

2 **HB 1544** - S COMM AMD **S2451.1**
3 By Committee on Judiciary

4 ADOPTED AS AMENDED (FLR 378) 4/14/99

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

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

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

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

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

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

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

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

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

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

32 (d)(i) Serve as a clearinghouse and information center for the
33 collection, preparation, analysis, and dissemination of information on
34 state and local adult and juvenile sentencing practices; (ii) develop
35 and maintain a computerized adult and juvenile sentencing information
36 system by individual superior court judge consisting of offender,

1 offense, history, and sentence information entered from judgment and
2 sentence forms for all adult felons; and (iii) conduct ongoing research
3 regarding adult and juvenile sentencing guidelines, use of total
4 confinement and alternatives to total confinement, plea bargaining, and
5 other matters relating to the improvement of the adult criminal justice
6 system and the juvenile justice system;

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

9 (f) Evaluate the effectiveness of existing disposition standards
10 and related statutes in implementing policies set forth in RCW
11 13.40.010 generally, specifically review the guidelines relating to the
12 confinement of minor and first offenders as well as the use of
13 diversion, and review the application of current and proposed juvenile
14 sentencing standards and guidelines for potential adverse impacts on
15 the sentencing outcomes of racial and ethnic minority youth;

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

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

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

33 (ii) The capacity of state and local juvenile and adult facilities
34 and resources; and

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

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

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

3 (a) If the maximum term in the range is one year or less, the
4 minimum term in the range shall be no less than one-third of the
5 maximum term in the range, except that if the maximum term in the range
6 is ninety days or less, the minimum term may be less than one-third of
7 the maximum;

8 (b) If the maximum term in the range is greater than one year, the
9 minimum term in the range shall be no less than seventy-five percent of
10 the maximum term in the range, except that for murder in the second
11 degree in seriousness ((category XIII)) level XIV under RCW 9.94A.310,
12 the minimum term in the range shall be no less than fifty percent of
13 the maximum term in the range; and

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

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

18 **Sec. 2.** RCW 9.94A.310 and 1998 c 235 s 1 and 1998 c 211 s 3 are
19 each reenacted and amended to read as follows:

20 (1) TABLE 1

21 Sentencing Grid

22 SERIOUSNESS

23 ((SCORE))

24 LEVEL

OFFENDER SCORE

25 9 or
26 0 1 2 3 4 5 6 7 8 more

27
28 ((XV))

29 XVI Life Sentence without Parole/Death Penalty

30
31 ((XIV))

32 XV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m36y 40y
33 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-
34 320 333 347 361 374 388 416 450 493 548

35
36 ((XIII))

37 XIV 14y4m 15y4m 16y2m 17y 17y11m18y9m 20y5m 22y2m 25y7m 29y

1		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
2		220	234	244	254	265	275	295	316	357	397
3											
4	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>
5		<u>123-</u>	<u>134-</u>	<u>144-</u>	<u>154-</u>	<u>165-</u>	<u>175-</u>	<u>195-</u>	<u>216-</u>	<u>257-</u>	<u>298-</u>
6		<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>
7											
8	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
9		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
10		123	136	147	160	171	184	216	236	277	318
11											
12	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
13		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
14		102	114	125	136	147	158	194	211	245	280
15											
16	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
17		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
18		68	75	82	89	96	102	130	144	171	198
19											
20	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
21		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
22		41	48	54	61	68	75	102	116	144	171
23											
24	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
25		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
26		27	34	41	48	54	61	89	102	116	144
27											
28	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
29		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
30		20	27	34	41	48	54	75	89	102	116
31											
32	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
33		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
34		14	20	27	34	41	48	61	75	89	102
35											
36	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
37		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
38		12	14	17	20	29	43	54	68	82	96
39											

1	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
2		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
3		9	12	14	17	20	29	43	57	70	84
4	<hr/>										
5	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
6		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
7		3	8	12	12	16	22	29	43	57	68
8	<hr/>										
9	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
10		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
11		Days	6	9	12	14	18	22	29	43	57
12	<hr/>										
13	I			3m	4m	5m	8m	13m	16m	20m	2y2m
14		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
15		Days	Days	5	6	8	12	14	18	22	29
16	<hr/>										

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

21 (2) For persons convicted of the anticipatory offenses of criminal
22 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
23 presumptive sentence is determined by locating the sentencing grid
24 sentence range defined by the appropriate offender score and the
25 seriousness level of the completed crime, and multiplying the range by
26 75 percent.

27 (3) The following additional times shall be added to the
28 presumptive sentence for felony crimes committed after July 23, 1995,
29 if the offender or an accomplice was armed with a firearm as defined in
30 RCW 9.41.010 and the offender is being sentenced for one of the crimes
31 listed in this subsection as eligible for any firearm enhancements
32 based on the classification of the completed felony crime. If the
33 offender is being sentenced for more than one offense, the firearm
34 enhancement or enhancements must be added to the total period of
35 confinement for all offenses, regardless of which underlying offense is
36 subject to a firearm enhancement. If the offender or an accomplice was
37 armed with a firearm as defined in RCW 9.41.010 and the offender is
38 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
39 commit one of the crimes listed in this subsection as eligible for any

1 firearm enhancements, the following additional times shall be added to
2 the presumptive sentence determined under subsection (2) of this
3 section based on the felony crime of conviction as classified under RCW
4 9A.28.020:

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

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

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

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

21 (e) Notwithstanding any other provision of law, any and all
22 firearm enhancements under this section are mandatory, shall be served
23 in total confinement, and shall run consecutively to all other
24 sentencing provisions, including other firearm or deadly weapon
25 enhancements, for all offenses sentenced under this chapter.

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

31 (g) If the presumptive sentence under this section exceeds the
32 statutory maximum for the offense, the statutory maximum sentence shall
33 be the presumptive sentence unless the offender is a persistent
34 offender as defined in RCW 9.94A.030. If the addition of a firearm
35 enhancement increases the sentence so that it would exceed the
36 statutory maximum for the offense, the portion of the sentence
37 representing the enhancement may not be reduced.

38 (4) The following additional times shall be added to the
39 presumptive sentence for felony crimes committed after July 23, 1995,

1 if the offender or an accomplice was armed with a deadly weapon as
2 defined in this chapter other than a firearm as defined in RCW 9.41.010
3 and the offender is being sentenced for one of the crimes listed in
4 this subsection as eligible for any deadly weapon enhancements based on
5 the classification of the completed felony crime. If the offender is
6 being sentenced for more than one offense, the deadly weapon
7 enhancement or enhancements must be added to the total period of
8 confinement for all offenses, regardless of which underlying offense is
9 subject to a deadly weapon enhancement. If the offender or an
10 accomplice was armed with a deadly weapon other than a firearm as
11 defined in RCW 9.41.010 and the offender is being sentenced for an
12 anticipatory offense under chapter 9A.28 RCW to commit one of the
13 crimes listed in this subsection as eligible for any deadly weapon
14 enhancements, the following additional times shall be added to the
15 presumptive sentence determined under subsection (2) of this section
16 based on the felony crime of conviction as classified under RCW
17 9A.28.020:

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

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

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

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

34 (e) Notwithstanding any other provision of law, any and all deadly
35 weapon enhancements under this section are mandatory, shall be served
36 in total confinement, and shall run consecutively to all other
37 sentencing provisions, including other firearm or deadly weapon
38 enhancements, for all offenses sentenced under this chapter.

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, drive-by shooting, theft of a firearm,
4 unlawful possession of a firearm in the first and second degree, and
5 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. If the addition of a deadly
10 weapon enhancement increases the sentence so that it would exceed the
11 statutory maximum for the offense, the portion of the sentence
12 representing the enhancement may not be reduced.

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

25 (a) Eighteen months for offenses committed under RCW
26 69.50.401(a)(1) (i) or (ii) or 69.50.410;

27 (b) Fifteen months for offenses committed under RCW
28 69.50.401(a)(1) (iii), (iv), and (v);

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

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

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

36 (7) An additional two years shall be added to the presumptive
37 sentence for vehicular homicide committed while under the influence of
38 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
39 prior offense as defined in RCW 46.61.5055.

1 **Sec. 3.** RCW 9.94A.320 and 1998 c 290 s 4, 1998 c 219 s 4, 1998 c
 2 82 s 1, and 1998 c 78 s 1 are each reenacted and amended to read as
 3 follows:

4 TABLE 2

5 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- 6 ((~~XV~~))
- 7 XVI Aggravated Murder 1 (RCW 10.95.020)
- 8 ((~~XIV~~))
- 9 XV Murder 1 (RCW 9A.32.030)
- 10 Homicide by abuse (RCW 9A.32.055)
- 11 Malicious explosion 1 (RCW 70.74.280(1))
- 12 ((~~XIII~~))
- 13 XIV Murder 2 (RCW 9A.32.050)
- 14 XIII Malicious explosion 2 (RCW 70.74.280(2))
- 15 Malicious placement of an explosive 1 (RCW
- 16 70.74.270(1))
- 17 XII Assault 1 (RCW 9A.36.011)
- 18 Assault of a Child 1 (RCW 9A.36.120)
- 19 Rape 1 (RCW 9A.44.040)
- 20 Rape of a Child 1 (RCW 9A.44.073)
- 21 Malicious placement of an imitation device 1
- 22 (RCW 70.74.272(1)(a))
- 23 XI Rape 2 (RCW 9A.44.050)
- 24 Rape of a Child 2 (RCW 9A.44.076)
- 25 Manslaughter 1 (RCW 9A.32.060)
- 26 X Kidnapping 1 (RCW 9A.40.020)
- 27 Child Molestation 1 (RCW 9A.44.083)
- 28 Malicious explosion 3 (RCW 70.74.280(3))
- 29 Over 18 and deliver heroin, methamphetamine,
- 30 a narcotic from Schedule I or II, or
- 31 flunitrazepam from Schedule IV to
- 32 someone under 18 (RCW 69.50.406)
- 33 Leading Organized Crime (RCW 9A.82.060(1)(a))

1 Indecent Liberties (with forcible compulsion)
2 (RCW 9A.44.100(1)(a))
3 Manufacture of methamphetamine (RCW
4 69.50.401(a)(1)(ii))

5 IX Assault of a Child 2 (RCW 9A.36.130)
6 Robbery 1 (RCW 9A.56.200)
7 Explosive devices prohibited (RCW 70.74.180)
8 Malicious placement of an explosive 2 (RCW
9 70.74.270(2))
10 Over 18 and deliver narcotic from Schedule
11 III, IV, or V or a nonnarcotic, except
12 flunitrazepam or methamphetamine, from
13 Schedule I-V to someone under 18 and 3
14 years junior (RCW 69.50.406)
15 Controlled Substance Homicide (RCW 69.50.415)
16 Sexual Exploitation (RCW 9.68A.040)
17 Inciting Criminal Profiteering (RCW
18 9A.82.060(1)(b))
19 Vehicular Homicide, by being under the
20 influence of intoxicating liquor or any
21 drug (RCW 46.61.520)
22 Homicide by Watercraft, by being under the
23 influence of intoxicating liquor or any
24 drug (RCW 88.12.029)

25 VIII Arson 1 (RCW 9A.48.020)
26 Promoting Prostitution 1 (RCW 9A.88.070)
27 Selling for profit (controlled or
28 counterfeit) any controlled substance
29 (RCW 69.50.410)
30 Manufacture, deliver, or possess with intent
31 to deliver heroin or cocaine (RCW
32 69.50.401(a)(1)(i))
33 Deliver or possess with intent to deliver
34 m e t h a m p h e t a m i n e (R C W
35 69.50.401(a)(1)(ii))
36 Manufacture, deliver, or possess with intent
37 to deliver amphetamine (RCW
38 69.50.401(a)(1)(ii))

1 Possession of ephedrine or pseudoephedrine
2 with intent to manufacture
3 methamphetamine (RCW 69.50.440)
4 Vehicular Homicide, by the operation of any
5 vehicle in a reckless manner (RCW
6 46.61.520)
7 Homicide by Watercraft, by the operation of
8 any vessel in a reckless manner (RCW
9 88.12.029)
10 Manslaughter 2 (RCW 9A.32.070)

11 VII Burglary 1 (RCW 9A.52.020)
12 Vehicular Homicide, by disregard for the
13 safety of others (RCW 46.61.520)
14 Homicide by Watercraft, by disregard for the
15 safety of others (RCW 88.12.029)
16 Introducing Contraband 1 (RCW 9A.76.140)
17 Indecent Liberties (without forcible
18 compulsion) (RCW 9A.44.100(1) (b) and
19 (c))
20 Child Molestation 2 (RCW 9A.44.086)
21 Dealing in depictions of minor engaged in
22 sexually explicit conduct (RCW
23 9.68A.050)
24 Sending, bringing into state depictions of
25 minor engaged in sexually explicit
26 conduct (RCW 9.68A.060)
27 Involving a minor in drug dealing (RCW
28 69.50.401(f))
29 Drive-by Shooting (RCW 9A.36.045)
30 Unlawful Possession of a Firearm in the first
31 degree (RCW 9.41.040(1)(a))
32 Malicious placement of an explosive 3 (RCW
33 70.74.270(3))
34 Use of a Machine Gun in Commission of a
35 Felony (RCW 9.41.225)

36 VI Bribery (RCW 9A.68.010)
37 Rape of a Child 3 (RCW 9A.44.079)

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

15 V Persistent prison misbehavior (RCW 9.94.070)
16 Criminal Mistreatment 1 (RCW 9A.42.020)
17 Abandonment of dependent person 1 (RCW
18 9A.42.060)
19 Rape 3 (RCW 9A.44.060)
20 Sexual Misconduct with a Minor 1 (RCW
21 9A.44.093)
22 Child Molestation 3 (RCW 9A.44.089)
23 Kidnapping 2 (RCW 9A.40.030)
24 Extortion 1 (RCW 9A.56.120)
25 Incest 2 (RCW 9A.64.020(2))
26 Perjury 1 (RCW 9A.72.020)
27 Extortionate Extension of Credit (RCW
28 9A.82.020)
29 Advancing money or property for extortionate
30 extension of credit (RCW 9A.82.030)
31 Extortionate Means to Collect Extensions of
32 Credit (RCW 9A.82.040)
33 Rendering Criminal Assistance 1 (RCW
34 9A.76.070)
35 Bail Jumping with class A Felony (RCW
36 9A.76.170(2)(b))
37 Sexually Violating Human Remains (RCW
38 9A.44.105)

1 Delivery of imitation controlled substance by
2 person eighteen or over to person under
3 eighteen (RCW 69.52.030(2))
4 Possession of a Stolen Firearm (RCW
5 9A.56.310)
6 On and after July 1, 2000: Stalking (RCW
7 9A.46.110)
8 On and after July 1, 2000: No-Contact Order
9 Violation: Domestic Violence Pretrial
10 Condition (RCW 10.99.040(4) (b) and (c))
11 On and after July 1, 2000: No-Contact Order
12 Violation: Domestic Violence Sentence
13 Condition (RCW 10.99.050(2))
14 On and after July 1, 2000: Protection Order
15 Violation: Domestic Violence Civil
16 Action (RCW 26.50.110 (4) and (5))

17 IV Residential Burglary (RCW 9A.52.025)
18 Theft of Livestock 1 (RCW 9A.56.080)
19 Robbery 2 (RCW 9A.56.210)
20 Assault 2 (RCW 9A.36.021)
21 Escape 1 (RCW 9A.76.110)
22 Arson 2 (RCW 9A.48.030)
23 Commercial Bribery (RCW 9A.68.060)
24 Bribing a Witness/Bribe Received by Witness
25 (RCW 9A.72.090, 9A.72.100)
26 Malicious Harassment (RCW 9A.36.080)
27 Threats to Bomb (RCW 9.61.160)
28 Willful Failure to Return from Furlough (RCW
29 72.66.060)
30 Hit and Run--Injury Accident (RCW
31 46.52.020(4))
32 Hit and Run with Vessel--Injury Accident (RCW
33 88.12.155(3))
34 Vehicular Assault (RCW 46.61.522)
35 Assault by Watercraft (RCW 88.12.032)

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, amphetamine,
5 methamphetamines, or flunitrazepam) (RCW
6 69.50.401(a)(1) (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 Indecent Exposure to Person Under Age
14 Fourteen (subsequent sex offense) (RCW
15 9A.88.010)
16 III Criminal Gang Intimidation (RCW 9A.46.120)
17 Criminal Mistreatment 2 (RCW 9A.42.030)
18 Abandonment of dependent person 2 (RCW
19 9A.42.070)
20 Extortion 2 (RCW 9A.56.130)
21 Unlawful Imprisonment (RCW 9A.40.040)
22 Assault 3 (RCW 9A.36.031)
23 Assault of a Child 3 (RCW 9A.36.140)
24 Custodial Assault (RCW 9A.36.100)
25 Unlawful possession of firearm in the second
26 degree (RCW 9.41.040(1)(b))
27 Harassment (RCW 9A.46.020)
28 Promoting Prostitution 2 (RCW 9A.88.080)
29 Willful Failure to Return from Work Release
30 (RCW 72.65.070)
31 Burglary 2 (RCW 9A.52.030)
32 Introducing Contraband 2 (RCW 9A.76.150)
33 Communication with a Minor for Immoral
34 Purposes (RCW 9.68A.090)
35 Patronizing a Juvenile Prostitute (RCW
36 9.68A.100)
37 Escape 2 (RCW 9A.76.120)
38 Perjury 2 (RCW 9A.72.030)

1 Bail Jumping with class B or C Felony (RCW
2 9A.76.170(2)(c))
3 Intimidating a Public Servant (RCW 9A.76.180)
4 Tampering with a Witness (RCW 9A.72.120)
5 Manufacture, deliver, or possess with intent
6 to deliver marijuana (RCW
7 69.50.401(a)(1)(iii))
8 Delivery of a material in lieu of a
9 controlled substance (RCW 69.50.401(c))
10 Manufacture, distribute, or possess with
11 intent to distribute an imitation
12 controlled substance (RCW 69.52.030(1))
13 Recklessly Trafficking in Stolen Property
14 (RCW 9A.82.050(1))
15 Theft of livestock 2 (RCW 9A.56.080)
16 Securities Act violation (RCW 21.20.400)
17 Maintaining a Dwelling or Place for
18 Controlled Substances (RCW
19 69.50.402(a)(6))
20 Malicious Injury to Railroad Property (RCW
21 81.60.070)
22 Possession of Incendiary Device (RCW
23 9.40.120)
24 Possession of Machine Gun or Short-Barreled
25 Shotgun or Rifle (RCW 9.41.190)
26 Telephone Harassment (subsequent conviction
27 or threat of death) (RCW 9.61.230)
28 Unlawful Use of Building for Drug Purposes
29 (RCW 69.53.010)
30 II Unlawful Practice of Law (RCW 2.48.180)
31 Malicious Mischief 1 (RCW 9A.48.070)
32 Possession of Stolen Property 1 (RCW
33 9A.56.150)
34 Theft 1 (RCW 9A.56.030)
35 ((~~Class B Felony~~)) Theft of Rental, Leased,
36 or Lease-purchased Property (valued at
37 one thousand five hundred dollars or
38 more) (RCW 9A.56.096(4))

1 Trafficking in Insurance Claims (RCW
2 48.30A.015)
3 Unlicensed Practice of a Profession or
4 Business (RCW 18.130.190(7))
5 Health Care False Claims (RCW 48.80.030)
6 Possession of controlled substance that is
7 either heroin or narcotics from Schedule
8 I or II or flunitrazepam from Schedule
9 IV (RCW 69.50.401(d))
10 Possession of phencyclidine (PCP) (RCW
11 69.50.401(d))
12 Create, deliver, or possess a counterfeit
13 controlled substance (RCW 69.50.401(b))
14 Computer Trespass 1 (RCW 9A.52.110)
15 Escape from Community Custody (RCW 72.09.310)
16 I Theft 2 (RCW 9A.56.040)
17 ((~~Class C Felony~~)) Theft of Rental, Leased,
18 or Lease-purchased Property (valued at
19 two hundred fifty dollars or more but
20 less than one thousand five hundred
21 dollars) (RCW 9A.56.096(4))
22 Possession of Stolen Property 2 (RCW
23 9A.56.160)
24 Forgery (RCW 9A.60.020)
25 Taking Motor Vehicle Without Permission (RCW
26 9A.56.070)
27 Vehicle Prowl 1 (RCW 9A.52.095)
28 Attempting to Elude a Pursuing Police Vehicle
29 (RCW 46.61.024)
30 Malicious Mischief 2 (RCW 9A.48.080)
31 Reckless Burning 1 (RCW 9A.48.040)
32 Unlawful Issuance of Checks or Drafts (RCW
33 9A.56.060)
34 Unlawful Use of Food Stamps (RCW 9.91.140 (2)
35 and (3))
36 False Verification for Welfare (RCW
37 74.08.055)
38 Forged Prescription (RCW 69.41.020)

1 Forged Prescription for a Controlled
2 Substance (RCW 69.50.403)
3 Possess Controlled Substance that is a
4 Narcotic from Schedule III, IV, or V or
5 Non-narcotic from Schedule I-V (except
6 phencyclidine or flunitrazepam) (RCW
7 69.50.401(d))

8 **Sec. 4.** RCW 81.60.070 and 1992 c 7 s 60 are each amended to read
9 as follows:

10 Every person who, in such manner as might, if not discovered,
11 endanger the safety of any engine, motor, car or train, or any person
12 thereon, shall in any manner interfere or tamper with or obstruct any
13 switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle,
14 culvert, embankment, structure, or appliance pertaining to or connected
15 with any railway, or any train, engine, motor, or car on such railway,
16 and every person who shall discharge any firearm or throw any dangerous
17 missile at any train, engine, motor, or car on any railway, shall be
18 punished by imprisonment in a state correctional facility for not more
19 than ((~~twenty-five~~)) ten years.

20 **Sec. 5.** RCW 9.40.120 and 1971 ex.s. c 302 s 4 are each amended to
21 read as follows:

22 Every person who possesses, manufactures, or disposes of an
23 incendiary device knowing it to be such is guilty of a felony, and upon
24 conviction, shall be punished by imprisonment in a state prison for a
25 term of not more than ((~~twenty-five~~)) ten years.

26 NEW SECTION. **Sec. 6.** The code reviser shall alphabetize the
27 offenses within each seriousness level in RCW 9.94A.320, including any
28 offenses added in the 1999 legislative session.

29 NEW SECTION. **Sec. 7.** The amendments made by sections 3 through
30 5 of this act shall apply to offenses committed on or after the
31 effective date of this act except that the amendments made by this act
32 to seriousness level V in RCW 9.94A.320 shall apply to offenses
33 committed on or after July 1, 2000.

1 **Sec. 8.** RCW 9.94A.030 and 1998 c 290 s 3 are each amended to read
2 as follows:

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

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

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

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

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

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

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

32 (7) "Community supervision" means a period of time during which a
33 convicted offender is subject to crime-related prohibitions and other
34 sentence conditions imposed by a court pursuant to this chapter or RCW
35 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
36 may include crime-related prohibitions and other conditions imposed
37 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
38 for out-of-state supervision of parolees and probationers, RCW
39 9.95.270, community supervision is the functional equivalent of

1 probation and should be considered the same as probation by other
2 states.

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

5 (9) "Conviction" means an adjudication of guilt pursuant to Titles
6 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
7 acceptance of a plea of guilty.

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

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

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

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

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

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

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

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

27 (18) "Drug offense" means:

28 (a) Any felony violation of chapter 69.50 RCW except possession of
29 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
30 controlled substance (RCW 69.50.403);

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

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

37 (19) "Escape" means:

38 (a) Escape in the first degree (RCW 9A.76.110), escape in the
39 second degree (RCW 9A.76.120), willful failure to return from furlough

1 (RCW 72.66.060), willful failure to return from work release (RCW
2 72.65.070), or willful failure to be available for supervision by the
3 department while in community custody (RCW 72.09.310); or

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

7 (20) "Felony traffic offense" means:

8 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
9 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
10 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

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

35 (b) Assault in the second degree;

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

37 (d) Child molestation in the second degree;

38 (e) Controlled substance homicide;

39 (f) Extortion in the first degree;

1 (g) Incest when committed against a child under age fourteen;
2 (h) Indecent liberties;
3 (i) Kidnapping in the second degree;
4 (j) Leading organized crime;
5 (k) Manslaughter in the first degree;
6 (l) Manslaughter in the second degree;
7 (m) Promoting prostitution in the first degree;
8 (n) Rape in the third degree;
9 (o) Robbery in the second degree;
10 (p) Sexual exploitation;
11 (q) Vehicular assault;
12 (r) Vehicular homicide, when proximately caused by the driving of
13 any vehicle by any person while under the influence of intoxicating
14 liquor or any drug as defined by RCW 46.61.502, or by the operation of
15 any vehicle in a reckless manner;
16 (s) Any other class B felony offense with a finding of sexual
17 motivation, as "sexual motivation" is defined under this section;
18 (t) Any other felony with a deadly weapon verdict under RCW
19 9.94A.125;
20 (u) Any felony offense in effect at any time prior to December 2,
21 1993, that is comparable to a most serious offense under this
22 subsection, or any federal or out-of-state conviction for an offense
23 that under the laws of this state would be a felony classified as a
24 most serious offense under this subsection;
25 (v)(i) A prior conviction for indecent liberties under RCW
26 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
27 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
28 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
29 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
30 (ii) A prior conviction for indecent liberties under RCW
31 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
32 if: (A) The crime was committed against a child under the age of
33 fourteen; or (B) the relationship between the victim and perpetrator is
34 included in the definition of indecent liberties under RCW
35 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
36 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
37 through July 27, 1997.
38 (24) "Nonviolent offense" means an offense which is not a violent
39 offense.

1 (25) "Offender" means a person who has committed a felony
2 established by state law and is eighteen years of age or older or is
3 less than eighteen years of age but whose case is under superior court
4 jurisdiction under RCW 13.04.030 or has been transferred by the
5 appropriate juvenile court to a criminal court pursuant to RCW
6 13.40.110. Throughout this chapter, the terms "offender" and
7 "defendant" are used interchangeably.

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

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

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

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

27 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
28 of a child in the first degree, child molestation in the first degree,
29 rape in the second degree, rape of a child in the second degree, or
30 indecent liberties by forcible compulsion; (B) murder in the first
31 degree, murder in the second degree, homicide by abuse, kidnapping in
32 the first degree, kidnapping in the second degree, assault in the first
33 degree, assault in the second degree, assault of a child in the first
34 degree, or burglary in the first degree, with a finding of sexual
35 motivation; or (C) an attempt to commit any crime listed in this
36 subsection (27)(b)(i); and

37 (ii) Has, before the commission of the offense under (b)(i) of
38 this subsection, been convicted as an offender on at least one
39 occasion, whether in this state or elsewhere, of an offense listed in

1 (b)(i) of this subsection. A conviction for rape of a child in the
2 first degree constitutes a conviction under subsection (27)(b)(i) only
3 when the offender was sixteen years of age or older when the offender
4 committed the offense. A conviction for rape of a child in the second
5 degree constitutes a conviction under subsection (27)(b)(i) only when
6 the offender was eighteen years of age or older when the offender
7 committed the offense.

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

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

14 (30) "Serious traffic offense" means:

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

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

23 (31) "Serious violent offense" is a subcategory of violent offense
24 and means:

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

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

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

36 (33) "Sex offense" means:

37 (a) A felony that is a violation of chapter 9A.44 RCW, other than
38 RCW 9A.44.130(10), or RCW 9A.64.020 or 9.68A.090 or a felony that is,

1 under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
2 criminal conspiracy to commit such crimes;

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

6 (c) A felony with a finding of sexual motivation under RCW
7 9.94A.127 or 13.40.135; or

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

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

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

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

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

27 (38) "Violent offense" means:

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

1 defined by RCW 46.61.502, or by the operation of any vehicle in a
2 reckless manner;

3 (b) Any conviction for a felony offense in effect at any time
4 prior to July 1, 1976, that is comparable to a felony classified as a
5 violent 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. 9.** RCW 9A.44.130 and 1998 c 220 s 1 and 1998 c 139 s 1 are
36 each reenacted and amended to read as follows:

37 (1) Any adult or juvenile residing, or who is a student, is
38 employed, or carries on a vocation in this state who has been found to

1 have committed or has been convicted of any sex offense or kidnapping
2 offense, or who has been found not guilty by reason of insanity under
3 chapter 10.77 RCW of committing any sex offense or kidnapping offense,
4 shall register with the county sheriff for the county of the person's
5 residence, or if the person is not a resident of Washington, the county
6 of the person's school, or place of employment or vocation. Where a
7 person required to register under this section is in custody of the
8 state department of corrections, the state department of social and
9 health services, a local division of youth services, or a local jail or
10 juvenile detention facility as a result of a sex offense or kidnapping
11 offense, the person shall also register at the time of release from
12 custody with an official designated by the agency that has jurisdiction
13 over the person. In addition, any such adult or juvenile who is
14 admitted to a public or private institution of higher education shall,
15 within ten days of enrolling or by the first business day after
16 arriving at the institution, whichever is earlier, notify the sheriff
17 for the county of the person's residence of the person's intent to
18 attend the institution. Persons required to register under this
19 section who are enrolled in a public or private institution of higher
20 education on June 11, 1998, must notify the county sheriff immediately.
21 The sheriff shall notify the institution's department of public safety
22 and shall provide that department with the same information provided to
23 a county sheriff under subsection (3) of this section.

24 (2) This section may not be construed to confer any powers
25 pursuant to RCW 4.24.500 upon the public safety department of any
26 public or private institution of higher education.

27 (3) The person shall provide the following information when
28 registering: (a) Name; (b) address; (c) date and place of birth; (d)
29 place of employment; (e) crime for which convicted; (f) date and place
30 of conviction; (g) aliases used; (h) social security number; (i)
31 photograph; and (j) fingerprints.

32 (4)(a) Offenders shall register with the county sheriff within the
33 following deadlines. For purposes of this section the term
34 "conviction" refers to adult convictions and juvenile adjudications for
35 sex offenses or kidnapping offenses:

36 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
37 offense on, before, or after February 28, 1990, and who, on or after
38 July 28, 1991, are in custody, as a result of that offense, of the
39 state department of corrections, the state department of social and

1 health services, a local division of youth services, or a local jail or
2 juvenile detention facility, and (B) kidnapping offenders who on or
3 after July 27, 1997, are in custody of the state department of
4 corrections, the state department of social and health services, a
5 local division of youth services, or a local jail or juvenile detention
6 facility, must register at the time of release from custody with an
7 official designated by the agency that has jurisdiction over the
8 offender. The agency shall within three days forward the registration
9 information to the county sheriff for the county of the offender's
10 anticipated residence. The offender must also register within twenty-
11 four hours from the time of release with the county sheriff for the
12 county of the person's residence, or if the person is not a resident of
13 Washington, the county of the person's school, or place of employment
14 or vocation. The agency that has jurisdiction over the offender shall
15 provide notice to the offender of the duty to register. Failure to
16 register at the time of release and within twenty-four hours of release
17 constitutes a violation of this section and is punishable as provided
18 in subsection (9) of this section.

19 When the agency with jurisdiction intends to release an offender
20 with a duty to register under this section, and the agency has
21 knowledge that the offender is eligible for developmental disability
22 services from the department of social and health services, the agency
23 shall notify the division of developmental disabilities of the release.
24 Notice shall occur not more than thirty days before the offender is to
25 be released. The agency and the division shall assist the offender in
26 meeting the initial registration requirement under this section.
27 Failure to provide such assistance shall not constitute a defense for
28 any violation of this section.

29 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
30 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
31 but are under the jurisdiction of the indeterminate sentence review
32 board or under the department of correction's active supervision, as
33 defined by the department of corrections, the state department of
34 social and health services, or a local division of youth services, for
35 sex offenses committed before, on, or after February 28, 1990, must
36 register within ten days of July 28, 1991. Kidnapping offenders who,
37 on July 27, 1997, are not in custody but are under the jurisdiction of
38 the indeterminate sentence review board or under the department of
39 correction's active supervision, as defined by the department of

1 corrections, the state department of social and health services, or a
2 local division of youth services, for kidnapping offenses committed
3 before, on, or after July 27, 1997, must register within ten days of
4 July 27, 1997. A change in supervision status of a sex offender who
5 was required to register under this subsection (4)(a)(ii) as of July
6 28, 1991, or a kidnapping offender required to register as of July 27,
7 1997, shall not relieve the offender of the duty to register or to
8 reregister following a change in residence. The obligation to register
9 shall only cease pursuant to RCW 9A.44.140.

10 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
11 or after July 23, 1995, and kidnapping offenders who, on or after July
12 27, 1997, as a result of that offense are in the custody of the United
13 States bureau of prisons or other federal or military correctional
14 agency for sex offenses committed before, on, or after February 28,
15 1990, or kidnapping offenses committed on, before, or after July 27,
16 1997, must register within twenty-four hours from the time of release
17 with the county sheriff for the county of the person's residence, or if
18 the person is not a resident of Washington, the county of the person's
19 school, or place of employment or vocation. Sex offenders who, on July
20 23, 1995, are not in custody but are under the jurisdiction of the
21 United States bureau of prisons, United States courts, United States
22 parole commission, or military parole board for sex offenses committed
23 before, on, or after February 28, 1990, must register within ten days
24 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not
25 in custody but are under the jurisdiction of the United States bureau
26 of prisons, United States courts, United States parole commission, or
27 military parole board for kidnapping offenses committed before, on, or
28 after July 27, 1997, must register within ten days of July 27, 1997.
29 A change in supervision status of a sex offender who was required to
30 register under this subsection (4)(a)(iii) as of July 23, 1995, or a
31 kidnapping offender required to register as of July 27, 1997 shall not
32 relieve the offender of the duty to register or to reregister following
33 a change in residence, or if the person is not a resident of
34 Washington, the county of the person's school, or place of employment
35 or vocation. The obligation to register shall only cease pursuant to
36 RCW 9A.44.140.

37 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
38 who are convicted of a sex offense on or after July 28, 1991, for a sex
39 offense that was committed on or after February 28, 1990, and

1 kidnapping offenders who are convicted on or after July 27, 1997, for
2 a kidnapping offense that was committed on or after July 27, 1997, but
3 who are not sentenced to serve a term of confinement immediately upon
4 sentencing, shall report to the county sheriff to register immediately
5 upon completion of being sentenced.

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

27 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
28 or juvenile who has been found not guilty by reason of insanity under
29 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
30 February 28, 1990, and who, on or after July 23, 1995, is in custody,
31 as a result of that finding, of the state department of social and
32 health services, or (B) committing a kidnapping offense on, before, or
33 after July 27, 1997, and who on or after July 27, 1997, is in custody,
34 as a result of that finding, of the state department of social and
35 health services, must register within twenty-four hours from the time
36 of release with the county sheriff for the county of the person's
37 residence. The state department of social and health services shall
38 provide notice to the adult or juvenile in its custody of the duty to
39 register. Any adult or juvenile who has been found not guilty by

1 reason of insanity of committing a sex offense on, before, or after
2 February 28, 1990, but who was released before July 23, 1995, or any
3 adult or juvenile who has been found not guilty by reason of insanity
4 of committing a kidnapping offense but who was released before July 27,
5 1997, shall be required to register within twenty-four hours of
6 receiving notice of this registration requirement. The state
7 department of social and health services shall make reasonable attempts
8 within available resources to notify sex offenders who were released
9 before July 23, 1995, and kidnapping offenders who were released before
10 July 27, 1997. Failure to register within twenty-four hours of
11 release, or of receiving notice, constitutes a violation of this
12 section and is punishable as provided in subsection (9) of this
13 section.

14 (b) Failure to register within the time required under this
15 section constitutes a per se violation of this section and is
16 punishable as provided in subsection (9) of this section. The county
17 sheriff shall not be required to determine whether the person is living
18 within the county.

19 (c) An arrest on charges of failure to register, service of an
20 information, or a complaint for a violation of this section, or
21 arraignment on charges for a violation of this section, constitutes
22 actual notice of the duty to register. Any person charged with the
23 crime of failure to register under this section who asserts as a
24 defense the lack of notice of the duty to register shall register
25 immediately following actual notice of the duty through arrest,
26 service, or arraignment. Failure to register as required under this
27 subsection (4)(c) constitutes grounds for filing another charge of
28 failing to register. Registering following arrest, service, or
29 arraignment on charges shall not relieve the offender from criminal
30 liability for failure to register prior to the filing of the original
31 charge.

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

35 (5)(a) If any person required to register pursuant to this section
36 changes his or her residence address within the same county, the person
37 must send written notice of the change of address to the county sheriff
38 within seventy-two hours of moving. If any person required to register
39 pursuant to this section moves to a new county, the person must send

1 written notice of the change of address at least fourteen days before
2 moving to the county sheriff in the new county of residence and must
3 register with that county sheriff within twenty-four hours of moving.
4 The person must also send written notice within ten days of the change
5 of address in the new county to the county sheriff with whom the person
6 last registered. The county sheriff with whom the person last
7 registered shall promptly forward the information concerning the change
8 of address to the county sheriff for the county of the person's new
9 residence. If any person required to register pursuant to this section
10 moves out of Washington state, the person must also send written notice
11 within ten days of moving to the new state or a foreign country to the
12 county sheriff with whom the person last registered in Washington
13 state. Upon receipt of notice of change of address to a new state, the
14 county sheriff shall promptly forward the information regarding the
15 change of address to the agency designated by the new state as the
16 state's offender registration agency.

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

25 (6) A sex offender subject to registration requirements under this
26 section who applies to change his or her name under RCW 4.24.130 or any
27 other law shall submit a copy of the application to the county sheriff
28 of the county of the person's residence and to the state patrol not
29 fewer than five days before the entry of an order granting the name
30 change. No sex offender under the requirement to register under this
31 section at the time of application shall be granted an order changing
32 his or her name if the court finds that doing so will interfere with
33 legitimate law enforcement interests, except that no order shall be
34 denied when the name change is requested for religious or legitimate
35 cultural reasons or in recognition of marriage or dissolution of
36 marriage. A sex offender under the requirement to register under this
37 section who receives an order changing his or her name shall submit a
38 copy of the order to the county sheriff of the county of the person's

1 residence and to the state patrol within five days of the entry of the
2 order.

3 (7) The county sheriff shall obtain a photograph of the individual
4 and shall obtain a copy of the individual's fingerprints.

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

7 (a) "Sex offense" means any offense defined as a sex offense by
8 RCW 9.94A.030 and any violation of RCW 9.68A.040 (sexual exploitation
9 of a minor), 9.68A.050 (dealing in depictions of minor engaged in
10 sexually explicit conduct), 9.68A.060 (sending, bringing into state
11 depictions of minor engaged in sexually explicit conduct), 9.68A.090
12 (communication with minor for immoral purposes), 9.68A.100 (patronizing
13 juvenile prostitute), or 9A.44.096 (sexual misconduct with a minor in
14 the second degree), as well as any gross misdemeanor that is, under
15 chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or
16 criminal conspiracy to commit an offense that is classified as a sex
17 offense under RCW 9.94A.030.

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

22 (c) "Employed" or "carries on a vocation" means employment that is
23 full-time or part-time for a period of time exceeding fourteen days, or
24 for an aggregate period of time exceeding thirty days during any
25 calendar year. A person is employed or carries on a vocation whether
26 the person's employment is financially compensated, volunteered, or for
27 the purpose of government or educational benefit.

28 (d) "Student" means a person who is enrolled, on a full-time or
29 part-time basis, in any public or private educational institution. An
30 educational institution includes any secondary school, trade or
31 professional institution, or institution of higher education.

32 (9) A person who knowingly fails to register with the county
33 sheriff or notify the county sheriff, or who changes his or her name
34 without notifying the county sheriff and the state patrol, as required
35 by this section is guilty of a class C felony if the crime for which
36 the individual was convicted was a felony sex offense as defined in
37 subsection (8)(a) of this section or a federal or out-of-state
38 conviction for an offense that under the laws of this state would be a
39 felony sex offense as defined in subsection (8)(a) of this section. If

1 the crime was other than a felony or a federal or out-of-state
2 conviction for an offense that under the laws of this state would be
3 other than a felony, violation of this section is a gross misdemeanor.

4 (10) A person who knowingly fails to register or who moves without
5 notifying the county sheriff as required by this section is guilty of
6 a class C felony if the crime for which the individual was convicted
7 was a felony kidnapping offense as defined in subsection (8)(b) of this
8 section or a federal or out-of-state conviction for an offense that
9 under the laws of this state would be a felony kidnapping offense as
10 defined in subsection (8)(b) of this section. If the crime was other
11 than a felony or a federal or out-of-state conviction for an offense
12 that under the laws of this state would be other than a felony,
13 violation of this section is a gross misdemeanor.

14 **Sec. 10.** RCW 9.94A.360 and 1998 c 211 s 4 are each amended to
15 read as follows:

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

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

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

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

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

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

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

19 (5)(a) In the case of multiple prior convictions, for the purpose
20 of computing the offender score, count all convictions separately,
21 except:

22 (i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to
23 encompass the same criminal conduct, shall be counted as one offense,
24 the offense that yields the highest offender score. The current
25 sentencing court shall determine with respect to other prior adult
26 offenses for which sentences were served concurrently or prior juvenile
27 offenses for which sentences were served consecutively, whether those
28 offenses shall be counted as one offense or as separate offenses using
29 the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and
30 if the court finds that they shall be counted as one offense, then the
31 offense that yields the highest offender score shall be used. The
32 current sentencing court may presume that such other prior offenses
33 were not the same criminal conduct from sentences imposed on separate
34 dates, or in separate counties or jurisdictions, or in separate
35 complaints, indictments, or informations;

36 (ii) In the case of multiple prior convictions for offenses
37 committed before July 1, 1986, for the purpose of computing the
38 offender score, count all adult convictions served concurrently as one
39 offense, and count all juvenile convictions entered on the same date as

1 one offense. Use the conviction for the offense that yields the
2 highest offender score.

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

9 (6) If the present conviction is one of the anticipatory offenses
10 of criminal attempt, solicitation, or conspiracy, count each prior
11 conviction as if the present conviction were for a completed offense.

12 (7) If the present conviction is for a nonviolent offense and not
13 covered by subsection (11) or (12) of this section, count one point for
14 each adult prior felony conviction and one point for each juvenile
15 prior violent felony conviction and 1/2 point for each juvenile prior
16 nonviolent felony conviction.

17 (8) If the present conviction is for a violent offense and not
18 covered in subsection (9), (10), (11), or (12) of this section, count
19 two points for each prior adult and juvenile violent felony conviction,
20 one point for each prior adult nonviolent felony conviction, and 1/2
21 point for each prior juvenile nonviolent felony conviction.

22 (9) If the present conviction is for (~~Murder 1 or 2, Assault 1,~~
23 ~~Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1~~) a
24 serious violent offense, count three points for prior adult and
25 juvenile convictions for crimes in (~~these categories~~) this category,
26 two points for each prior adult and juvenile violent conviction (not
27 already counted), one point for each prior adult nonviolent felony
28 conviction, and 1/2 point for each prior juvenile nonviolent felony
29 conviction.

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

35 (11) If the present conviction is for a felony traffic offense
36 count two points for each adult or juvenile prior conviction for
37 Vehicular Homicide or Vehicular Assault; for each felony offense (~~or~~
38 ~~serious traffic offense,~~) count one point for each adult and 1/2 point
39 for each juvenile prior conviction(~~. This subsection shall not apply~~

1 ~~when additional time is added to a sentence pursuant to RCW~~
2 ~~46.61.520(2))~~; for each serious traffic offense, other than those used
3 for an enhancement pursuant to RCW 46.61.520(2), count one point for
4 each adult and 1/2 point for each juvenile prior conviction.

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

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

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

20 (15) If the present conviction is for Burglary 2 or residential
21 burglary, count priors as in subsection (7) of this section; however,
22 count two points for each adult and juvenile prior Burglary 1
23 conviction, two points for each adult prior Burglary 2 or residential
24 burglary conviction, and one point for each juvenile prior Burglary 2
25 or residential burglary conviction.

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

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

31 **Sec. 11.** RCW 9.94A.400 and 1998 c 235 s 2 are each amended to
32 read as follows:

33 (1)(a) Except as provided in (b) or (c) of this subsection,
34 whenever a person is to be sentenced for two or more current offenses,
35 the sentence range for each current offense shall be determined by
36 using all other current and prior convictions as if they were prior
37 convictions for the purpose of the offender score: PROVIDED, That if
38 the court enters a finding that some or all of the current offenses

1 encompass the same criminal conduct then those current offenses shall
2 be counted as one crime. Sentences imposed under this subsection shall
3 be served concurrently. Consecutive sentences may only be imposed
4 under the exceptional sentence provisions of RCW 9.94A.120 and
5 9.94A.390(2)(g) or any other provision of RCW 9.94A.390. "Same
6 criminal conduct," as used in this subsection, means two or more crimes
7 that require the same criminal intent, are committed at the same time
8 and place, and involve the same victim. This definition applies in
9 cases involving vehicular assault or vehicular homicide even if the
10 victims occupied the same vehicle.

11 (b) Whenever a person is convicted of two or more serious violent
12 offenses, as defined in RCW 9.94A.030, arising from separate and
13 distinct criminal conduct, the sentence range for the offense with the
14 highest seriousness level under RCW 9.94A.320 shall be determined using
15 the offender's prior convictions and other current convictions that are
16 not serious violent offenses in the offender score and the sentence
17 range for other serious violent offenses shall be determined by using
18 an offender score of zero. The sentence range for any offenses that
19 are not serious violent offenses shall be determined according to (a)
20 of this subsection. All sentences imposed under (b) of this subsection
21 shall be served consecutively to each other and concurrently with
22 sentences imposed under (a) of this subsection.

23 (c) If an offender is convicted under RCW 9.41.040 for unlawful
24 possession of a firearm in the first or second degree and for the
25 felony crimes of theft of a firearm or possession of a stolen firearm,
26 or both, ~~((then))~~ the sentence range for each of these current offenses
27 shall be determined by using all other current and prior convictions,
28 except other current convictions for the felony crimes listed in this
29 subsection (1)(c), as if they were prior convictions. The offender
30 shall serve consecutive sentences for each conviction of the felony
31 crimes listed in this subsection (1)(c), and for each firearm
32 unlawfully possessed.

33 (2)(a) Except as provided in (b) of this subsection, whenever a
34 person while under sentence of felony commits another felony and is
35 sentenced to another term of confinement, the latter term shall not
36 begin until expiration of all prior terms.

37 (b) Whenever a second or later felony conviction results in
38 community supervision with conditions not currently in effect, under
39 the prior sentence or sentences of community supervision the court may

1 require that the conditions of community supervision contained in the
2 second or later sentence begin during the immediate term of community
3 supervision and continue throughout the duration of the consecutive
4 term of community supervision.

5 (3) Subject to subsections (1) and (2) of this section, whenever
6 a person is sentenced for a felony that was committed while the person
7 was not under sentence of a felony, the sentence shall run concurrently
8 with any felony sentence which has been imposed by any court in this or
9 another state or by a federal court subsequent to the commission of the
10 crime being sentenced unless the court pronouncing the current sentence
11 expressly orders that they be served consecutively.

12 (4) Whenever any person granted probation under RCW 9.95.210 or
13 9.92.060, or both, has the probationary sentence revoked and a prison
14 sentence imposed, that sentence shall run consecutively to any sentence
15 imposed pursuant to this chapter, unless the court pronouncing the
16 subsequent sentence expressly orders that they be served concurrently.

17 (5) However, in the case of consecutive sentences, all periods of
18 total confinement shall be served before any partial confinement,
19 community service, community supervision, or any other requirement or
20 conditions of any of the sentences. Except for exceptional sentences
21 as authorized under RCW 9.94A.120(2), if two or more sentences that run
22 consecutively include periods of community supervision, the aggregate
23 of the community supervision period shall not exceed twenty-four
24 months."

25 **HB 1544** - S COMM AMD **S2451.1**
26 By Committee on Judiciary

27 ADOPTED AS AMENDED (FLR 378) 4/14/99

28 On page 1, line 1 of the title, after "offenders;" strike the
29 remainder of the title and insert "amending RCW 81.60.070, 9.40.120,
30 9.94A.030, 9.94A.360, and 9.94A.400; reenacting and amending RCW
31 9.94A.040, 9.94A.310, 9.94A.320, and 9A.44.130; creating new sections;
32 and prescribing penalties."

--- END ---