

---

SENATE BILL 6176

---

State of Washington

55th Legislature

1998 Regular Session

By Senators Roach and Kohl; by request of Sentencing Guidelines Commission

Read first time 01/12/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to making technical corrections to sentencing laws  
2 enacted in 1997; amending RCW 9.94A.360; reenacting and amending RCW  
3 9.94A.040, 9.94A.310, 9.94A.320, 9.94A.030, and 9A.44.130; and  
4 prescribing penalties.

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

6 **Sec. 1.** RCW 9.94A.040 and 1997 c 365 s 2 and 1997 c 338 s 3 are  
7 each reenacted and amended to read as follows:

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

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

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

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

16 (ii) The intent of the legislature to emphasize confinement for the  
17 violent offender and alternatives to confinement for the nonviolent  
18 offender.

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

4 (b) Recommend to the legislature revisions or modifications to the  
5 standard sentence ranges, state sentencing policy, prosecuting  
6 standards, and other standards. If implementation of the revisions or  
7 modifications would result in exceeding the capacity of correctional  
8 facilities, then the commission shall accompany its recommendation with  
9 an additional list of standard sentence ranges which are consistent  
10 with correction capacity;

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

13 (d)(i) Serve as a clearinghouse and information center for the  
14 collection, preparation, analysis, and dissemination of information on  
15 state and local adult and juvenile sentencing practices; (ii) develop  
16 and maintain a computerized adult and juvenile sentencing information  
17 system by individual superior court judge consisting of offender,  
18 offense, history, and sentence information entered from judgment and  
19 sentence forms for all adult felons; and (iii) conduct ongoing research  
20 regarding adult and juvenile sentencing guidelines, use of total  
21 confinement and alternatives to total confinement, plea bargaining, and  
22 other matters relating to the improvement of the adult criminal justice  
23 system and the juvenile justice system;

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

26 (f) Evaluate the effectiveness of existing disposition standards  
27 and related statutes in implementing policies set forth in RCW  
28 13.40.010 generally, specifically review the guidelines relating to the  
29 confinement of minor and first offenders as well as the use of  
30 diversion, and review the application of current and proposed juvenile  
31 sentencing standards and guidelines for potential adverse impacts on  
32 the sentencing outcomes of racial and ethnic minority youth;

33 (g) Solicit the comments and suggestions of the juvenile justice  
34 community concerning disposition standards, and make recommendations to  
35 the legislature regarding revisions or modifications of the standards.  
36 The evaluations shall be submitted to the legislature on December 1 of  
37 each odd-numbered year. The department of social and health services  
38 shall provide the commission with available data concerning the  
39 implementation of the disposition standards and related statutes and

1 their effect on the performance of the department's responsibilities  
2 relating to juvenile offenders, and with recommendations for  
3 modification of the disposition standards. The office of the  
4 administrator for the courts shall provide the commission with  
5 available data on diversion and dispositions of juvenile offenders  
6 under chapter 13.40 RCW; and

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

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

11 (ii) The capacity of state and local juvenile and adult facilities  
12 and resources; and

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

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

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

19 (a) If the maximum term in the range is one year or less, the  
20 minimum term in the range shall be no less than one-third of the  
21 maximum term in the range, except that if the maximum term in the range  
22 is ninety days or less, the minimum term may be less than one-third of  
23 the maximum;

24 (b) If the maximum term in the range is greater than one year, the  
25 minimum term in the range shall be no less than seventy-five percent of  
26 the maximum term in the range, except that for murder in the second  
27 degree in seriousness (~~category XIII~~) level XIV under RCW 9.94A.310,  
28 the minimum term in the range shall be no less than fifty percent of  
29 the maximum term in the range; and

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

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

34 **Sec. 2.** RCW 9.94A.310 and 1997 c 365 s 3 and 1997 c 338 s 50 are  
35 each reenacted and amended to read as follows:

1 (1)

TABLE 1

2

Sentencing Grid

3 SERIOUSNESS

4 ((SCORE))

5 LEVEL

OFFENDER SCORE

6

9 or

7

0 1 2 3 4 5 6 7 8 more

8

9 ((XV))

10 XVI Life Sentence without Parole/Death Penalty

11

12 ((XIV))

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

16

17 ((XIII))

XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	220	234	244	254	265	275	295	316	357	397

21

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

25

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

29

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

33

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

37

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

41

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

45

VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
	15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
	20	27	34	41	48	54	75	89	102	116

49

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

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

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

35 (3) The following additional times shall be added to the  
36 presumptive sentence for felony crimes committed after July 23, 1995,  
37 if the offender or an accomplice was armed with a firearm as defined in  
38 RCW 9.41.010 and the offender is being sentenced for one of the crimes  
39 listed in this subsection as eligible for any firearm enhancements  
40 based on the classification of the completed felony crime. If the  
41 offender or an accomplice was armed with a firearm as defined in RCW  
42 9.41.010 and the offender is being sentenced for an anticipatory  
43 offense under chapter 9A.28 RCW to commit one of the crimes listed in  
44 this subsection as eligible for any firearm enhancements, the following  
45 additional times shall be added to the presumptive sentence determined

1 under subsection (2) of this section based on the felony crime of  
2 conviction as classified under RCW 9A.28.020:

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

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

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

12 (d) If the offender is being sentenced for any firearm  
13 enhancements under (a), (b), and/or (c) of this subsection and the  
14 offender has previously been sentenced for any deadly weapon  
15 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
16 subsection or subsection (4)(a), (b), and/or (c) of this section, or  
17 both, any and all firearm enhancements under this subsection shall be  
18 twice the amount of the enhancement listed.

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

23 (f) The firearm enhancements in this section shall apply to all  
24 felony crimes except the following: Possession of a machine gun,  
25 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
26 unlawful possession of a firearm in the first and second degree, and  
27 use of a machine gun in a felony.

28 (g) If the presumptive sentence under this section exceeds the  
29 statutory maximum for the offense, the statutory maximum sentence shall  
30 be the presumptive sentence unless the offender is a persistent  
31 offender as defined in RCW 9.94A.030.

32 (4) The following additional times shall be added to the  
33 presumptive sentence for felony crimes committed after July 23, 1995,  
34 if the offender or an accomplice was armed with a deadly weapon as  
35 defined in this chapter other than a firearm as defined in RCW 9.41.010  
36 and the offender is being sentenced for one of the crimes listed in  
37 this subsection as eligible for any deadly weapon enhancements based on  
38 the classification of the completed felony crime. If the offender or  
39 an accomplice was armed with a deadly weapon other than a firearm as

1 defined in RCW 9.41.010 and the offender is being sentenced for an  
2 anticipatory offense under chapter 9A.28 RCW to commit one of the  
3 crimes listed in this subsection as eligible for any deadly weapon  
4 enhancements, the following additional times shall be added to the  
5 presumptive sentence determined under subsection (2) of this section  
6 based on the felony crime of conviction as classified under RCW  
7 9A.28.020:

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

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

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

17 (d) If the offender is being sentenced under (a), (b), and/or (c)  
18 of this subsection for any deadly weapon enhancements and the offender  
19 has previously been sentenced for any deadly weapon enhancements after  
20 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
21 subsection (3)(a), (b), and/or (c) of this section, or both, any and  
22 all deadly weapon enhancements under this subsection shall be twice the  
23 amount of the enhancement listed.

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

28 (f) The deadly weapon enhancements in this section shall apply to  
29 all felony crimes except the following: Possession of a machine gun,  
30 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
31 unlawful possession of a firearm in the first and second degree, and  
32 use of a machine gun in a felony.

33 (g) If the presumptive sentence under this section exceeds the  
34 statutory maximum for the offense, the statutory maximum sentence shall  
35 be the presumptive sentence unless the offender is a persistent  
36 offender as defined in RCW 9.94A.030.

37 (5) The following additional times shall be added to the  
38 presumptive sentence if the offender or an accomplice committed the  
39 offense while in a county jail or state correctional facility as that

1 term is defined in this chapter and the offender is being sentenced for  
2 one of the crimes listed in this subsection. If the offender or an  
3 accomplice committed one of the crimes listed in this subsection while  
4 in a county jail or state correctional facility as that term is defined  
5 in this chapter, and the offender is being sentenced for an  
6 anticipatory offense under chapter 9A.28 RCW to commit one of the  
7 crimes listed in this subsection, the following additional times shall  
8 be added to the presumptive sentence determined under subsection (2) of  
9 this section:

10 (a) Eighteen months for offenses committed under RCW  
11 69.50.401(a)(1) (i) or (ii) or 69.50.410;

12 (b) Fifteen months for offenses committed under RCW  
13 69.50.401(a)(1) (iii), (iv), and (v);

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

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

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

21 **Sec. 3.** RCW 9.94A.320 and 1997 c 365 s 4, 1997 c 346 s 3, 1997 c  
22 340 s 1, 1997 c 338 s 51, 1997 c 266 s 15, and 1997 c 120 s 5 are each  
23 reenacted and amended to read as follows:

24 TABLE 2

25 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

26 ((XV))

27 XVI Aggravated Murder 1 (RCW 10.95.020)

28 ((XIV))

29 XV Murder 1 (RCW 9A.32.030)

30 Homicide by abuse (RCW 9A.32.055)

31 Malicious explosion 1 (RCW 70.74.280(1))

32 ((XIII))

33 XIV Murder 2 (RCW 9A.32.050)

34 XIII Malicious explosion 2 (RCW 70.74.280(2))



1 Malicious placement of an explosive 1 (RCW  
2 70.74.270(1))

3 XII Assault 1 (RCW 9A.36.011)  
4 Assault of a Child 1 (RCW 9A.36.120)  
5 Rape 1 (RCW 9A.44.040)  
6 Rape of a Child 1 (RCW 9A.44.073)  
7 Malicious placement of an imitation device 1  
8 (RCW 70.74.272(1)(a))

9 XI Rape 2 (RCW 9A.44.050)  
10 Rape of a Child 2 (RCW 9A.44.076)  
11 Manslaughter 1 (RCW 9A.32.060)

12 X Kidnapping 1 (RCW 9A.40.020)  
13 Child Molestation 1 (RCW 9A.44.083)  
14 Malicious explosion 3 (RCW 70.74.280(3))  
15 Over 18 and deliver heroin or narcotic from  
16 Schedule I or II to someone under 18  
17 (RCW 69.50.406)  
18 Leading Organized Crime (RCW 9A.82.060(1)(a))  
19 Indecent Liberties (with forcible compulsion)  
20 (RCW 9A.44.100(1)(a))

21 IX Assault of a Child 2 (RCW 9A.36.130)  
22 Robbery 1 (RCW 9A.56.200)  
23 Explosive devices prohibited (RCW 70.74.180)  
24 Malicious placement of an explosive 2 (RCW  
25 70.74.270(2))  
26 Over 18 and deliver narcotic from Schedule  
27 III, IV, or V or a nonnarcotic from  
28 Schedule I-V to someone under 18 and 3  
29 years junior (RCW 69.50.406)  
30 Controlled Substance Homicide (RCW 69.50.415)  
31 Sexual Exploitation (RCW 9.68A.040)  
32 Inciting Criminal Profiteering (RCW  
33 9A.82.060(1)(b))  
34 Vehicular Homicide, by being under the  
35 influence of intoxicating liquor or any  
36 drug (RCW 46.61.520)

1 VIII Arson 1 (RCW 9A.48.020)  
2 Promoting Prostitution 1 (RCW 9A.88.070)  
3 Selling for profit (controlled or  
4 counterfeit) any controlled substance  
5 (RCW 69.50.410)  
6 Manufacture, deliver, or possess with intent  
7 to deliver heroin or cocaine (RCW  
8 69.50.401(a)(1)(i))  
9 Manufacture, deliver, or possess with intent  
10 to deliver methamphetamine (RCW  
11 69.50.401(a)(1)(ii))  
12 Possession of ephedrine or pseudoephedrine  
13 with intent to manufacture  
14 methamphetamine (RCW 69.50.440)  
15 Vehicular Homicide, by the operation of any  
16 vehicle in a reckless manner (RCW  
17 46.61.520)  
18 Manslaughter 2 (RCW 9A.32.070)

19 VII Burglary 1 (RCW 9A.52.020)  
20 Vehicular Homicide, by disregard for the  
21 safety of others (RCW 46.61.520)  
22 Introducing Contraband 1 (RCW 9A.76.140)  
23 Indecent Liberties (without forcible  
24 compulsion) (RCW 9A.44.100(1) (b) and  
25 (c))  
26 Child Molestation 2 (RCW 9A.44.086)  
27 Dealing in depictions of minor engaged in  
28 sexually explicit conduct (RCW  
29 9.68A.050)  
30 Sending, bringing into state depictions of  
31 minor engaged in sexually explicit  
32 conduct (RCW 9.68A.060)  
33 Involving a minor in drug dealing (RCW  
34 69.50.401(f))  
35 Drive-by Shooting (RCW 9A.36.045)  
36 Unlawful Possession of a Firearm in the first  
37 degree (RCW 9.41.040(1)(a))

1 Malicious placement of an explosive 3 (RCW  
2 70.74.270(3))

3 VI Bribery (RCW 9A.68.010)  
4 Rape of a Child 3 (RCW 9A.44.079)  
5 Intimidating a Juror/Witness (RCW 9A.72.110,  
6 9A.72.130)  
7 Malicious placement of an imitation device 2  
8 (RCW 70.74.272(1)(b))  
9 Incest 1 (RCW 9A.64.020(1))  
10 Manufacture, deliver, or possess with intent  
11 to deliver narcotics from Schedule I or  
12 II (except heroin or cocaine) (RCW  
13 69.50.401(a)(1)(i))  
14 Intimidating a Judge (RCW 9A.72.160)  
15 Bail Jumping with Murder 1 (RCW  
16 9A.76.170(2)(a))  
17 Theft of a Firearm (RCW 9A.56.300)

18 V Persistent prison misbehavior (RCW 9.94.070)  
19 Criminal Mistreatment 1 (RCW 9A.42.020)  
20 Abandonment of dependent person 1 (RCW  
21 9A.42.060)  
22 Rape 3 (RCW 9A.44.060)  
23 Sexual Misconduct with a Minor 1 (RCW  
24 9A.44.093)  
25 Child Molestation 3 (RCW 9A.44.089)  
26 Kidnapping 2 (RCW 9A.40.030)  
27 Extortion 1 (RCW 9A.56.120)  
28 Incest 2 (RCW 9A.64.020(2))  
29 Perjury 1 (RCW 9A.72.020)  
30 Extortionate Extension of Credit (RCW  
31 9A.82.020)  
32 Advancing money or property for extortionate  
33 extension of credit (RCW 9A.82.030)  
34 Extortionate Means to Collect Extensions of  
35 Credit (RCW 9A.82.040)  
36 Rendering Criminal Assistance 1 (RCW  
37 9A.76.070)

1 Bail Jumping with class A Felony (RCW  
2 9A.76.170(2)(b))  
3 Sexually Violating Human Remains (RCW  
4 9A.44.105)  
5 Delivery of imitation controlled substance by  
6 person eighteen or over to person under  
7 eighteen (RCW 69.52.030(2))  
8 Possession of a Stolen Firearm (RCW  
9 9A.56.310)

10 IV Residential Burglary (RCW 9A.52.025)  
11 Theft of Livestock 1 (RCW 9A.56.080)  
12 Robbery 2 (RCW 9A.56.210)  
13 Assault 2 (RCW 9A.36.021)  
14 Escape 1 (RCW 9A.76.110)  
15 Arson 2 (RCW 9A.48.030)  
16 Commercial Bribery (RCW 9A.68.060)  
17 Bribing a Witness/Bribe Received by Witness  
18 (RCW 9A.72.090, 9A.72.100)  
19 Malicious Harassment (RCW 9A.36.080)  
20 Threats to Bomb (RCW 9.61.160)  
21 Willful Failure to Return from Furlough (RCW  
22 72.66.060)  
23 Hit and Run--Injury Accident (RCW  
24 46.52.020(4))  
25 Hit and Run with Vessel--Injury Accident (RCW  
26 88.12.155(3))  
27 Vehicular Assault (RCW 46.61.522)  
28 Manufacture, deliver, or possess with intent  
29 to deliver narcotics from Schedule III,  
30 IV, or V or nonnarcotics from Schedule  
31 I-V (except marijuana or  
32 methamphetamines) (RCW 69.50.401 (a)(1)  
33 (iii) through (v))  
34 Influencing Outcome of Sporting Event (RCW  
35 9A.82.070)

1 Use of Proceeds of Criminal Profiteering (RCW  
2 9A.82.080 (1) and (2))  
3 Knowingly Trafficking in Stolen Property (RCW  
4 9A.82.050(2))

5 III Criminal Gang Intimidation (RCW 9A.46.120)  
6 Criminal Mistreatment 2 (RCW 9A.42.030)  
7 Abandonment of dependent person 2 (RCW  
8 9A.42.070)  
9 Extortion 2 (RCW 9A.56.130)  
10 Unlawful Imprisonment (RCW 9A.40.040)  
11 Assault 3 (RCW 9A.36.031)  
12 Assault of a Child 3 (RCW 9A.36.140)  
13 Custodial Assault (RCW 9A.36.100)  
14 Unlawful possession of firearm in the second  
15 degree (RCW 9.41.040(1)(b))  
16 Harassment (RCW 9A.46.020)  
17 Promoting Prostitution 2 (RCW 9A.88.080)  
18 Willful Failure to Return from Work Release  
19 (RCW 72.65.070)  
20 Burglary 2 (RCW 9A.52.030)  
21 Introducing Contraband 2 (RCW 9A.76.150)  
22 Communication with a Minor for Immoral  
23 Purposes (RCW 9.68A.090)  
24 Patronizing a Juvenile Prostitute (RCW  
25 9.68A.100)  
26 Escape 2 (RCW 9A.76.120)  
27 Perjury 2 (RCW 9A.72.030)  
28 Bail Jumping with class B or C Felony (RCW  
29 9A.76.170(2)(c))  
30 Intimidating a Public Servant (RCW 9A.76.180)  
31 Tampering with a Witness (RCW 9A.72.120)  
32 Manufacture, deliver, or possess with intent  
33 to deliver marijuana (RCW  
34 69.50.401(a)(1)(iii))  
35 Delivery of a material in lieu of a  
36 controlled substance (RCW 69.50.401(c))  
37 Manufacture, distribute, or possess with  
38 intent to distribute an imitation  
39 controlled substance (RCW 69.52.030(1))

1 Recklessly Trafficking in Stolen Property  
2 (RCW 9A.82.050(1))  
3 Theft of livestock 2 (RCW 9A.56.080)  
4 Securities Act violation (RCW 21.20.400)

5 II Unlawful Practice of Law (RCW 2.48.180)  
6 Malicious Mischief 1 (RCW 9A.48.070)  
7 Possession of Stolen Property 1 (RCW  
8 9A.56.150)  
9 Theft 1 (RCW 9A.56.030)  
10 Class B Felony Theft of Rental, Leased, or  
11 Lease-purchased Property (RCW  
12 9A.56.096(4))  
13 Trafficking in Insurance Claims (RCW  
14 48.30A.015)  
15 Unlicensed Practice of a Profession or  
16 Business (RCW 18.130.190(7))  
17 Health Care False Claims (RCW 48.80.030)  
18 Possession of controlled substance that is  
19 either heroin or narcotics from Schedule  
20 I or II (RCW 69.50.401(d))  
21 Possession of phencyclidine (PCP) (RCW  
22 69.50.401(d))  
23 Create, deliver, or possess a counterfeit  
24 controlled substance (RCW 69.50.401(b))  
25 Computer Trespass 1 (RCW 9A.52.110)  
26 Escape from Community Custody (RCW 72.09.310)

27 I Theft 2 (RCW 9A.56.040)  
28 Class C Felony Theft of Rental, Leased, or  
29 Lease-purchased Property (RCW  
30 9A.56.096(4))  
31 Possession of Stolen Property 2 (RCW  
32 9A.56.160)  
33 Forgery (RCW 9A.60.020)  
34 Taking Motor Vehicle Without Permission (RCW  
35 9A.56.070)  
36 Vehicle Prowl 1 (RCW 9A.52.095)  
37 Attempting to Elude a Pursuing Police Vehicle  
38 (RCW 46.61.024)

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

16 **Sec. 4.** RCW 9.94A.030 and 1997 c 365 s 1, 1997 c 340 s 4, 1997 c  
17 339 s 1, 1997 c 338 s 2, 1997 c 144 s 1, and 1997 c 70 s 1 are each  
18 reenacted and amended to read as follows:

19 Unless the context clearly requires otherwise, the definitions in  
20 this section apply throughout this chapter.

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

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

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

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

1 (5) "Community placement" means that period during which the  
2 offender is subject to the conditions of community custody and/or  
3 postrelease supervision, which begins either upon completion of the  
4 term of confinement (postrelease supervision) or at such time as the  
5 offender is transferred to community custody in lieu of earned early  
6 release. Community placement may consist of entirely community  
7 custody, entirely postrelease supervision, or a combination of the two.

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

11 (7) "Community supervision" means a period of time during which a  
12 convicted offender is subject to crime-related prohibitions and other  
13 sentence conditions imposed by a court pursuant to this chapter or RCW  
14 16.52.200(6) or 46.61.524. For first-time offenders, the supervision  
15 may include crime-related prohibitions and other conditions imposed  
16 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact  
17 for out-of-state supervision of parolees and probationers, RCW  
18 9.95.270, community supervision is the functional equivalent of  
19 probation and should be considered the same as probation by other  
20 states.

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

23 (9) "Conviction" means an adjudication of guilt pursuant to Titles  
24 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
25 acceptance of a plea of guilty.

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



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

8 (12) "Criminal history" means the list of a defendant's prior  
9 convictions and juvenile adjudications, whether in this state, in  
10 federal court, or elsewhere. The history shall include, where known,  
11 for each conviction (a) whether the defendant has been placed on  
12 probation and the length and terms thereof; and (b) whether the  
13 defendant has been incarcerated and the length of incarceration.

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

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

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

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

32 (17) "Disposable earnings" means that part of the earnings of an  
33 individual remaining after the deduction from those earnings of any  
34 amount required by law to be withheld. For the purposes of this  
35 definition, "earnings" means compensation paid or payable for personal  
36 services, whether denominated as wages, salary, commission, bonuses, or  
37 otherwise, and, notwithstanding any other provision of law making the  
38 payments exempt from garnishment, attachment, or other process to  
39 satisfy a court-ordered legal financial obligation, specifically

1 includes periodic payments pursuant to pension or retirement programs,  
2 or insurance policies of any type, but does not include payments made  
3 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
4 or Title 74 RCW.

5 (18) "Drug offense" means:

6 (a) Any felony violation of chapter 69.50 RCW except possession of  
7 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
8 controlled substance (RCW 69.50.403);

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

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

15 (19) "Escape" means:

16 (a) Escape in the first degree (RCW 9A.76.110), escape in the  
17 second degree (RCW 9A.76.120), willful failure to return from furlough  
18 (RCW 72.66.060), willful failure to return from work release (RCW  
19 72.65.070), or willful failure to be available for supervision by the  
20 department while in community custody (RCW 72.09.310); or

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

24 (20) "Felony traffic offense" means:

25 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
26 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
27 and-run injury-accident (RCW 46.52.020(4)); or

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

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

33 (22) "First-time offender" means any person who is convicted of a  
34 felony (a) not classified as a violent offense or a sex offense under  
35 this chapter, or (b) that is not the manufacture, delivery, or  
36 possession with intent to manufacture or deliver a controlled substance  
37 classified in schedule I or II that is a narcotic drug, nor the  
38 manufacture, delivery, or possession with intent to deliver  
39 methamphetamine, its salts, isomers, and salts of its isomers as

1 defined in RCW 69.50.206(d)(2), nor the selling for profit of any  
2 controlled substance or counterfeit substance classified in schedule I,  
3 RCW 69.50.204, except leaves and flowering tops of marihuana, who  
4 previously has never been convicted of a felony in this state, federal  
5 court, or another state, and who has never participated in a program of  
6 deferred prosecution for a felony offense.

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

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

13 (b) Assault in the second degree;

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

15 (d) Child molestation in the second degree;

16 (e) Controlled substance homicide;

17 (f) Extortion in the first degree;

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

19 (h) Indecent liberties;

20 (i) Kidnapping in the second degree;

21 (j) Leading organized crime;

22 (k) Manslaughter in the first degree;

23 (l) Manslaughter in the second degree;

24 (m) Promoting prostitution in the first degree;

25 (n) Rape in the third degree;

26 (o) Robbery in the second degree;

27 (p) Sexual exploitation;

28 (q) Vehicular assault;

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

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

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

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

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

3 (v)(i) A prior conviction for indecent liberties under RCW  
4 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
5 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
6 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
7 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

8 (ii) A prior conviction for indecent liberties under RCW  
9 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
10 if: (A) The crime was committed against a child under the age of  
11 fourteen; or (B) the relationship between the victim and perpetrator is  
12 included in the definition of indecent liberties under RCW  
13 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
14 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
15 through July 27, 1997.

16 (24) "Nonviolent offense" means an offense which is not a violent  
17 offense.

18 (25) "Offender" means a person who has committed a felony  
19 established by state law and is eighteen years of age or older or is  
20 less than eighteen years of age but whose case is under superior court  
21 jurisdiction under RCW 13.04.030 or has been transferred by the  
22 appropriate juvenile court to a criminal court pursuant to RCW  
23 13.40.110. Throughout this chapter, the terms "offender" and  
24 "defendant" are used interchangeably.

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

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

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

36 (ii) Has, before the commission of the offense under (a) of this  
37 subsection, been convicted as an offender on at least two separate  
38 occasions, whether in this state or elsewhere, of felonies that under  
39 the laws of this state would be considered most serious offenses and

1 would be included in the offender score under RCW 9.94A.360; provided  
2 that of the two or more previous convictions, at least one conviction  
3 must have occurred before the commission of any of the other most  
4 serious offenses for which the offender was previously convicted; or

5 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
6 of a child in the first degree, child molestation in the first degree,  
7 rape in the second degree, rape of a child in the second degree, or  
8 indecent liberties by forcible compulsion; (B) murder in the first  
9 degree, murder in the second degree, homicide by abuse, kidnapping in  
10 the first degree, kidnapping in the second degree, assault in the first  
11 degree, assault in the second degree, assault of a child in the first  
12 degree, or burglary in the first degree, with a finding of sexual  
13 motivation; or (C) an attempt to commit any crime listed in this  
14 subsection (27)(b)(i); and

15 (ii) Has, before the commission of the offense under (b)(i) of  
16 this subsection, been convicted as an offender on at least one  
17 occasion, whether in this state or elsewhere, of an offense listed in  
18 (b)(i) of this subsection. A conviction for rape of a child in the  
19 first degree constitutes a conviction under subsection (27)(b)(i) only  
20 when the offender was sixteen years of age or older when the offender  
21 committed the offense. A conviction for rape of a child in the second  
22 degree constitutes a conviction under subsection (27)(b)(i) only when  
23 the offender was eighteen years of age or older when the offender  
24 committed the offense.

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

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

31 (30) "Serious traffic offense" means:

32 (a) Driving while under the influence of intoxicating liquor or  
33 any drug (RCW 46.61.502), actual physical control while under the  
34 influence of intoxicating liquor or any drug (RCW 46.61.504), reckless  
35 driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW  
36 46.52.020(5)); or

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

1 (31) "Serious violent offense" is a subcategory of violent offense  
2 and means:

3 (a) Murder in the first degree, homicide by abuse, murder in the  
4 second degree, manslaughter in the first degree, assault in the first  
5 degree, kidnapping in the first degree, or rape in the first degree,  
6 assault of a child in the first degree, or an attempt, criminal  
7 solicitation, or criminal conspiracy to commit one of these felonies;  
8 or

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

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

14 (33) "Sex offense" means:

15 (a) A felony that is a violation of chapter 9A.44 RCW, other than  
16 RCW 9A.44.130(8), or RCW 9A.64.020 or 9.68A.090 or a felony that is,  
17 under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or  
18 criminal conspiracy to commit such crimes;

19 (b) A felony with a finding of sexual motivation under RCW  
20 9.94A.127 or 13.40.135; or

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

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

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

31 (36) "Transition training" means written and verbal instructions  
32 and assistance provided by the department to the offender during the  
33 two weeks prior to the offender's successful completion of the work  
34 ethic camp program. The transition training shall include instructions  
35 in the offender's requirements and obligations during the offender's  
36 period of community custody.

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

1 (38) "Violent offense" means:

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

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

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

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

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

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

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

9 **Sec. 5.** RCW 9A.44.130 and 1997 c 340 s 3 and 1997 c 113 s 3 are  
10 each reenacted and amended to read as follows:

11 (1) Any adult or juvenile residing in this state who has been  
12 found to have committed or has been convicted of any sex offense or  
13 kidnapping offense, or who has been found not guilty by reason of  
14 insanity under chapter 10.77 RCW of committing any sex offense or  
15 kidnapping offense, shall register with the county sheriff for the  
16 county of the person's residence.

17 (2) The person shall provide the county sheriff with the following  
18 information when registering: (a) Name; (b) address; (c) date and  
19 place of birth; (d) place of employment; (e) crime for which convicted;  
20 (f) date and place of conviction; (g) aliases used; and (h) social  
21 security number.

22 (3)(a) Offenders shall register within the following deadlines.  
23 For purposes of this section the term "conviction" refers to adult  
24 convictions and juvenile adjudications for sex offenses or kidnapping  
25 offenses:

26 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
27 offense on, before, or after February 28, 1990, and who, on or after  
28 July 28, 1991, are in custody, as a result of that offense, of the  
29 state department of corrections, the state department of social and  
30 health services, a local division of youth services, or a local jail or  
31 juvenile detention facility, and (B) kidnapping offenders who on or  
32 after July 27, 1997, are in custody of the state department of  
33 corrections, the state department of social and health services, a  
34 local division of youth services, or a local jail or juvenile detention  
35 facility, must register within twenty-four hours from the time of  
36 release with the county sheriff for the county of the person's  
37 residence. The agency that has jurisdiction over the offender shall  
38 provide notice to the offender of the duty to register. Failure to



1 register within twenty-four hours of release constitutes a violation of  
2 this section and is punishable as provided in subsection (7) of this  
3 section.

4 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
5 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody  
6 but are under the jurisdiction of the indeterminate sentence review  
7 board or under the department of correction's active supervision, as  
8 defined by the department of corrections, the state department of  
9 social and health services, or a local division of youth services, for  
10 sex offenses committed before, on, or after February 28, 1990, must  
11 register within ten days of July 28, 1991. Kidnapping offenders who,  
12 on July 27, 1997, are not in custody but are under the jurisdiction of  
13 the indeterminate sentence review board or under the department of  
14 correction's active supervision, as defined by the department of  
15 corrections, the state department of social and health services, or a  
16 local division of youth services, for kidnapping offenses committed  
17 before, on, or after July 27, 1997, must register within ten days of  
18 July 27, 1997. A change in supervision status of a sex offender who  
19 was required to register under this subsection (3)(a)(ii) as of July  
20 28, 1991, or a kidnapping offender required to register as of July 27,  
21 1997, shall not relieve the offender of the duty to register or to  
22 reregister following a change in residence. The obligation to register  
23 shall only cease pursuant to RCW 9A.44.140.

24 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on  
25 or after July 23, 1995, and kidnapping offenders who, on or after July  
26 27, 1997, as a result of that offense are in the custody of the United  
27 States bureau of prisons or other federal or military correctional  
28 agency for sex offenses committed before, on, or after February 28,  
29 1990, or kidnapping offenses committed on, before, or after July 27,  
30 1997, must register within twenty-four hours from the time of release  
31 with the county sheriff for the county of the person's residence. Sex  
32 offenders who, on July 23, 1995, are not in custody but are under the  
33 jurisdiction of the United States bureau of prisons, United States  
34 courts, United States parole commission, or military parole board for  
35 sex offenses committed before, on, or after February 28, 1990, must  
36 register within ten days of July 23, 1995. Kidnapping offenders who,  
37 on July 27, 1997, are not in custody but are under the jurisdiction of  
38 the United States bureau of prisons, United States courts, United  
39 States parole commission, or military parole board for kidnapping

1 offenses committed before, on, or after July 27, 1997, must register  
2 within ten days of July 27, 1997. A change in supervision status of a  
3 sex offender who was required to register under this subsection  
4 (3)(a)(iii) as of July 23, 1995, or a kidnapping offender required to  
5 register as of July 27, 1997 shall not relieve the offender of the duty  
6 to register or to reregister following a change in residence. The  
7 obligation to register shall only cease pursuant to RCW 9A.44.140.

8 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
9 who are convicted of a sex offense on or after July 28, 1991, for a sex  
10 offense that was committed on or after February 28, 1990, and  
11 kidnapping offenders who are convicted on or after July 27, 1997, for  
12 a kidnapping offense that was committed on or after July 27, 1997, but  
13 who are not sentenced to serve a term of confinement immediately upon  
14 sentencing, shall report to the county sheriff to register immediately  
15 upon completion of being sentenced.

16 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON  
17 RESIDENTS. Sex offenders and kidnapping offenders who move to  
18 Washington state from another state or a foreign country that are not  
19 under the jurisdiction of the state department of corrections, the  
20 indeterminate sentence review board, or the state department of social  
21 and health services at the time of moving to Washington, must register  
22 within thirty days of establishing residence or reestablishing  
23 residence if the person is a former Washington resident. The duty to  
24 register under this subsection applies to sex offenders convicted under  
25 the laws of another state or a foreign country, federal or military  
26 statutes, or Washington state for offenses committed on or after  
27 February 28, 1990, and to kidnapping offenders convicted under the laws  
28 of another state or a foreign country, federal or military statutes, or  
29 Washington state for offenses committed on or after July 27, 1997. Sex  
30 offenders and kidnapping offenders from other states or a foreign  
31 country who, when they move to Washington, are under the jurisdiction  
32 of the department of corrections, the indeterminate sentence review  
33 board, or the department of social and health services must register  
34 within twenty-four hours of moving to Washington. The agency that has  
35 jurisdiction over the offender shall notify the offender of the  
36 registration requirements before the offender moves to Washington.

37 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
38 or juvenile who has been found not guilty by reason of insanity under  
39 chapter 10.77 RCW of (A) committing a sex offense on, before, or after

1 February 28, 1990, and who, on or after July 23, 1995, is in custody,  
2 as a result of that finding, of the state department of social and  
3 health services, or (B) committing a kidnapping offense on, before, or  
4 after July 27, 1997, and who on or after July 27, 1997, is in custody,  
5 as a result of that finding, of the state department of social and  
6 health services, must register within twenty-four hours from the time  
7 of release with the county sheriff for the county of the person's  
8 residence. The state department of social and health services shall  
9 provide notice to the adult or juvenile in its custody of the duty to  
10 register. Any adult or juvenile who has been found not guilty by  
11 reason of insanity of committing a sex offense on, before, or after  
12 February 28, 1990, but who was released before July 23, 1995, or any  
13 adult or juvenile who has been found not guilty by reason of insanity  
14 of committing a kidnapping offense but who was released before July 27,  
15 1997, shall be required to register within twenty-four hours of  
16 receiving notice of this registration requirement. The state  
17 department of social and health services shall make reasonable attempts  
18 within available resources to notify sex offenders who were released  
19 before July 23, 1995, and kidnapping offenders who were released before  
20 July 27, 1997. Failure to register within twenty-four hours of  
21 release, or of receiving notice, constitutes a violation of this  
22 section and is punishable as provided in subsection (7) of this  
23 section.

24 (b) Failure to register within the time required under this  
25 section constitutes a per se violation of this section and is  
26 punishable as provided in subsection (7) of this section. The county  
27 sheriff shall not be required to determine whether the person is living  
28 within the county.

29 (c) An arrest on charges of failure to register, service of an  
30 information, or a complaint for a violation of this section, or  
31 arraignment on charges for a violation of this section, constitutes  
32 actual notice of the duty to register. Any person charged with the  
33 crime of failure to register under this section who asserts as a  
34 defense the lack of notice of the duty to register shall register  
35 immediately following actual notice of the duty through arrest,  
36 service, or arraignment. Failure to register as required under this  
37 subsection (c) constitutes grounds for filing another charge of failing  
38 to register. Registering following arrest, service, or arraignment on

1 charges shall not relieve the offender from criminal liability for  
2 failure to register prior to the filing of the original charge.

3 (d) The deadlines for the duty to register under this section do  
4 not relieve any sex offender of the duty to register under this section  
5 as it existed prior to July 28, 1991.

6 (4)(a) If any person required to register pursuant to this section  
7 changes his or her residence address within the same county, the person  
8 must send written notice of the change of address to the county sheriff  
9 at least fourteen days before moving. If any person required to  
10 register pursuant to this section moves to a new county, the person  
11 must send written notice of the change of address at least fourteen  
12 days before moving to the county sheriff in the new county of residence  
13 and must register with that county sheriff within twenty-four hours of  
14 moving. The person must also send written notice within ten days of  
15 the change of address in the new county to the county sheriff with whom  
16 the person last registered. If any person required to register  
17 pursuant to this section moves out of Washington state, the person must  
18 also send written notice within ten days of moving to the new state or  
19 a foreign country to the county sheriff with whom the person last  
20 registered in Washington state.

21 (b) It is an affirmative defense to a charge that the person  
22 failed to send a notice at least fourteen days in advance of moving as  
23 required under (a) of this subsection that the person did not know the  
24 location of his or her new residence at least fourteen days before  
25 moving. The defendant must establish the defense by a preponderance of  
26 the evidence and, to prevail on the defense, must also prove by a  
27 preponderance that the defendant sent the required notice within  
28 twenty-four hours of determining the new address.

29 (5) The county sheriff shall obtain a photograph of the individual  
30 and shall obtain a copy of the individual's fingerprints.

31 (6) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,  
32 70.48.470, and 72.09.330:

33 (a) "Sex offense" means any offense defined as a sex offense by  
34 RCW 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation  
35 of a minor), 9.68A.050 (dealing in depictions of minor engaged in  
36 sexually explicit conduct), 9.68A.060 (sending, bringing into state  
37 depictions of minor engaged in sexually explicit conduct), 9.68A.090  
38 (communication with minor for immoral purposes), 9.68A.100 (patronizing  
39 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in

1 the second degree), as well as any gross misdemeanor that is, under  
2 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or  
3 criminal conspiracy to commit an offense that is classified as a sex  
4 offense under RCW 9.94A.030.

5 (b) "Kidnapping offense" means the crimes of kidnapping in the  
6 first degree, kidnapping in the second degree, and unlawful  
7 imprisonment as defined in chapter 9A.40 RCW, where the victim is a  
8 minor and the offender is not the minor's parent.

9 (7) A person who knowingly fails to register or who moves without  
10 notifying the county sheriff as required by this section is guilty of  
11 a class C felony if the crime for which the individual was convicted  
12 was a felony sex offense as defined in subsection (6)(a) of this  
13 section or a federal or out-of-state conviction for an offense that  
14 under the laws of this state would be a felony sex offense as defined  
15 in subsection (6)(a) of this section. If the crime was other than a  
16 felony or a federal or out-of-state conviction for an offense that  
17 under the laws of this state would be other than a felony, violation of  
18 this section is a gross misdemeanor.

19 (8) A person who knowingly fails to register or who moves without  
20 notifying the county sheriff as required by this section is guilty of  
21 a class C felony if the crime for which the individual was convicted  
22 was a felony kidnapping offense as defined in subsection (6)(b) of this  
23 section or a federal or out-of-state conviction for an offense that  
24 under the laws of this state would be a felony kidnapping offense as  
25 defined in subsection (6)(b) of this section. If the crime was other  
26 than a felony or a federal or out-of-state conviction for an offense  
27 that under the laws of this state would be other than a felony,  
28 violation of this section is a gross misdemeanor.

29 **Sec. 6.** RCW 9.94A.360 and 1997 c 338 s 5 are each amended to read  
30 as follows:

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

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

35 (1) A prior conviction is a conviction which exists before the  
36 date of sentencing for the offense for which the offender score is  
37 being computed. Convictions entered or sentenced on the same date as

1 the conviction for which the offender score is being computed shall be  
2 deemed "other current offenses" within the meaning of RCW 9.94A.400.

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

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

32 (4) Score prior convictions for felony anticipatory offenses  
33 (attempts, criminal solicitations, and criminal conspiracies) the same  
34 as if they were convictions for completed offenses.

35 (5)(a) In the case of multiple prior convictions, for the purpose  
36 of computing the offender score, count all convictions separately,  
37 except:

38 (i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to  
39 encompass the same criminal conduct, shall be counted as one offense,

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

13 (ii) 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 (5), "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 (6) 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 (7) If the present conviction is for a nonviolent offense and not  
29 covered by subsection (11) or (12) 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 « point for each juvenile prior  
32 nonviolent felony conviction.

33 (8) If the present conviction is for a violent offense and not  
34 covered in subsection (9), (10), (11), or (12) 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 «  
37 point for each prior juvenile nonviolent felony conviction.

38 (9) If the present conviction is for (~~Murder 1 or 2, Assault 1,~~  
39 ~~Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1~~)) a

1 serious violent offense, count three points for prior adult and  
2 juvenile convictions for crimes in (~~these categories~~) this category,  
3 two points for each prior adult and juvenile violent conviction (not  
4 already counted), one point for each prior adult nonviolent felony  
5 conviction, and « point for each prior juvenile nonviolent felony  
6 conviction.

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

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

17 (12) If the present conviction is for a drug offense count three  
18 points for each adult prior felony drug offense conviction and two  
19 points for each juvenile drug offense. All other adult and juvenile  
20 felonies are scored as in subsection (8) of this section if the current  
21 drug offense is violent, or as in subsection (7) of this section if the  
22 current drug offense is nonviolent.

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

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

32 (15) If the present conviction is for Burglary 2 or residential  
33 burglary, count priors as in subsection (7) of this section; however,  
34 count two points for each adult and juvenile prior Burglary 1  
35 conviction, two points for each adult prior Burglary 2 or residential  
36 burglary conviction, and one point for each juvenile prior Burglary 2  
37 or residential burglary conviction.



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

4           (17) If the present conviction is for an offense committed while  
5 the offender was under community placement, add one point.

--- END ---