then such member or members shall enter an order of release revocation
3 and return the offender to state custody. Within thirty days of the
4 return of the offender to a state correctional institution the board
5 shall enter an order determining a new minimum term not exceeding the
6 maximum penalty provided by law for the crime for which the offender
7 was originally convicted.

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

13 NEW SECTION. **Sec. 18.** After the revocation of the release of any
14 sex offender and until his or her return to custody, the offender shall
15 be deemed an escapee and a fugitive from justice. The sex offender
16 sentence review board may deny credit against the maximum sentence for
17 any time during which the offender is an escapee and a fugitive from
18 justice.

19 NEW SECTION. **Sec. 19.** The sex offender sentence review board
20 shall keep a complete record of every sex offender under the
21 jurisdiction of the board. The records shall be organized so that
22 there will always be complete information about each offender
23 immediately available. The board may make rules as to the privacy of
24 the records and their use by others than the board and its staff. The
25 board shall be immune from liability for the release of information
26 concerning sex offenders as provided in RCW 4.24.550.

27 The superintendents of state correctional facilities and all
28 officers and employees thereof and all other public officials shall
29 cooperate with the board and furnish to the board, its officers, and
30 employees case files, investigation reports, or other information as
31 may be necessary to enable it to perform its functions. Such
32 superintendents and other employees shall at all times give the members
33 of the board, its officers, and employees free access to all sex
34 offenders confined in the state correctional facilities.

35 In addition to any other information required to be released under
36 this chapter, the board may, pursuant to RCW 4.24.550, release

1 information concerning offenders under the jurisdiction of the board
2 who are convicted of sex offenses as defined in RCW 9.94A.030.

3 NEW SECTION. **Sec. 20.** The sex offender sentence review board
4 shall make all necessary rules to carry out the provisions of sections
5 3 through 22 of this act, and may provide the forms of all necessary
6 documents.

7 NEW SECTION. **Sec. 21.** The sex offender sentence review board may
8 deputize any person regularly employed by another state to act as an
9 officer and agent of this state in effecting the return of any sex
10 offender who has violated the conditions of release as granted by this
11 state. In any matter relating to the return of the offender, any agent
12 so deputized shall have all the powers of a police officer of this
13 state.

14 Any deputization shall be in writing and the person deputized shall
15 carry formal evidence of his or her deputization and shall produce the
16 same upon demand.

17 NEW SECTION. **Sec. 22.** The sex offender sentence review board may
18 enter into contracts with similar officials of any other state or
19 states for the purpose of sharing an equitable portion of the cost of
20 effecting the return of any sex offender who has violated the terms and
21 conditions of release as granted by this state.

22 **Sec. 23.** RCW 72.04A.070 and 1981 c 136 s 82 are each amended to
23 read as follows:

24 The ~~((secretary))~~ department of corrections shall ~~((cause to be
25 prepared))~~ prepare plans and recommendations for the conditions of
26 supervision under which each inmate of any state penal institutions who
27 is eligible for parole or release may be released from custody. Such
28 plans and recommendations shall be submitted to the indeterminate
29 sentence review board ~~((of prison terms and paroles which))~~ or the sex
30 offender sentence review board according to which board has
31 jurisdiction over the offender. The board may ~~((, at its discretion,))~~
32 approve, reject, ~~((or))~~ revise, or amend ~~((such))~~ the plans and
33 recommendations ~~((for the conditions of supervision of release of
34 inmates on parole,))~~ and ~~((, in addition, the))~~ either board may

1 stipulate any special conditions of supervision to be carried out by a
2 (~~probation and parole~~) community corrections officer.

3 **Sec. 24.** RCW 72.04A.080 and 1981 c 136 s 83 are each amended to
4 read as follows:

5 Each inmate hereafter released on parole and each sex offender
6 released by the sex offender sentence review board shall be subject to
7 the supervision of the department of corrections, and the (~~probation~~
8 ~~and parole~~) community corrections officers of the department shall be
9 charged with the preparation of progress reports of parolees or sex
10 offenders and to give guidance and supervision to such parolees and sex
11 offenders within the conditions of a parolee's or sex offender's
12 release from custody. Copies of all progress reports prepared by the
13 (~~probation and parole~~) community corrections officers shall be
14 supplied to the indeterminate sentence review board (~~of prison terms~~
15 ~~and paroles for their files and records~~) or the sex offender sentence
16 review board according to which board has jurisdiction over the
17 offender.

18 **Sec. 25.** RCW 9A.20.021 and 1982 c 192 s 10 are each amended to
19 read as follows:

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

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

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

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

34 (~~(e)~~) (d) For a class C felony, by confinement in a state
35 correctional institution for five years, or by a fine in an amount
36 fixed by the court of ten thousand dollars, or by both such confinement
37 and fine.

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

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

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

13 **Sec. 26.** RCW 9A.44.060 and 1979 ex.s. c 244 s 3 are each amended
14 to read as follows:

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

19 (a) Where the victim did not consent, as defined in RCW
20 (~~9A.44.010(6)~~) 9A.44.010, to sexual intercourse with the perpetrator
21 and such lack of consent was clearly expressed by the victim's words or
22 conduct, or

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

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

26 **Sec. 27.** RCW 9A.44.079 and 1988 c 145 s 4 are each amended to read
27 as follows:

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

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

34 **Sec. 28.** RCW 9A.44.086 and 1994 c 271 s 304 are each amended to
35 read as follows:

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

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

8 **Sec. 29.** RCW 9A.44.089 and 1994 c 271 s 305 are each amended to
9 read as follows:

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

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

18 **Sec. 30.** RCW 9A.44.100 and 1993 c 477 s 3 are each amended to read
19 as follows:

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

23 (a) By forcible compulsion; or

24 (b) When the other person is incapable of consent by reason of
25 being mentally defective, mentally incapacitated, or physically
26 helpless;

27 (c) When the victim is developmentally disabled and the perpetrator
28 is a person who is not married to the victim and who has supervisory
29 authority over the victim;

30 (d) When the perpetrator is a health care provider, the victim is
31 a client or patient, and the sexual contact occurs during a treatment
32 session, consultation, interview, or examination. It is an affirmative
33 defense that the defendant must prove by a preponderance of the
34 evidence that the client or patient consented to the sexual contact
35 with the knowledge that the sexual contact was not for the purpose of
36 treatment; or

1 (e) When the victim is a resident of a facility for mentally
2 disordered or chemically dependent persons and the perpetrator is a
3 person who is not married to the victim and has supervisory authority
4 over the victim.

5 (2) Indecent liberties is a class B+ felony if committed by
6 forcible compulsion under subsection (1)(a) of this section, and a
7 class B felony in all other circumstances.

8 **Sec. 31.** RCW 9A.64.020 and 1985 c 53 s 1 are each amended to read
9 as follows:

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

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

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

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

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

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

25 (7) Incest in the second degree is a class ~~(C)~~ B felony.

26 **Sec. 32.** RCW 9.41.010 and 1996 c 295 s 1 are each amended to read
27 as follows:

28 Unless the context clearly requires otherwise, the definitions in
29 this section apply throughout this chapter.

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

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

35 (3) "Rifle" means a weapon designed or redesigned, made or remade,
36 and intended to be fired from the shoulder and designed or redesigned,
37 made or remade, and intended to use the energy of the explosive in a

1 fixed metallic cartridge to fire only a single projectile through a
2 rifled bore for each single pull of the trigger.

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

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

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

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

24 (8) "Antique firearm" means a firearm or replica of a firearm not
25 designed or redesigned for using rim fire or conventional center fire
26 ignition with fixed ammunition and manufactured in or before 1898,
27 including any matchlock, flintlock, percussion cap, or similar type of
28 ignition system and also any firearm using fixed ammunition
29 manufactured in or before 1898, for which ammunition is no longer
30 manufactured in the United States and is not readily available in the
31 ordinary channels of commercial trade.

32 (9) "Loaded" means:

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

34 (b) Cartridges are in a clip that is locked in place in the
35 firearm;

36 (c) There is a cartridge in the cylinder of the firearm, if the
37 firearm is a revolver;

38 (d) There is a cartridge in the tube or magazine that is inserted
39 in the action; or

1 (e) There is a ball in the barrel and the firearm is capped or
2 primed if the firearm is a muzzle loader.

3 (10) "Dealer" means a person engaged in the business of selling
4 firearms at wholesale or retail who has, or is required to have, a
5 federal firearms license under 18 U.S.C. Sec. 923(a). A person who
6 does not have, and is not required to have, a federal firearms license
7 under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only
8 occasional sales, exchanges, or purchases of firearms for the
9 enhancement of a personal collection or for a hobby, or sells all or
10 part of his or her personal collection of firearms.

11 (11) "Crime of violence" means:

12 (a) Any of the following felonies, as now existing or hereafter
13 amended: Any felony defined under any law as a class A felony or an
14 attempt to commit a class A felony, criminal solicitation of or
15 criminal conspiracy to commit a class A felony, manslaughter in the
16 first degree, manslaughter in the second degree, indecent liberties if
17 committed by forcible compulsion, kidnapping in the second degree,
18 arson in the second degree, assault in the second degree, assault of a
19 child in the second degree, extortion in the first degree, burglary in
20 the second degree, residential burglary, and robbery in the second
21 degree;

22 (b) Any conviction for a felony offense in effect at any time prior
23 to June 6, 1996, which is comparable to a felony classified as a crime
24 of violence in (a) of this subsection; and

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

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

31 (a) Any crime of violence;

32 (b) Any felony violation of the uniform controlled substances act,
33 chapter 69.50 RCW, that is classified as a class B or B+ felony or that
34 has a maximum term of imprisonment of at least ten years;

35 (c) Child molestation in the second degree;

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

37 (e) Indecent liberties;

38 (f) Leading organized crime;

39 (g) Promoting prostitution in the first degree;

1 (h) Rape in the third degree;
2 (i) Reckless endangerment in the first degree;
3 (j) Sexual exploitation;
4 (k) Vehicular assault;
5 (l) Vehicular homicide, when proximately caused by the driving of
6 any vehicle by any person while under the influence of intoxicating
7 liquor or any drug as defined by RCW 46.61.502, or by the operation of
8 any vehicle in a reckless manner;

9 (m) Any other class B or B+ felony offense with a finding of sexual
10 motivation, as "sexual motivation" is defined under RCW 9.94A.030;

11 (n) Any other felony with a deadly weapon verdict under RCW
12 9.94A.125; or

13 (o) Any felony offense in effect at any time prior to June 6, 1996,
14 that is comparable to a serious offense, or any federal or out-of-state
15 conviction for an offense that under the laws of this state would be a
16 felony classified as a serious offense.

17 (13) "Law enforcement officer" includes a general authority
18 Washington peace officer as defined in RCW 10.93.020, or a specially
19 commissioned Washington peace officer as defined in RCW 10.93.020.
20 "Law enforcement officer" also includes a limited authority Washington
21 peace officer as defined in RCW 10.93.020 if such officer is duly
22 authorized by his or her employer to carry a concealed pistol.

23 (14) "Felony" means any felony offense under the laws of this state
24 or any federal or out-of-state offense comparable to a felony offense
25 under the laws of this state.

26 (15) "Sell" refers to the actual approval of the delivery of a
27 firearm in consideration of payment or promise of payment of a certain
28 price in money.

29 (16) "Barrel length" means the distance from the bolt face of a
30 closed action down the length of the axis of the bore to the crown of
31 the muzzle, or in the case of a barrel with attachments to the end of
32 any legal device permanently attached to the end of the muzzle.

33 (17) "Family or household member" means "family" or "household
34 member" as used in RCW 10.99.020.

35 **Sec. 33.** RCW 9.94.070 and 1995 c 385 s 1 are each amended to read
36 as follows:

37 (1) An inmate of a state correctional institution who is serving a
38 sentence for an offense committed on or after August 1, 1995, commits

1 the crime of persistent prison misbehavior if the inmate knowingly
2 commits a serious infraction, that does not constitute a class A, class
3 B+, or class B felony, after losing all potential earned early release
4 time credit.

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

8 (3) "State correctional institution" has the same meaning as in RCW
9 9.94.049.

10 (4) The crime of persistent prison misbehavior is a class C felony
11 punishable as provided in RCW 9A.20.021. The sentence imposed for this
12 crime must be served consecutive to any sentence being served at the
13 time the crime is committed.

14 **Sec. 34.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are
15 each reenacted and amended to read as follows:

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

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

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

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

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

35 (5) "Community placement" means that period during which the
36 offender is subject to the conditions of community custody and/or
37 postrelease supervision, which begins either upon completion of the
38 term of confinement (postrelease supervision) or at such time as the

1 offender is transferred to community custody in lieu of earned early
2 release. Community placement may consist of entirely community
3 custody, entirely postrelease supervision, or a combination of the two.

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

7 (7) "Community supervision" means a period of time during which a
8 convicted offender is subject to crime-related prohibitions and other
9 sentence conditions imposed by a court pursuant to this chapter or RCW
10 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
11 may include crime-related prohibitions and other conditions imposed
12 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
13 for out-of-state supervision of parolees and probationers, RCW
14 9.95.270, community supervision is the functional equivalent of
15 probation and should be considered the same as probation by other
16 states.

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

19 (9) "Conviction" means an adjudication of guilt pursuant to Titles
20 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
21 acceptance of a plea of guilty.

22 (10) "Court-ordered legal financial obligation" means a sum of
23 money that is ordered by a superior court of the state of Washington
24 for legal financial obligations which may include restitution to the
25 victim, statutorily imposed crime victims' compensation fees as
26 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
27 drug funds, court-appointed attorneys' fees, and costs of defense,
28 fines, and any other financial obligation that is assessed to the
29 offender as a result of a felony conviction. Upon conviction for
30 vehicular assault while under the influence of intoxicating liquor or
31 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
32 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
33 legal financial obligations may also include payment to a public agency
34 of the expense of an emergency response to the incident resulting in
35 the conviction, subject to the provisions in RCW 38.52.430.

36 (11) "Crime-related prohibition" means an order of a court
37 prohibiting conduct that directly relates to the circumstances of the
38 crime for which the offender has been convicted, and shall not be
39 construed to mean orders directing an offender affirmatively to

1 participate in rehabilitative programs or to otherwise perform
2 affirmative conduct.

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

9 (b) "Criminal history" shall always include juvenile convictions
10 for sex offenses and serious violent offenses and shall also include a
11 defendant's other prior convictions in juvenile court if: (i) The
12 conviction was for an offense which is a felony or a serious traffic
13 offense and is criminal history as defined in RCW 13.40.020(9); (ii)
14 the defendant was fifteen years of age or older at the time the offense
15 was committed; and (iii) with respect to prior juvenile class B, B+,
16 and C felonies or serious traffic offenses, the defendant was less than
17 twenty-three years of age at the time the offense for which he or she
18 is being sentenced was committed.

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

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

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

29 (16) "Determinate sentence" means a sentence that states with
30 exactitude the number of actual years, months, or days of total
31 confinement, of partial confinement, of community supervision, the
32 number of actual hours or days of community service work, or dollars or
33 terms of a legal financial obligation. The fact that an offender
34 through "earned early release" can reduce the actual period of
35 confinement shall not affect the classification of the sentence as a
36 determinate sentence.

37 (17) "Disposable earnings" means that part of the earnings of an
38 individual remaining after the deduction from those earnings of any
39 amount required by law to be withheld. For the purposes of this

1 definition, "earnings" means compensation paid or payable for personal
2 services, whether denominated as wages, salary, commission, bonuses, or
3 otherwise, and, notwithstanding any other provision of law making the
4 payments exempt from garnishment, attachment, or other process to
5 satisfy a court-ordered legal financial obligation, specifically
6 includes periodic payments pursuant to pension or retirement programs,
7 or insurance policies of any type, but does not include payments made
8 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
9 or Title 74 RCW.

10 (18) "Drug offense" means:

11 (a) Any felony violation of chapter 69.50 RCW except possession of
12 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
13 controlled substance (RCW 69.50.403);

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

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

20 (19) "Escape" means:

21 (a) Escape in the first degree (RCW 9A.76.110), escape in the
22 second degree (RCW 9A.76.120), willful failure to return from furlough
23 (RCW 72.66.060), willful failure to return from work release (RCW
24 72.65.070), or willful failure to be available for supervision by the
25 department while in community custody (RCW 72.09.310); or

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

29 (20) "Felony traffic offense" means:

30 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
31 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
32 and-run injury-accident (RCW 46.52.020(4)); or

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

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

38 (22)(a) "First-time offender" means any person who is convicted of
39 a felony (i) not classified as a violent offense or a sex offense under

1 this chapter, or (ii) that is not the manufacture, delivery, or
2 possession with intent to manufacture or deliver a controlled substance
3 classified in schedule I or II that is a narcotic drug, nor the
4 manufacture, delivery, or possession with intent to deliver
5 methamphetamine, its salts, isomers, and salts of its isomers as
6 defined in RCW 69.50.206(d)(2), nor the selling for profit of any
7 controlled substance or counterfeit substance classified in schedule I,
8 RCW 69.50.204, except leaves and flowering tops of marihuana, and
9 except as provided in (b) of this subsection, who previously has never
10 been convicted of a felony in this state, federal court, or another
11 state, and who has never participated in a program of deferred
12 prosecution for a felony offense.

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

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

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

23 (b) Assault in the second degree;

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

25 (d) Child molestation in the second degree;

26 (e) Controlled substance homicide;

27 (f) Extortion in the first degree;

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

29 (h) Indecent liberties;

30 (i) Kidnapping in the second degree;

31 (j) Leading organized crime;

32 (k) Manslaughter in the first degree;

33 (l) Manslaughter in the second degree;

34 (m) Promoting prostitution in the first degree;

35 (n) Rape in the third degree;

36 (o) Robbery in the second degree;

37 (p) Sexual exploitation;

38 (q) Vehicular assault;

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

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

7 (t) Any other felony with a deadly weapon verdict under RCW
8 9.94A.125;

9 (u) Any felony offense in effect at any time prior to December 2,
10 1993, that is comparable to a most serious offense under this
11 subsection, or any federal or out-of-state conviction for an offense
12 that under the laws of this state would be a felony classified as a
13 most serious offense under this subsection.

14 (24) "Nonviolent offense" means an offense which is not a violent
15 offense.

16 (25) "Offender" means a person who has committed a felony
17 established by state law and is eighteen years of age or older or is
18 less than eighteen years of age but whose case has been transferred by
19 the appropriate juvenile court to a criminal court pursuant to RCW
20 13.40.110. Throughout this chapter, the terms "offender" and
21 "defendant" are used interchangeably.

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

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

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

33 (ii) Has, before the commission of the offense under (a) of this
34 subsection, been convicted as an offender on at least two separate
35 occasions, whether in this state or elsewhere, of felonies that under
36 the laws of this state would be considered most serious offenses and
37 would be included in the offender score under RCW 9.94A.360; provided
38 that of the two or more previous convictions, at least one conviction

1 must have occurred before the commission of any of the other most
2 serious offenses for which the offender was previously convicted; or

3 (b)(i) Has been convicted of (A) rape in the first degree, rape in
4 the second degree, or indecent liberties by forcible compulsion; (B)
5 murder in the first degree, murder in the second degree, kidnapping in
6 the first degree, kidnapping in the second degree, assault in the first
7 degree, assault in the second degree, or burglary in the first degree,
8 with a finding of sexual motivation; or (C) an attempt to commit any
9 crime listed in this subsection (27)(b)(i); and

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

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

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

20 (30) "Serious traffic offense" means:

21 (a) Driving while under the influence of intoxicating liquor or any
22 drug (RCW 46.61.502), actual physical control while under the influence
23 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
24 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
25 or

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

29 (31) "Serious violent offense" is a subcategory of violent offense
30 and means:

31 (a) Murder in the first degree, homicide by abuse, murder in the
32 second degree, assault in the first degree, kidnapping in the first
33 degree, or rape in the first degree, assault of a child in the first
34 degree, or an attempt, criminal solicitation, or criminal conspiracy to
35 commit one of these felonies; or

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

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

3 (33) "Sex offense" means:

4 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
5 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
6 criminal attempt, criminal solicitation, or criminal conspiracy to
7 commit such crimes;

8 (b) A felony with a finding of sexual motivation under RCW
9 9.94A.127 or 13.40.135; or

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

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

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

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

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

29 (38) "Violent offense" means:

30 (a) Any of the following felonies, as now existing or hereafter
31 amended: Any felony defined under any law as a class A felony or an
32 attempt to commit a class A felony, criminal solicitation of or
33 criminal conspiracy to commit a class A felony, manslaughter in the
34 first degree, manslaughter in the second degree, indecent liberties if
35 committed by forcible compulsion, kidnapping in the second degree,
36 arson in the second degree, assault in the second degree, assault of a
37 child in the second degree, extortion in the first degree, robbery in
38 the second degree, vehicular assault, and vehicular homicide, when
39 proximately caused by the driving of any vehicle by any person while

1 under the influence of intoxicating liquor or any drug as defined by
2 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

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

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

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

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

35 **Sec. 35.** RCW 9.94A.230 and 1987 c 486 s 7 are each amended to read
36 as follows:

37 (1) Every offender who has been discharged under RCW 9.94A.220 may
38 apply to the sentencing court for a vacation of the offender's record

1 of conviction. If the court finds the offender meets the tests
2 prescribed in subsection (2) of this section, the court may clear the
3 record of conviction by: (a) Permitting the offender to withdraw the
4 offender's plea of guilty and to enter a plea of not guilty; or (b) if
5 the offender has been convicted after a plea of not guilty, by the
6 court setting aside the verdict of guilty; and (c) by the court
7 dismissing the information or indictment against the offender.

8 (2) An offender may not have the record of conviction cleared if:
9 (a) There are any criminal charges against the offender pending in any
10 court of this state or another state, or in any federal court; (b) the
11 offense was a violent offense as defined in RCW 9.94A.030; (c) the
12 offense was a crime against persons as defined in RCW 43.43.830; (d)
13 the offender has been convicted of a new crime in this state, another
14 state, or federal court since the date of the offender's discharge
15 under RCW 9.94A.220; (e) the offense is a class B+ felony and less than
16 twenty years have passed since the date the applicant was discharged
17 under RCW 9.94A.220; (f) the offense is a class B felony and less than
18 ten years have passed since the date the applicant was discharged under
19 RCW 9.94A.220; and ((+f)) (g) the offense was a class C felony and
20 less than five years have passed since the date the applicant was
21 discharged under RCW 9.94A.220.

22 (3) Once the court vacates a record of conviction under subsection
23 (1) of this section, the fact that the offender has been convicted of
24 the offense shall not be included in the offender's criminal history
25 for purposes of determining a sentence in any subsequent conviction,
26 and the offender shall be released from all penalties and disabilities
27 resulting from the offense. For all purposes, including responding to
28 questions on employment applications, an offender whose conviction has
29 been vacated may state that the offender has never been convicted of
30 that crime. Nothing in this section affects or prevents the use of an
31 offender's prior conviction in a later criminal prosecution.

32 **Sec. 36.** RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read
33 as follows:

1 (1)

TABLE 1

2

Sentencing Grid

3 SERIOUSNESS

4 SCORE

OFFENDER SCORE

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

7

8 XV Life Sentence without Parole/Death Penalty

9

10	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
11		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
12		320	333	347	361	374	388	416	450	493	548

13

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

17

18	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
19		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
20		123	136	147	160	171	184	216	236	277	318

21

22	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
23		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
24		102	114	125	136	147	158	194	211	245	280

25

26	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
27		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
28		68	75	82	89	96	102	130	144	171	198

29

30	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
31		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
32		41	48	54	61	68	75	102	116	144	171

33

34	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
35		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
36		27	34	41	48	54	61	89	102	116	144

37

1	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
2		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
3		20	27	34	41	48	54	75	89	102	116
4											
5	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
6		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
7		14	20	27	34	41	48	61	75	89	102
8											
9	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
10		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
11		12	14	17	20	29	43	54	68	82	96
12											
13	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
14		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
15		9	12	14	17	20	29	43	57	70	84
16											
17	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
18		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
19		3	8	12	12	16	22	29	43	57	68
20											
21	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
22		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
23		Days	6	9	12	14	18	22	29	43	57
24											
25	I			3m	4m	5m	8m	13m	16m	20m	2y2m
26		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
27		Days	Days	5	6	8	12	14	18	22	29
28											

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

33 (2) For persons convicted of the anticipatory offenses of criminal
34 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
35 presumptive sentence is determined by locating the sentencing grid
36 sentence range defined by the appropriate offender score and the
37 seriousness level of the completed crime, and multiplying the range by
38 75 percent.

1 (3) The following additional times shall be added to the
2 presumptive sentence for felony crimes committed after July 23, 1995,
3 if the offender or an accomplice was armed with a firearm as defined in
4 RCW 9.41.010 and the offender is being sentenced for one of the crimes
5 listed in this subsection as eligible for any firearm enhancements
6 based on the classification of the completed felony crime. If the
7 offender or an accomplice was armed with a firearm as defined in RCW
8 9.41.010 and the offender is being sentenced for an anticipatory
9 offense under chapter 9A.28 RCW to commit one of the crimes listed in
10 this subsection as eligible for any firearm enhancements, the following
11 additional times shall be added to the presumptive sentence determined
12 under subsection (2) of this section based on the felony crime of
13 conviction as classified under RCW 9A.28.020:

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

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

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

23 (d) If the offender is being sentenced for any firearm
24 enhancements under (a), (b), and/or (c) of this subsection and the
25 offender has previously been sentenced for any deadly weapon
26 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
27 subsection or subsection (4) (a), (b), and/or (c) of this section, or
28 both, any and all firearm enhancements under this subsection shall be
29 twice the amount of the enhancement listed.

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

34 (f) The firearm enhancements in this section shall apply to all
35 felony crimes except the following: Possession of a machine gun,
36 possessing a stolen firearm, reckless endangerment in the first degree,
37 theft of a firearm, unlawful possession of a firearm in the first and
38 second degree, and use of a machine gun in a felony.

1 (g) If the presumptive sentence under this section exceeds the
2 statutory maximum for the offense, the statutory maximum sentence shall
3 be the presumptive sentence unless the offender is a persistent
4 offender as defined in RCW 9.94A.030.

5 (4) The following additional times shall be added to the
6 presumptive sentence for felony crimes committed after July 23, 1995,
7 if the offender or an accomplice was armed with a deadly weapon as
8 defined in this chapter other than a firearm as defined in RCW 9.41.010
9 and the offender is being sentenced for one of the crimes listed in
10 this subsection as eligible for any deadly weapon enhancements based on
11 the classification of the completed felony crime. If the offender or
12 an accomplice was armed with a deadly weapon other than a firearm as
13 defined in RCW 9.41.010 and the offender is being sentenced for an
14 anticipatory offense under chapter 9A.28 RCW to commit one of the
15 crimes listed in this subsection as eligible for any deadly weapon
16 enhancements, the following additional times shall be added to the
17 presumptive sentence determined under subsection (2) of this section
18 based on the felony crime of conviction as classified under RCW
19 9A.28.020:

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

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

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

29 (d) If the offender is being sentenced under (a), (b), and/or (c)
30 of this subsection for any deadly weapon enhancements and the offender
31 has previously been sentenced for any deadly weapon enhancements after
32 July 23, 1995, under (a), (b), and/or (c) of this subsection or
33 subsection (3) (a), (b), and/or (c) of this section, or both, any and
34 all deadly weapon enhancements under this subsection shall be twice the
35 amount of the enhancement listed.

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

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

6 (g) If the presumptive sentence under this section exceeds the
7 statutory maximum for the offense, the statutory maximum sentence shall
8 be the presumptive sentence unless the offender is a persistent
9 offender as defined in RCW 9.94A.030.

10 (5) The following additional times shall be added to the
11 presumptive sentence if the offender or an accomplice committed the
12 offense while in a county jail or state correctional facility as that
13 term is defined in this chapter and the offender is being sentenced for
14 one of the crimes listed in this subsection. If the offender or an
15 accomplice committed one of the crimes listed in this subsection while
16 in a county jail or state correctional facility as that term is defined
17 in this chapter, and the offender is being sentenced for an
18 anticipatory offense under chapter 9A.28 RCW to commit one of the
19 crimes listed in this subsection, the following additional times shall
20 be added to the presumptive sentence determined under subsection (2) of
21 this section:

22 (a) Eighteen months for offenses committed under RCW
23 69.50.401(a)(1) (i) or (ii) or 69.50.410;

24 (b) Fifteen months for offenses committed under RCW
25 69.50.401(a)(1) (iii), (iv), and (v);

26 (c) Twelve months for offenses committed under RCW 69.50.401(d).

27 For the purposes of this subsection, all of the real property of
28 a state correctional facility or county jail shall be deemed to be part
29 of that facility or county jail.

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

33 **Sec. 37.** RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and
34 1996 c 36 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

1		
2		
3	XV	Aggravated Murder 1 (RCW 10.95.020)
4	XIV	Murder 1 (RCW 9A.32.030)
5		Homicide by abuse (RCW 9A.32.055)
6	XIII	Murder 2 (RCW 9A.32.050)
7	XII	Assault 1 (RCW 9A.36.011)
8		Assault of a Child 1 (RCW 9A.36.120)
9	XI	Rape 1 (RCW 9A.44.040)
10		Rape of a Child 1 (RCW 9A.44.073)
11	X	Kidnapping 1 (RCW 9A.40.020)
12		Rape 2 (RCW 9A.44.050)
13		Rape of a Child 2 (RCW 9A.44.076)
14		Child Molestation 1 (RCW 9A.44.083)
15		Damaging building, etc., by explosion with
16		threat to human being (RCW 70.74.280(1))
17		Over 18 and deliver heroin or narcotic from
18		Schedule I or II to someone under 18
19		(RCW 69.50.406)
20		Leading Organized Crime (RCW 9A.82.060(1)(a))
21	IX	Assault of a Child 2 (RCW 9A.36.130)
22		Robbery 1 (RCW 9A.56.200)
23		Manslaughter 1 (RCW 9A.32.060)
24		Explosive devices prohibited (RCW 70.74.180)
25		Indecent Liberties (with forcible compulsion)
26		(RCW 9A.44.100(1)(a))
27		Endangering life and property by explosives
28		with threat to human being (RCW
29		70.74.270)
30		Over 18 and deliver narcotic from Schedule
31		III, IV, or V or a nonnarcotic from
32		Schedule I-V to someone under 18 and 3
33		years junior (RCW 69.50.406)
34		Controlled Substance Homicide (RCW 69.50.415)

1 Sexual Exploitation (RCW 9.68A.040)
2 Inciting Criminal Profiteering (RCW
3 9A.82.060(1)(b))
4 Vehicular Homicide, by being under the
5 influence of intoxicating liquor or any
6 drug (RCW 46.61.520)

7 VIII Arson 1 (RCW 9A.48.020)
8 Promoting Prostitution 1 (RCW 9A.88.070)
9 Selling for profit (controlled or
10 counterfeit) any controlled substance
11 (RCW 69.50.410)
12 Manufacture, deliver, or possess with intent
13 to deliver heroin or cocaine (RCW
14 69.50.401(a)(1)(i))
15 Manufacture, deliver, or possess with intent
16 to deliver methamphetamine (RCW
17 69.50.401(a)(1)(ii))
18 Possession of ephedrine or pseudoephedrine
19 with intent to manufacture
20 methamphetamine (RCW 69.50.440)
21 Vehicular Homicide, by the operation of any
22 vehicle in a reckless manner (RCW
23 46.61.520)

24 VII Burglary 1 (RCW 9A.52.020)
25 Vehicular Homicide, by disregard for the
26 safety of others (RCW 46.61.520)
27 Introducing Contraband 1 (RCW 9A.76.140)
28 Indecent Liberties (without forcible
29 compulsion) (RCW 9A.44.100(1) (b) and
30 (c))
31 Child Molestation 2 (RCW 9A.44.086)
32 Dealing in depictions of minor engaged in
33 sexually explicit conduct (RCW
34 9.68A.050)

1 Sending, bringing into state depictions of
2 minor engaged in sexually explicit
3 conduct (RCW 9.68A.060)
4 Involving a minor in drug dealing (RCW
5 69.50.401(f))
6 Reckless Endangerment 1 (RCW 9A.36.045)
7 Unlawful Possession of a Firearm in the first
8 degree (RCW 9.41.040(1)(a))
9 VI Bribery (RCW 9A.68.010)
10 Manslaughter 2 (RCW 9A.32.070)
11 Rape of a Child 3 (RCW 9A.44.079)
12 Intimidating a Juror/Witness (RCW 9A.72.110,
13 9A.72.130)
14 Damaging building, etc., by explosion with no
15 threat to human being (RCW 70.74.280(2))
16 Endangering life and property by explosives
17 with no threat to human being (RCW
18 70.74.270)
19 Incest 1 (RCW 9A.64.020(1))
20 Manufacture, deliver, or possess with intent
21 to deliver narcotics from Schedule I or
22 II (except heroin or cocaine) (RCW
23 69.50.401(a)(1)(i))
24 Intimidating a Judge (RCW 9A.72.160)
25 Bail Jumping with Murder 1 (RCW
26 9A.76.170(2)(a))
27 Theft of a Firearm (RCW 9A.56.300)
28 V Persistent prison misbehavior (RCW 9.94.070)
29 Criminal Mistreatment 1 (RCW 9A.42.020)
30 Abandonment of dependent person 1 (RCW
31 9A.42.060)
32 Rape 3 (RCW 9A.44.060)
33 Sexual Misconduct with a Minor 1 (RCW
34 9A.44.093)
35 Child Molestation 3 (RCW 9A.44.089)
36 Kidnapping 2 (RCW 9A.40.030)
37 Extortion 1 (RCW 9A.56.120)
38 Incest 2 (RCW 9A.64.020(2))

1 Perjury 1 (RCW 9A.72.020)
2 Extortionate Extension of Credit (RCW
3 9A.82.020)
4 Advancing money or property for extortionate
5 extension of credit (RCW 9A.82.030)
6 Extortionate Means to Collect Extensions of
7 Credit (RCW 9A.82.040)
8 Rendering Criminal Assistance 1 (RCW
9 9A.76.070)
10 Bail Jumping with class A Felony (RCW
11 9A.76.170(2)(b))
12 Sexually Violating Human Remains (RCW
13 9A.44.105)
14 Delivery of imitation controlled substance by
15 person eighteen or over to person under
16 eighteen (RCW 69.52.030(2))
17 Possession of a Stolen Firearm (RCW
18 9A.56.310)

19 IV Residential Burglary (RCW 9A.52.025)
20 Theft of Livestock 1 (RCW 9A.56.080)
21 Robbery 2 (RCW 9A.56.210)
22 Assault 2 (RCW 9A.36.021)
23 Escape 1 (RCW 9A.76.110)
24 Arson 2 (RCW 9A.48.030)
25 Commercial Bribery (RCW 9A.68.060)
26 Bribing a Witness/Bribe Received by Witness
27 (RCW 9A.72.090, 9A.72.100)
28 Malicious Harassment (RCW 9A.36.080)
29 Threats to Bomb (RCW 9.61.160)
30 Willful Failure to Return from Furlough (RCW
31 72.66.060)
32 Hit and Run -- Injury Accident (RCW
33 46.52.020(4))
34 Hit and Run with Vessel -- Injury Accident
35 (RCW 88.12.155(3))
36 Vehicular Assault (RCW 46.61.522)

1 Manufacture, deliver, or possess with intent
2 to deliver narcotics from Schedule III,
3 IV, or V or nonnarcotics from Schedule
4 I-V (except marijuana or
5 methamphetamines) (RCW 69.50.401(a)(1)
6 (iii) through (v))
7 Influencing Outcome of Sporting Event (RCW
8 9A.82.070)
9 Use of Proceeds of Criminal Profiteering (RCW
10 9A.82.080 (1) and (2))
11 Knowingly Trafficking in Stolen Property (RCW
12 9A.82.050(2))
13 III Criminal Mistreatment 2 (RCW 9A.42.030)
14 Abandonment of dependent person 2 (RCW
15 9A.42.070)
16 Extortion 2 (RCW 9A.56.130)
17 Unlawful Imprisonment (RCW 9A.40.040)
18 Assault 3 (RCW 9A.36.031)
19 Assault of a Child 3 (RCW 9A.36.140)
20 Custodial Assault (RCW 9A.36.100)
21 Unlawful possession of firearm in the second
22 degree (RCW 9.41.040(1)(b))
23 Harassment (RCW 9A.46.020)
24 Promoting Prostitution 2 (RCW 9A.88.080)
25 Willful Failure to Return from Work Release
26 (RCW 72.65.070)
27 Burglary 2 (RCW 9A.52.030)
28 Introducing Contraband 2 (RCW 9A.76.150)
29 Communication with a Minor for Immoral
30 Purposes (RCW 9.68A.090)
31 Patronizing a Juvenile Prostitute (RCW
32 9.68A.100)
33 Escape 2 (RCW 9A.76.120)
34 Perjury 2 (RCW 9A.72.030)
35 Bail Jumping with class B+, B, or C Felony
36 (RCW 9A.76.170(2)(c))
37 Intimidating a Public Servant (RCW 9A.76.180)
38 Tampering with a Witness (RCW 9A.72.120)

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

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

32 I Theft 2 (RCW 9A.56.040)
33 Possession of Stolen Property 2 (RCW
34 9A.56.160)
35 Forgery (RCW 9A.60.020)
36 Taking Motor Vehicle Without Permission (RCW
37 9A.56.070)
38 Vehicle Prowl 1 (RCW 9A.52.095)

1 Attempting to Elude a Pursuing Police Vehicle
2 (RCW 46.61.024)
3 Malicious Mischief 2 (RCW 9A.48.080)
4 Reckless Burning 1 (RCW 9A.48.040)
5 Unlawful Issuance of Checks or Drafts (RCW
6 9A.56.060)
7 Unlawful Use of Food Stamps (RCW 9.91.140 (2)
8 and (3))
9 False Verification for Welfare (RCW
10 74.08.055)
11 Forged Prescription (RCW 69.41.020)
12 Forged Prescription for a Controlled
13 Substance (RCW 69.50.403)
14 Possess Controlled Substance that is a
15 Narcotic from Schedule III, IV, or V or
16 Non-narcotic from Schedule I-V (except
17 phencyclidine) (RCW 69.50.401(d))

18 **Sec. 38.** RCW 9.94A.360 and 1995 c 316 s 1 and 1995 c 101 s 1 are
19 each reenacted and amended to read as follows:

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

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

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

29 (2) Except as provided in subsection (4) of this section, class A
30 and sex prior felony convictions shall always be included in the
31 offender score. Class B and B+ prior felony convictions other than sex
32 offenses shall not be included in the offender score, if since the last
33 date of release from confinement (including full-time residential
34 treatment) pursuant to a felony conviction, if any, or entry of
35 judgment and sentence, the offender had spent ten consecutive years in
36 the community without committing any crime that subsequently results in
37 a conviction. Class C prior felony convictions other than sex offenses
38 shall not be included in the offender score if, since the last date of

1 release from confinement (including full-time residential treatment)
2 pursuant to a felony conviction, if any, or entry of judgment and
3 sentence, the offender had spent five consecutive years in the
4 community without committing any crime that subsequently results in a
5 conviction. Serious traffic convictions 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
9 spent five years in the community without committing any crime that
10 subsequently results in a conviction. This subsection applies to both
11 adult and juvenile prior convictions.

12 (3) Out-of-state convictions for offenses shall be classified
13 according to the comparable offense definitions and sentences provided
14 by Washington law. Federal convictions for offenses shall be
15 classified according to the comparable offense definitions and
16 sentences provided by Washington law. If there is no clearly
17 comparable offense under Washington law or the offense is one that is
18 usually considered subject to exclusive federal jurisdiction, the
19 offense shall be scored as a class C felony equivalent if it was a
20 felony under the relevant federal statute.

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

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

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

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

1 offenses using the "same criminal conduct" analysis found in RCW
2 9.94A.400(1)(a), and if the court finds that they shall be counted as
3 one offense, then the offense that yields the highest offender score
4 shall be used. The current sentencing court may presume that such
5 other prior adult offenses were not the same criminal conduct from
6 sentences imposed on separate dates, or in separate counties or
7 jurisdictions, or in separate complaints, indictments, or informations;

8 (ii) Juvenile prior convictions entered or sentenced on the same
9 date shall count as one offense, the offense that yields the highest
10 offender score, except for juvenile prior convictions for violent
11 offenses with separate victims, which shall count as separate offenses;
12 and

13 (iii) In the case of multiple prior convictions for offenses
14 committed before July 1, 1986, for the purpose of computing the
15 offender score, count all adult convictions served concurrently as one
16 offense, and count all juvenile convictions entered on the same date as
17 one offense. Use the conviction for the offense that yields the
18 highest offender score.

19 (b) As used in this subsection (6), "served concurrently" means
20 that: (i) The latter sentence was imposed with specific reference to
21 the former; (ii) the concurrent relationship of the sentences was
22 judicially imposed; and (iii) the concurrent timing of the sentences
23 was not the result of a probation or parole revocation on the former
24 offense.

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

28 (8) If the present conviction is for a nonviolent offense and not
29 covered by subsection (12) or (13) of this section, count one point for
30 each adult prior felony conviction and one point for each juvenile
31 prior violent felony conviction and 1/2 point for each juvenile prior
32 nonviolent felony conviction.

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

38 (10) If the present conviction is for Murder 1 or 2, Assault 1,
39 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count

1 three points for prior adult and juvenile convictions for crimes in
2 these categories, two points for each prior adult and juvenile violent
3 conviction (not already counted), one point for each prior adult
4 nonviolent felony conviction, and 1/2 point for each prior juvenile
5 nonviolent felony conviction.

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

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

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

22 (14) If the present conviction is for Willful Failure to Return
23 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
24 Release, RCW 72.65.070, or Escape from Community Custody, RCW
25 72.09.310, count only prior escape convictions in the offender score.
26 Count adult prior escape convictions as one point and juvenile prior
27 escape convictions as 1/2 point.

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

31 (16) If the present conviction is for Burglary 2 or residential
32 burglary, count priors as in subsection (8) of this section; however,
33 count two points for each adult and juvenile prior Burglary 1
34 conviction, two points for each adult prior Burglary 2 or residential
35 burglary conviction, and one point for each juvenile prior Burglary 2
36 or residential burglary conviction.

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

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

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

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

7	Class A felonies	\$0 - 50,000
8	<u>Class B+ felonies</u>	<u>\$0 - 30,000</u>
9	Class B felonies	\$0 - 20,000
10	Class C felonies	\$0 - 10,000

11 **Sec. 40.** RCW 9.95.062 and 1996 c 275 s 9 are each amended to read
12 as follows:

13 (1) Notwithstanding CrR 3.2 or RAP 7.2, an appeal by a defendant
14 in a criminal action shall not stay the execution of the judgment of
15 conviction, if the court determines by a preponderance of the evidence
16 that:

17 (a) The defendant is likely to flee or to pose a danger to the
18 safety of any other person or the community if the judgment is stayed;
19 or

20 (b) The delay resulting from the stay will unduly diminish the
21 deterrent effect of the punishment; or

22 (c) A stay of the judgment will cause unreasonable trauma to the
23 victims of the crime or their families; or

24 (d) The defendant has not undertaken to the extent of the
25 defendant's financial ability to pay the financial obligations under
26 the judgment or has not posted an adequate performance bond to assure
27 payment.

28 (2) An appeal by a defendant convicted of one of the following
29 offenses shall not stay execution of the judgment of conviction: Rape
30 in the first or second degree (RCW 9A.44.040 and 9A.44.050); rape of a
31 child in the first, second, or third degree (RCW 9A.44.073, 9A.44.076,
32 and 9A.44.079); child molestation in the first, second, or third degree
33 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a
34 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);
35 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW
36 9A.40.090); any class A, B+, or B felony that is a sexually motivated
37 offense as defined in RCW 9.94A.030; a felony violation of RCW

1 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal
2 attempt, solicitation, or conspiracy to commit one of those offenses.

3 (3) In case the defendant has been convicted of a felony, and has
4 been unable to obtain release pending the appeal by posting an appeal
5 bond, cash, adequate security, release on personal recognizance, or any
6 other conditions imposed by the court, the time the defendant has been
7 imprisoned pending the appeal shall be deducted from the term for which
8 the defendant was sentenced, if the judgment is affirmed.

9 **Sec. 41.** RCW 9A.20.010 and 1984 c 258 s 808 are each amended to
10 read as follows:

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

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

16 (i) Class A felony; or

17 (ii) Class B+ felony; or

18 (~~iii~~) Class B felony; or

19 (~~iii~~) (iv) Class C felony.

20 (2) Misdemeanors and Gross Misdemeanors. (a) Any crime punishable
21 by a fine of not more than one thousand dollars, or by imprisonment in
22 a county jail for not more than ninety days, or by both such fine and
23 imprisonment is a misdemeanor. Whenever the performance of any act is
24 prohibited by any statute, and no penalty for the violation of such
25 statute is imposed, the committing of such act shall be a misdemeanor.

26 (b) All crimes other than felonies and misdemeanors are gross
27 misdemeanors.

28 **Sec. 42.** RCW 9A.28.020 and 1994 c 271 s 101 are each amended to
29 read as follows:

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

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

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

- 1 (a) Class A felony when the crime attempted is murder in the first
2 degree, murder in the second degree, or arson in the first degree;
3 (b) Class B felony when the crime attempted is a class B+ felony
4 or a class A felony other than murder in the first degree, murder in
5 the second degree, or arson in the first degree;
6 (c) Class C felony when the crime attempted is a class B felony;
7 (d) Gross misdemeanor when the crime attempted is a class C
8 felony;
9 (e) Misdemeanor when the crime attempted is a gross misdemeanor or
10 misdemeanor.

11 **Sec. 43.** RCW 9A.28.040 and 1975 1st ex.s. c 260 s 9A.28.040 are
12 each amended to read as follows:

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

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

- 20 (a) Has not been prosecuted or convicted; or
21 (b) Has been convicted of a different offense; or
22 (c) Is not amenable to justice; or
23 (d) Has been acquitted; or
24 (e) Lacked the capacity to commit an offense.

25 (3) Criminal conspiracy is a:

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

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

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

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

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

1 **Sec. 44.** RCW 9A.44.140 and 1996 c 275 s 12 are each amended to
2 read as follows:

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

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

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

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

19 (~~(e)~~) (d) For a person convicted of a class C felony, a
20 violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation,
21 or conspiracy to commit a class C felony: Ten years after the last
22 date of release from confinement, if any, (including full-time
23 residential treatment) pursuant to the conviction, or entry of the
24 judgment and sentence, if the person has spent ten consecutive years in
25 the community without being convicted of any new offenses.

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

29 (3) Any person having a duty to register under RCW 9A.44.130 may
30 petition the superior court to be relieved of that duty. The petition
31 shall be made to the court in which the petitioner was convicted of the
32 offense that subjects him or her to the duty to register, or, in the
33 case of convictions in other states, a foreign country, or a federal or
34 military court, to the court in Thurston county. The prosecuting
35 attorney of the county shall be named and served as the respondent in
36 any such petition. The court shall consider the nature of the
37 registrable offense committed, and the criminal and relevant
38 noncriminal behavior of the petitioner both before and after
39 conviction, and may consider other factors. Except as provided in

1 subsection (4) of this section, the court may relieve the petitioner of
2 the duty to register only if the petitioner shows, with clear and
3 convincing evidence, that future registration of the petitioner will
4 not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540,
5 46.20.187, 70.48.470, and 72.09.330.

6 (4) An offender having a duty to register under RCW 9A.44.130 for
7 a sex offense committed when the offender was a juvenile may petition
8 the superior court to be relieved of that duty. The court shall
9 consider the nature of the registrable offense committed, and the
10 criminal and relevant noncriminal behavior of the petitioner both
11 before and after adjudication, and may consider other factors. The
12 court may relieve the petitioner of the duty to register for a sex
13 offense that was committed while the petitioner was fifteen years of
14 age or older only if the petitioner shows, with clear and convincing
15 evidence, that future registration of the petitioner will not serve the
16 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,
17 and 72.09.330. The court may relieve the petitioner of the duty to
18 register for a sex offense that was committed while the petitioner was
19 under the age of fifteen if the petitioner (a) has not been adjudicated
20 of any additional sex offenses during the twenty-four months following
21 the adjudication for the sex offense giving rise to the duty to
22 register, and (b) the petitioner proves by a preponderance of the
23 evidence that future registration of the petitioner will not serve the
24 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,
25 and 72.09.330.

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

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

32 **Sec. 45.** RCW 9A.76.080 and 1982 1st ex.s. c 47 s 22 are each
33 amended to read as follows:

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

- 1 (2) Rendering criminal assistance in the second degree is:
2 (a) A misdemeanor if it is established by a preponderance of the
3 evidence that the actor is a relative as defined in RCW 9A.76.060;
4 (b) A gross misdemeanor in all other cases.

5 **Sec. 46.** RCW 9A.76.170 and 1983 1st ex.s. c 4 s 3 are each
6 amended to read as follows:

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

11 (2) Bail jumping is:

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

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

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

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

20 **Sec. 47.** RCW 9A.83.010 and 1992 c 210 s 1 are each amended to
21 read as follows:

22 The definitions set forth in this section apply throughout this
23 chapter.

24 (1) "Conducts a financial transaction" includes initiating,
25 concluding, or participating in a financial transaction.

26 (2) "Financial institution" means a bank, savings bank, credit
27 union, or savings and loan institution.

28 (3) "Financial transaction" means a purchase, sale, loan, pledge,
29 gift, transfer, transmission, delivery, trade, deposit, withdrawal,
30 payment, transfer between accounts, exchange of currency, extension of
31 credit, or any other acquisition or disposition of property, by
32 whatever means effected.

33 (4) "Knows the property is proceeds of specified unlawful
34 activity" means believing based upon the representation of a law
35 enforcement officer or his or her agent, or knowing that the property
36 is proceeds from some form, though not necessarily which form, of
37 specified unlawful activity.

1 (5) "Proceeds" means any interest in property directly or
2 indirectly acquired through or derived from an act or omission, and any
3 fruits of this interest, in whatever form.

4 (6) "Property" means anything of value, whether real or personal,
5 tangible or intangible.

6 (7) "Specified unlawful activity" means an offense committed in
7 this state that is a class A, B+, or B felony under Washington law or
8 that is listed in RCW 9A.82.010(14), or an offense committed in any
9 other state that is punishable under the laws of that state by more
10 than one year in prison, or an offense that is punishable under federal
11 law by more than one year in prison.

12 **Sec. 48.** RCW 10.64.025 and 1996 c 275 s 10 are each amended to
13 read as follows:

14 (1) A defendant who has been found guilty of a felony and is
15 awaiting sentencing shall be detained unless the court finds by clear
16 and convincing evidence that the defendant is not likely to flee or to
17 pose a danger to the safety of any other person or the community if
18 released. Any bail bond that was posted on behalf of a defendant
19 shall, upon the defendant's conviction, be exonerated.

20 (2) A defendant who has been found guilty of one of the following
21 offenses shall be detained pending sentencing: Rape in the first or
22 second degree (RCW 9A.44.040 and 9A.44.050); rape of a child in the
23 first, second, or third degree (RCW 9A.44.073, 9A.44.076, and
24 9A.44.079); child molestation in the first, second, or third degree
25 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a
26 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);
27 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW
28 9A.40.090); any class A, B+, or B felony that is a sexually motivated
29 offense as defined in RCW 9.94A.030; a felony violation of RCW
30 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal
31 attempt, solicitation, or conspiracy to commit one of those offenses.

32 **Sec. 49.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15
33 are each reenacted and amended to read as follows:

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

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

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

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

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

9 (e) Relating to juveniles alleged or found to have committed
10 offenses, traffic infractions, or violations as provided in RCW
11 13.40.020 through 13.40.230, unless:

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

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

16 (iii) The alleged offense or infraction is a traffic, fish,
17 boating, or game offense or traffic infraction committed by a juvenile
18 sixteen years of age or older and would, if committed by an adult, be
19 tried or heard in a court of limited jurisdiction, in which instance
20 the appropriate court of limited jurisdiction shall have jurisdiction
21 over the alleged offense or infraction: PROVIDED, That if such an
22 alleged offense or infraction and an alleged offense or infraction
23 subject to juvenile court jurisdiction arise out of the same event or
24 incident, the juvenile court may have jurisdiction of both matters:
25 PROVIDED FURTHER, That the jurisdiction under this subsection does not
26 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)
27 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited
28 jurisdiction which confine juveniles for an alleged offense or
29 infraction may place juveniles in juvenile detention facilities under
30 an agreement with the officials responsible for the administration of
31 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

32 (iv) The juvenile is sixteen or seventeen years old and the
33 alleged offense is: (A) A serious violent offense as defined in RCW
34 9.94A.030 committed on or after June 13, 1994; or (B) a violent offense
35 as defined in RCW 9.94A.030 committed on or after June 13, 1994, and
36 the juvenile has a criminal history consisting of: (I) One or more
37 prior serious violent offenses; (II) two or more prior violent
38 offenses; or (III) three or more of any combination of the following
39 offenses: Any class A felony, any class B+ felony, any class B felony,

1 vehicular assault, or manslaughter in the second degree, all of which
2 must have been committed after the juvenile's thirteenth birthday and
3 prosecuted separately. In such a case the adult criminal court shall
4 have exclusive original jurisdiction.

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

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

13 (g) Relating to termination of a diversion agreement under RCW
14 13.40.080, including a proceeding in which the divertee has attained
15 eighteen years of age;

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

22 (i) Relating to petitions to compel disclosure of information
23 filed by the department of social and health services pursuant to RCW
24 74.13.042.

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

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

33 **Sec. 50.** RCW 13.40.0357 and 1996 c 205 s 6 are each amended to
34 read as follows:

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SCHEDULE A
DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
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Arson and Malicious Mischief

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is E class) (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
A	Possession of Incendiary Device (9.40.120)	B+

**Assault and Other Crimes
Involving Physical Harm**

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

Burglary and Trespass

B+	Burglary 1 (9A.52.020)	C+
B	Burglary 2 (9A.52.030)	C

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

1		Counterfeit Substances	
2		(69.50.401(b)(1) (iii), (iv),	
3		(v))	C
4	C	Violation of Uniform Controlled	
5		Substances Act - Possession of a	
6		Controlled Substance	
7		(69.50.401(d))	C
8	C	Violation of Uniform Controlled	
9		Substances Act - Possession of a	
10		Controlled Substance	
11		(69.50.401(c))	C
12		Firearms and Weapons	
13	E	Carrying Loaded Pistol Without	
14		Permit (9.41.050)	E
15	C	Possession of Firearms by	
16		Minor (<18) (9.41.040(1) (b)((iv)))	
17		(iii))	C
18	D+	Possession of Dangerous Weapon	
19		(9.41.250)	E
20	D	Intimidating Another Person by use	
21		of Weapon (9.41.270)	E
22		Homicide	
23	A+	Murder 1 (9A.32.030)	A
24	A+	Murder 2 (9A.32.050)	B+
25	B+	Manslaughter 1 (9A.32.060)	C+
26	C+	Manslaughter 2 (9A.32.070)	D+
27	B+	Vehicular Homicide (46.61.520)	C+
28		Kidnapping	
29	A	Kidnap 1 (9A.40.020)	B+
30	B+	Kidnap 2 (9A.40.030)	C+
31	C+	Unlawful Imprisonment	
32		(9A.40.040)	D+
33		Obstructing Governmental Operation	
34	E	Obstructing a	
35		Law Enforcement Officer	
36		(9A.76.020)	E
37	E	Resisting Arrest (9A.76.040)	E

1	B	Introducing Contraband 1	
2		(9A.76.140)	C
3	C	Introducing Contraband 2	
4		(9A.76.150)	D
5	E	Introducing Contraband 3	
6		(9A.76.160)	E
7	B+	Intimidating a Public Servant	
8		(9A.76.180)	C+
9	B+	Intimidating a Witness	
10		(9A.72.110)	C+
11		Public Disturbance	
12	C+	Riot with Weapon (9A.84.010)	D+
13	D+	Riot Without Weapon	
14		(9A.84.010)	E
15	E	Failure to Disperse (9A.84.020)	E
16	E	Disorderly Conduct (9A.84.030)	E
17		Sex Crimes	
18	A	Rape 1 (9A.44.040)	B+
19	A-	Rape 2 (9A.44.050)	B+
20	C+	Rape 3 (9A.44.060)	D+
21	A-	Rape of a Child 1 (9A.44.073)	B+
22	B	Rape of a Child 2 (9A.44.076)	C+
23	B	Incest 1 (9A.64.020(1))	C
24	C	Incest 2 (9A.64.020(2))	D
25	D+	Indecent Exposure	
26		(Victim <14) (9A.88.010)	E
27	E	Indecent Exposure	
28		(Victim 14 or over) (9A.88.010)	E
29	B+	Promoting Prostitution 1	
30		(9A.88.070)	C+
31	C+	Promoting Prostitution 2	
32		(9A.88.080)	D+
33	E	O & A (Prostitution) (9A.88.030)	E
34	B+	Indecent Liberties (9A.44.100)	C+
35	B+	Child Molestation 1 (9A.44.083)	C+
36	C+	Child Molestation 2 (9A.44.086)	C

1		Theft, Robbery, Extortion, and Forgery	
2	B	Theft 1 (9A.56.030)	C
3	C	Theft 2 (9A.56.040)	D
4	D	Theft 3 (9A.56.050)	E
5	B	Theft of Livestock (9A.56.080)	C
6	C	Forgery (9A.60.020)	D
7	A	Robbery 1 (9A.56.200)	B+
8	B+	Robbery 2 (9A.56.210)	C+
9	B+	Extortion 1 (9A.56.120)	C+
10	C+	Extortion 2 (9A.56.130)	D+
11	B	Possession of Stolen Property 1	
12		(9A.56.150)	C
13	C	Possession of Stolen Property 2	
14		(9A.56.160)	D
15	D	Possession of Stolen Property 3	
16		(9A.56.170)	E
17	C	Taking Motor Vehicle Without	
18		Owner's Permission (9A.56.070)	D
19		Motor Vehicle Related Crimes	
20	E	Driving Without a License	
21		(46.20.021)	E
22	C	Hit and Run - Injury	
23		(46.52.020(4))	D
24	D	Hit and Run-Attended	
25		(46.52.020(5))	E
26	E	Hit and Run-Unattended	
27		(46.52.010)	E
28	C	Vehicular Assault (46.61.522)	D
29	C	Attempting to Elude Pursuing	
30		Police Vehicle (46.61.024)	D
31	E	Reckless Driving (46.61.500)	E
32	D	Driving While Under the Influence	
33		(46.61.502 and 46.61.504)	E
34	D	Vehicle Prowling (9A.52.100)	E
35	C	Taking Motor Vehicle Without	
36		Owner's Permission (9A.56.070)	D
37		Other	
38	B	Bomb Threat (9.61.160)	C

1	C	Escape 1 (9A.76.110)	C
2	C	Escape 2 (9A.76.120)	C
3	D	Escape 3 (9A.76.130)	E
4	E	Obscene, Harassing, Etc.,	
5		Phone Calls (9.61.230)	E
6	A	Other Offense Equivalent to an	
7		Adult Class A Felony	B+
8	<u>B+</u>	<u>Other Offense Equivalent to an</u>	
9		<u>Adult Class B+ Felony</u>	<u>B</u>
10	B	Other Offense Equivalent to an	
11		Adult Class B Felony	C
12	C	Other Offense Equivalent to an	
13		Adult Class C Felony	D
14	D	Other Offense Equivalent to an	
15		Adult Gross Misdemeanor	E
16	E	Other Offense Equivalent to an	
17		Adult Misdemeanor	E
18	V	Violation of Order of Restitution,	
19		Community Supervision, or	
20		Confinement (13.40.200)	V

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

23 1st escape or attempted escape during 12-month period - 4 weeks
24 confinement

25 2nd escape or attempted escape during 12-month period - 8 weeks
26 confinement

27 3rd and subsequent escape or attempted escape during 12-month
28 period - 12 weeks confinement

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

31 **SCHEDULE B**

32 **PRIOR OFFENSE INCREASE FACTOR**

33 For use with all CURRENT OFFENSES occurring on or after July 1,
34 1989.

TIME SPAN

OFFENSE CATEGORY	0-12 Months	13-24 Months	25 Months or More
A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
C+	.6	.3	.2
C	.5	.2	.2
D+	.3	.2	.1
D	.2	.1	.1
E	.1	.1	.1

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

SCHEDULE C

CURRENT OFFENSE POINTS

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

AGE

OFFENSE CATEGORY	12 & Under	13	14	15	16	17
A+ STANDARD RANGE 180-224 WEEKS						
A	250	300	350	375	375	375
A-	150	150	150	200	200	200
B+	110	110	120	130	140	150
B	45	45	50	50	57	57
C+	44	44	49	49	55	55
C	40	40	45	45	50	50
D+	16	18	20	22	24	26
D	14	16	18	20	22	24

2 JUVENILE SENTENCING STANDARDS
3 SCHEDULE D-1

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

7 MINOR/FIRST OFFENDER

8 OPTION A

9 STANDARD RANGE

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

24 OR

25 OPTION B

26 STATUTORY OPTION

- 27 0-12 Months Community Supervision
- 28 0-150 Hours Community Service
- 29 0-100 Fine
- 30 Posting of a Probation Bond

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

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

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

4 **OR**

5 **OPTION B**
6 **STATUTORY OPTION**

- 7 0-12 Months Community Supervision
- 8 0-150 Hours Community Service
- 9 0-100 Fine
- 10 Posting of a Probation Bond

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

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

26 **OR**

27 **OPTION C**
28 **MANIFEST INJUSTICE**

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

1 **JUVENILE SENTENCING STANDARDS**

2 **SCHEDULE D-3**

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

6 **SERIOUS OFFENDER**

7 **OPTION A**

8 **STANDARD RANGE**

9 Points	Institution Time
10	
11 0-129	8-12 weeks
12 130-149	13-16 weeks
13 150-199	21-28 weeks
14 200-249	30-40 weeks
15 250-299	52-65 weeks
16 300-374	80-100 weeks
17 375+	103-129 weeks
18 All A+ Offenses	180-224 weeks

19 **OR**

20 **OPTION B**

21 **MANIFEST INJUSTICE**

22 A disposition outside the standard range shall be determined and shall
23 be comprised of confinement or community supervision including posting
24 a probation bond or a combination thereof. When a judge finds a
25 manifest injustice and imposes a sentence of confinement exceeding 30
26 days, the court shall sentence the juvenile to a maximum term, and the
27 provisions of RCW 13.40.030(2) shall be used to determine the range.

28 **Sec. 51.** RCW 13.40.070 and 1994 sp.s. c 7 s 543 are each amended
29 to read as follows:

30 (1) Complaints referred to the juvenile court alleging the
31 commission of an offense shall be referred directly to the prosecutor.
32 The prosecutor, upon receipt of a complaint, shall screen the complaint
33 to determine whether:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 NEW SECTION. **Sec. 52.** Sections 3 through 22 of this act are each
35 added to chapter 9.94A RCW.

36 NEW SECTION. **Sec. 53.** This act is necessary for the immediate
37 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 July 1, 1997.

--- END ---