

2 **SSB 5123 - H AMD ADOPTED 4/11/01**  
3 By Representative

4

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

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.76 RCW  
8 to read as follows:

9 (1) A person is guilty of escape by a sexually violent predator if,  
10 having been committed to the department of social and health services  
11 as a sexually violent predator under chapter 71.09 RCW, he or she:

12 (a) Escapes from custody;

13 (b) Escapes from a commitment facility;

14 (c) Escapes from a less restrictive alternative facility; or

15 (d) While on conditional release and residing in a location other  
16 than at a commitment center or less restrictive alternative facility,  
17 leaves or remains absent from the state of Washington without prior  
18 court authorization.

19 (2) Escape by a sexually violent predator is a class B felony.

20 **Sec. 2.** RCW 9A.76.120 and 1995 c 216 s 15 are each amended to read  
21 as follows:

22 (1) A person is guilty of escape in the second degree if:

23 (a) He or she escapes from a detention facility; or

24 (b) Having been charged with a felony or an equivalent juvenile  
25 offense, he or she escapes from custody(~~(i~~~~or~~

26 ~~(c) Having been found to be a sexually violent predator and being~~  
27 ~~under an order of conditional release, he or she leaves the state of~~  
28 ~~Washington without prior court authorization)).~~

29 (2) Escape in the second degree is a class C felony.

30 **Sec. 3.** RCW 9.94A.320 and 2000 c 225 s 5, 2000 c 119 s 17, and  
31 2000 c 66 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

1		
2		
3	XVI	Aggravated Murder 1 (RCW 10.95.020)
4	XV	Homicide by abuse (RCW 9A.32.055)
5		Malicious explosion 1 (RCW 70.74.280(1))
6		Murder 1 (RCW 9A.32.030)
7	XIV	Murder 2 (RCW 9A.32.050)
8	XIII	Malicious explosion 2 (RCW 70.74.280(2))
9		Malicious placement of an explosive 1 (RCW
10		70.74.270(1))
11	XII	Assault 1 (RCW 9A.36.011)
12		Assault of a Child 1 (RCW 9A.36.120)
13		Malicious placement of an imitation device
14		1 (RCW 70.74.272(1)(a))
15		Rape 1 (RCW 9A.44.040)
16		Rape of a Child 1 (RCW 9A.44.073)
17	XI	Manslaughter 1 (RCW 9A.32.060)
18		Rape 2 (RCW 9A.44.050)
19		Rape of a Child 2 (RCW 9A.44.076)
20	X	Child Molestation 1 (RCW 9A.44.083)
21		<u>Escape by a Sexually Violent Predator</u>
22		<u>(section 1 of this act)</u>
23		Indecent Liberties (with forcible
24		compulsion) (RCW 9A.44.100(1)(a))
25		Kidnapping 1 (RCW 9A.40.020)
26		Leading Organized Crime (RCW
27		9A.82.060(1)(a))
28		Malicious explosion 3 (RCW 70.74.280(3))
29		Manufacture of methamphetamine (RCW
30		69.50.401(a)(1)(ii))
31		Over 18 and deliver heroin,
32		methamphetamine, a narcotic from
33		Schedule I or II, or flunitrazepam
34		from Schedule IV to someone under 18
35		(RCW 69.50.406)

1 IX Assault of a Child 2 (RCW 9A.36.130)  
2 Controlled Substance Homicide (RCW  
3 69.50.415)  
4 Explosive devices prohibited (RCW  
5 70.74.180)  
6 Homicide by Watercraft, by being under the  
7 influence of intoxicating liquor or  
8 any drug (RCW 79A.60.050)  
9 Inciting Criminal Profiteering (RCW  
10 9A.82.060(1)(b))  
11 Malicious placement of an explosive 2 (RCW  
12 70.74.270(2))  
13 Over 18 and deliver narcotic from Schedule  
14 III, IV, or V or a nonnarcotic, except  
15 flunitrazepam or methamphetamine, from  
16 Schedule I-V to someone under 18 and 3  
17 years junior (RCW 69.50.406)  
18 Robbery 1 (RCW 9A.56.200)  
19 Sexual Exploitation (RCW 9.68A.040)  
20 Vehicular Homicide, by being under the  
21 influence of intoxicating liquor or  
22 any drug (RCW 46.61.520)

23 VIII Arson 1 (RCW 9A.48.020)  
24 Deliver or possess with intent to deliver  
25 m e t h a m p h e t a m i n e ( R C W  
26 69.50.401(a)(1)(ii))  
27 Hit and Run--Death (RCW 46.52.020(4)(a))  
28 Homicide by Watercraft, by the operation of  
29 any vessel in a reckless manner (RCW  
30 79A.60.050)  
31 Manslaughter 2 (RCW 9A.32.070)  
32 Manufacture, deliver, or possess with  
33 intent to deliver amphetamine (RCW  
34 69.50.401(a)(1)(ii))  
35 Manufacture, deliver, or possess with  
36 intent to deliver heroin or cocaine  
37 (RCW 69.50.401(a)(1)(i))  
38 Possession of Ephedrine, Pseudoephedrine,  
39 or Anhydrous Ammonia with intent to

1 manufacture methamphetamine (RCW  
2 69.50.440)  
3 Promoting Prostitution 1 (RCW 9A.88.070)  
4 Selling for profit (controlled or  
5 counterfeit) any controlled substance  
6 (RCW 69.50.410)  
7 Theft of Anhydrous Ammonia (RCW 69.55.010)  
8 Vehicular Homicide, by the operation of any  
9 vehicle in a reckless manner (RCW  
10 46.61.520)

11 VII Burglary 1 (RCW 9A.52.020)  
12 Child Molestation 2 (RCW 9A.44.086)  
13 Dealing in depictions of minor engaged in  
14 sexually explicit conduct (RCW  
15 9.68A.050)  
16 Drive-by Shooting (RCW 9A.36.045)  
17 Homicide by Watercraft, by disregard for  
18 the safety of others (RCW 79A.60.050)  
19 Indecent Liberties (without forcible  
20 compulsion) (RCW 9A.44.100(1) (b) and  
21 (c))  
22 Introducing Contraband 1 (RCW 9A.76.140)  
23 Involving a minor in drug dealing (RCW  
24 69.50.401(f))  
25 Malicious placement of an explosive 3 (RCW  
26 70.74.270(3))  
27 Sending, bringing into state depictions of  
28 minor engaged in sexually explicit  
29 conduct (RCW 9.68A.060)  
30 Unlawful Possession of a Firearm in the  
31 first degree (RCW 9.41.040(1)(a))  
32 Use of a Machine Gun in Commission of a  
33 Felony (RCW 9.41.225)  
34 Vehicular Homicide, by disregard for the  
35 safety of others (RCW 46.61.520)

36 VI Bail Jumping with Murder 1 (RCW  
37 9A.76.170(2)(a))  
38 Bribery (RCW 9A.68.010)

1 Incest 1 (RCW 9A.64.020(1))  
2 Intimidating a Judge (RCW 9A.72.160)  
3 Intimidating a Juror/Witness (RCW  
4 9A.72.110, 9A.72.130)  
5 Malicious placement of an imitation device  
6 2 (RCW 70.74.272(1)(b))  
7 Manufacture, deliver, or possess with  
8 intent to deliver narcotics from  
9 Schedule I or II (except heroin or  
10 cocaine) or flunitrazepam from  
11 Schedule IV (RCW 69.50.401(a)(1)(i))  
12 Rape of a Child 3 (RCW 9A.44.079)  
13 Theft of a Firearm (RCW 9A.56.300)  
14 Unlawful Storage of Anhydrous Ammonia (RCW  
15 69.55.020)

16 V Abandonment of dependent person 1 (RCW  
17 9A.42.060)  
18 Advancing money or property for  
19 extortionate extension of credit (RCW  
20 9A.82.030)  
21 Bail Jumping with class A Felony (RCW  
22 9A.76.170(2)(b))  
23 Child Molestation 3 (RCW 9A.44.089)  
24 Criminal Mistreatment 1 (RCW 9A.42.020)  
25 Custodial Sexual Misconduct 1 (RCW  
26 9A.44.160)  
27 Delivery of imitation controlled substance  
28 by person eighteen or over to person  
29 under eighteen (RCW 69.52.030(2))  
30 Domestic Violence Court Order Violation  
31 (RCW 10.99.040, 10.99.050, 26.09.300,  
32 26.10.220, 26.26.138, 26.50.110,  
33 26.52.070, or 74.34.145)  
34 Extortion 1 (RCW 9A.56.120)  
35 Extortionate Extension of Credit (RCW  
36 9A.82.020)  
37 Extortionate Means to Collect Extensions of  
38 Credit (RCW 9A.82.040)  
39 Incest 2 (RCW 9A.64.020(2))

1 Kidnapping 2 (RCW 9A.40.030)  
2 Perjury 1 (RCW 9A.72.020)  
3 Persistent prison misbehavior (RCW  
4 9.94.070)  
5 Possession of a Stolen Firearm (RCW  
6 9A.56.310)  
7 Rape 3 (RCW 9A.44.060)  
8 Rendering Criminal Assistance 1 (RCW  
9 9A.76.070)  
10 Sexual Misconduct with a Minor 1 (RCW  
11 9A.44.093)  
12 Sexually Violating Human Remains (RCW  
13 9A.44.105)  
14 Stalking (RCW 9A.46.110)  
  
15 IV Arson 2 (RCW 9A.48.030)  
16 Assault 2 (RCW 9A.36.021)  
17 Assault by Watercraft (RCW 79A.60.060)  
18 Bribing a Witness/Bribe Received by Witness  
19 (RCW 9A.72.090, 9A.72.100)  
20 Commercial Bribery (RCW 9A.68.060)  
21 Counterfeiting (RCW 9.16.035(4))  
22 Escape 1 (RCW 9A.76.110)  
23 Hit and Run--Injury (RCW 46.52.020(4)(b))  
24 Hit and Run with Vessel--Injury Accident  
25 (RCW 79A.60.200(3))  
26 Indecent Exposure to Person Under Age  
27 Fourteen (subsequent sex offense) (RCW  
28 9A.88.010)  
29 Influencing Outcome of Sporting Event (RCW  
30 9A.82.070)  
31 Knowingly Trafficking in Stolen Property  
32 (RCW 9A.82.050(2))  
33 Malicious Harassment (RCW 9A.36.080)  
34 Manufacture, deliver, or possess with  
35 intent to deliver narcotics from  
36 Schedule III, IV, or V or nonnarcotics  
37 from Schedule I-V (except marijuana,  
38 amphetamine, methamphetamines, or

1 flunitrazepam) (RCW 69.50.401(a)(1)  
2 (iii) through (v))  
3 Residential Burglary (RCW 9A.52.025)  
4 Robbery 2 (RCW 9A.56.210)  
5 Theft of Livestock 1 (RCW 9A.56.080)  
6 Threats to Bomb (RCW 9.61.160)  
7 Use of Proceeds of Criminal Profiteering  
8 (RCW 9A.82.080 (1) and (2))  
9 Vehicular Assault (RCW 46.61.522)  
10 Willful Failure to Return from Furlough  
11 (RCW 72.66.060)

12 III Abandonment of dependent person 2 (RCW  
13 9A.42.070)  
14 Assault 3 (RCW 9A.36.031)  
15 Assault of a Child 3 (RCW 9A.36.140)  
16 Bail Jumping with class B or C Felony (RCW  
17 9A.76.170(2)(c))  
18 Burglary 2 (RCW 9A.52.030)  
19 Communication with a Minor for Immoral  
20 Purposes (RCW 9.68A.090)  
21 Criminal Gang Intimidation (RCW 9A.46.120)  
22 Criminal Mistreatment 2 (RCW 9A.42.030)  
23 Custodial Assault (RCW 9A.36.100)  
24 Delivery of a material in lieu of a  
25 controlled substance (RCW  
26 69.50.401(c))  
27 Escape 2 (RCW 9A.76.120)  
28 Extortion 2 (RCW 9A.56.130)  
29 Harassment (RCW 9A.46.020)  
30 Intimidating a Public Servant (RCW  
31 9A.76.180)  
32 Introducing Contraband 2 (RCW 9A.76.150)  
33 Maintaining a Dwelling or Place for  
34 Controlled Substances (RCW  
35 69.50.402(a)(6))  
36 Malicious Injury to Railroad Property (RCW  
37 81.60.070)

1 Manufacture, deliver, or possess with  
2 intent to deliver marijuana (RCW  
3 69.50.401(a)(1)(iii))  
4 Manufacture, distribute, or possess with  
5 intent to distribute an imitation  
6 controlled substance (RCW  
7 69.52.030(1))  
8 Patronizing a Juvenile Prostitute (RCW  
9 9.68A.100)  
10 Perjury 2 (RCW 9A.72.030)  
11 Possession of Incendiary Device (RCW  
12 9.40.120)  
13 Possession of Machine Gun or Short-Barreled  
14 Shotgun or Rifle (RCW 9.41.190)  
15 Promoting Prostitution 2 (RCW 9A.88.080)  
16 Recklessly Trafficking in Stolen Property  
17 (RCW 9A.82.050(1))  
18 Securities Act violation (RCW 21.20.400)  
19 Tampering with a Witness (RCW 9A.72.120)  
20 Telephone Harassment (subsequent conviction  
21 or threat of death) (RCW 9.61.230)  
22 Theft of Livestock 2 (RCW 9A.56.080)  
23 Unlawful Imprisonment (RCW 9A.40.040)  
24 Unlawful possession of firearm in the  
25 second degree (RCW 9.41.040(1)(b))  
26 Unlawful Use of Building for Drug Purposes  
27 (RCW 69.53.010)  
28 Willful Failure to Return from Work Release  
29 (RCW 72.65.070)  
30 II Computer Trespass 1 (RCW 9A.52.110)  
31 Counterfeiting (RCW 9.16.035(3))  
32 Create, deliver, or possess a counterfeit  
33 controlled substance (RCW  
34 69.50.401(b))  
35 Escape from Community Custody (RCW  
36 72.09.310)  
37 Health Care False Claims (RCW 48.80.030)  
38 Malicious Mischief 1 (RCW 9A.48.070)



1 Possession of controlled substance that is  
2 either heroin or narcotics from  
3 Schedule I or II or flunitrazepam from  
4 Schedule IV (RCW 69.50.401(d))  
5 Possession of phencyclidine (PCP) (RCW  
6 69.50.401(d))  
7 Possession of Stolen Property 1 (RCW  
8 9A.56.150)  
9 Theft 1 (RCW 9A.56.030)  
10 Theft of Rental, Leased, or Lease-purchased  
11 Property (valued at one thousand five  
12 hundred dollars or more) (RCW  
13 9A.56.096(4))  
14 Trafficking in Insurance Claims (RCW  
15 48.30A.015)  
16 Unlawful Practice of Law (RCW 2.48.180)  
17 Unlicensed Practice of a Profession or  
18 Business (RCW 18.130.190(7))  
  
19 I Attempting to Elude a Pursuing Police  
20 Vehicle (RCW 46.61.024)  
21 False Verification for Welfare (RCW  
22 74.08.055)  
23 Forged Prescription (RCW 69.41.020)  
24 Forged Prescription for a Controlled  
25 Substance (RCW 69.50.403)  
26 Forgery (RCW 9A.60.020)  
27 Malicious Mischief 2 (RCW 9A.48.080)  
28 Possess Controlled Substance that is a  
29 Narcotic from Schedule III, IV, or V  
30 or Non-narcotic from Schedule I-V  
31 (except phencyclidine or  
32 flunitrazepam) (RCW 69.50.401(d))  
33 Possession of Stolen Property 2 (RCW  
34 9A.56.160)  
35 Reckless Burning 1 (RCW 9A.48.040)  
36 Taking Motor Vehicle Without Permission  
37 (RCW 9A.56.070)  
38 Theft 2 (RCW 9A.56.040)

1           Theft of Rental, Leased, or Lease-purchased  
2           Property (valued at two hundred fifty  
3           dollars or more but less than one  
4           thousand five hundred dollars) (RCW  
5           9A.56.096(4))  
6           Unlawful Issuance of Checks or Drafts (RCW  
7           9A.56.060)  
8           Unlawful Use of Food Stamps (RCW 9.91.140  
9           (2) and (3))  
10          Vehicle Prowl 1 (RCW 9A.52.095)

11          **Sec. 4.** RCW 9.94A.030 and 2000 c 28 s 2 are each amended to read  
12 as follows:

13          Unless the context clearly requires otherwise, the definitions in  
14 this section apply throughout this chapter.

15          (1) "Collect," or any derivative thereof, "collect and remit," or  
16 "collect and deliver," when used with reference to the department,  
17 means that the department, either directly or through a collection  
18 agreement authorized by RCW 9.94A.145, is responsible for monitoring  
19 and enforcing the offender's sentence with regard to the legal  
20 financial obligation, receiving payment thereof from the offender, and,  
21 consistent with current law, delivering daily the entire payment to the  
22 superior court clerk without depositing it in a departmental account.

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

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

28          (4) "Community custody" means that portion of an offender's  
29 sentence of confinement in lieu of earned release time or imposed  
30 pursuant to RCW 9.94A.120(2)(b), 9.94A.650 through 9.94A.670,  
31 9.94A.137, 9.94A.700 through 9.94A.715, or 9.94A.383, served in the  
32 community subject to controls placed on the offender's movement and  
33 activities by the department. For offenders placed on community  
34 custody for crimes committed on or after July 1, 2000, the department  
35 shall assess the offender's risk of reoffense and may establish and  
36 modify conditions of community custody, in addition to those imposed by  
37 the court, based upon the risk to community safety.

1 (5) "Community custody range" means the minimum and maximum period  
2 of community custody included as part of a sentence under RCW  
3 9.94A.715, as established by the commission or the legislature under  
4 RCW 9.94A.040, for crimes committed on or after July 1, 2000.

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

12 (7) "Community service" means compulsory service, without  
13 compensation, performed for the benefit of the community by the  
14 offender.

15 (8) "Community supervision" means a period of time during which a  
16 convicted offender is subject to crime-related prohibitions and other  
17 sentence conditions imposed by a court pursuant to this chapter or RCW  
18 16.52.200(6) or 46.61.524. Where the court finds that any offender has  
19 a chemical dependency that has contributed to his or her offense, the  
20 conditions of supervision may, subject to available resources, include  
21 treatment. For purposes of the interstate compact for out-of-state  
22 supervision of parolees and probationers, RCW 9.95.270, community  
23 supervision is the functional equivalent of probation and should be  
24 considered the same as probation by other states.

25 (9) "Confinement" means total or partial confinement.

26 (10) "Conviction" means an adjudication of guilt pursuant to Titles  
27 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
28 acceptance of a plea of guilty.

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

36 (12) "Criminal history" means the list of a defendant's prior  
37 convictions and juvenile adjudications, whether in this state, in  
38 federal court, or elsewhere. The history shall include, where known,  
39 for each conviction (a) whether the defendant has been placed on

1 probation and the length and terms thereof; and (b) whether the  
2 defendant has been incarcerated and the length of incarceration.

3 (13) "Day fine" means a fine imposed by the sentencing court that  
4 equals the difference between the offender's net daily income and the  
5 reasonable obligations that the offender has for the support of the  
6 offender and any dependents.

7 (14) "Day reporting" means a program of enhanced supervision  
8 designed to monitor the offender's daily activities and compliance with  
9 sentence conditions, and in which the offender is required to report  
10 daily to a specific location designated by the department or the  
11 sentencing court.

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

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

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

33 (18) "Drug offender sentencing alternative" is a sentencing option  
34 available to persons convicted of a felony offense other than a violent  
35 offense or a sex offense and who are eligible for the option under RCW  
36 9.94A.660.

37 (19) "Drug offense" means:

1 (a) Any felony violation of chapter 69.50 RCW except possession of  
2 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
3 controlled substance (RCW 69.50.403);

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

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

10 (20) "Earned release" means earned release from confinement as  
11 provided in RCW 9.94A.150.

12 (21) "Escape" means:

13 (a) Escape by a sexually violent predator (section 1 of this act),  
14 escape in the first degree (RCW 9A.76.110), escape in the second degree  
15 (RCW 9A.76.120), willful failure to return from furlough (RCW  
16 72.66.060), willful failure to return from work release (RCW  
17 72.65.070), or willful failure to be available for supervision by the  
18 department while in community custody (RCW 72.09.310); or

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

22 (22) "Felony traffic offense" means:

23 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
24 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
25 and-run injury-accident (RCW 46.52.020(4)); or

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

29 (23) "Fine" means a specific sum of money ordered by the sentencing  
30 court to be paid by the offender to the court over a specific period of  
31 time.

32 (24) "First-time offender" means any person who has no prior  
33 convictions for a felony and is eligible for the first-time offender  
34 waiver under RCW 9.94A.650.

35 (25) "Home detention" means a program of partial confinement  
36 available to offenders wherein the offender is confined in a private  
37 residence subject to electronic surveillance.

38 (26) "Legal financial obligation" means a sum of money that is  
39 ordered by a superior court of the state of Washington for legal

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

13 (27) "Most serious offense" means any of the following felonies or  
14 a felony attempt to commit any of the following felonies:

15 (a) Any felony defined under any law as a class A felony or  
16 criminal solicitation of or criminal conspiracy to commit a class A  
17 felony;

18 (b) Assault in the second degree;

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

20 (d) Child molestation in the second degree;

21 (e) Controlled substance homicide;

22 (f) Extortion in the first degree;

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

24 (h) Indecent liberties;

25 (i) Kidnapping in the second degree;

26 (j) Leading organized crime;

27 (k) Manslaughter in the first degree;

28 (l) Manslaughter in the second degree;

29 (m) Promoting prostitution in the first degree;

30 (n) Rape in the third degree;

31 (o) Robbery in the second degree;

32 (p) Sexual exploitation;

33 (q) Vehicular assault;

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

38 (s) Any other class B felony offense with a finding of sexual  
39 motivation;

1 (t) Any other felony with a deadly weapon verdict under RCW  
2 9.94A.125;

3 (u) Any felony offense in effect at any time prior to December 2,  
4 1993, that is comparable to a most serious offense under this  
5 subsection, or any federal or out-of-state conviction for an offense  
6 that under the laws of this state would be a felony classified as a  
7 most serious offense under this subsection;

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

13 (ii) A prior conviction for indecent liberties under RCW  
14 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
15 if: (A) The crime was committed against a child under the age of  
16 fourteen; or (B) the relationship between the victim and perpetrator is  
17 included in the definition of indecent liberties under RCW  
18 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
19 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
20 through July 27, 1997.

21 (28) "Nonviolent offense" means an offense which is not a violent  
22 offense.

23 (29) "Offender" means a person who has committed a felony  
24 established by state law and is eighteen years of age or older or is  
25 less than eighteen years of age but whose case is under superior court  
26 jurisdiction under RCW 13.04.030 or has been transferred by the  
27 appropriate juvenile court to a criminal court pursuant to RCW  
28 13.40.110. Throughout this chapter, the terms "offender" and  
29 "defendant" are used interchangeably.

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

38 (31) "Persistent offender" is an offender who:

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

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

11 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
12 of a child in the first degree, child molestation in the first degree,  
13 rape in the second degree, rape of a child in the second degree, or  
14 indecent liberties by forcible compulsion; (B) murder in the first  
15 degree, murder in the second degree, homicide by abuse, kidnapping in  
16 the first degree, kidnapping in the second degree, assault in the first  
17 degree, assault in the second degree, assault of a child in the first  
18 degree, or burglary in the first degree, with a finding of sexual  
19 motivation; or (C) an attempt to commit any crime listed in this  
20 subsection (31)(b)(i); and

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

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

33 (33) "Restitution" means a specific sum of money ordered by the  
34 sentencing court to be paid by the offender to the court over a  
35 specified period of time as payment of damages. The sum may include  
36 both public and private costs.

37 (34) "Risk assessment" means the application of an objective  
38 instrument supported by research and adopted by the department for the  
39 purpose of assessing an offender's risk of reoffense, taking into



1 consideration the nature of the harm done by the offender, place and  
2 circumstances of the offender related to risk, the offender's  
3 relationship to any victim, and any information provided to the  
4 department by victims. The results of a risk assessment shall not be  
5 based on unconfirmed or unconfirmable allegations.

6 (35) "Serious traffic offense" means:

7 (a) Driving while under the influence of intoxicating liquor or any  
8 drug (RCW 46.61.502), actual physical control while under the influence  
9 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
10 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
11 or

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

15 (36) "Serious violent offense" is a subcategory of violent offense  
16 and means:

17 (a)(i) Murder in the first degree;

18 (ii) Homicide by abuse;

19 (iii) Murder in the second degree;

20 (iv) Manslaughter in the first degree;

21 (v) Assault in the first degree;

22 (vi) Kidnapping in the first degree;

23 (vii) Rape in the first degree;

24 (viii) Assault of a child in the first degree; or

25 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
26 commit one of these felonies; or

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

30 (37) "Sex offense" means:

31 (a) A felony that is a violation of:

32 (i) Chapter 9A.44 RCW other than RCW 9A.44.130(11);

33 (ii) RCW 9A.64.020;

34 (iii) RCW 9.68A.090; or

35 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,  
36 criminal solicitation, or criminal conspiracy to commit such crimes;

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

1 (c) A felony with a finding of sexual motivation under RCW  
2 9.94A.127 or 13.40.135; or

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

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

9 (39) "Standard sentence range" means the sentencing court's  
10 discretionary range in imposing a nonappealable sentence.

11 (40) "Statutory maximum sentence" means the maximum length of time  
12 for which an offender may be confined as punishment for a crime as  
13 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the  
14 crime, or other statute defining the maximum penalty for a crime.

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

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

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

28 (44) "Violent offense" means:

29 (a) Any of the following felonies:

30 (i) Any felony defined under any law as a class A felony or an  
31 attempt to commit a class A felony;

32 (ii) Criminal solicitation of or criminal conspiracy to commit a  
33 class A felony;

34 (iii) Manslaughter in the first degree;

35 (iv) Manslaughter in the second degree;

36 (v) Indecent liberties if committed by forcible compulsion;

37 (vi) Kidnapping in the second degree;

38 (vii) Arson in the second degree;

39 (viii) Assault in the second degree;

1 (ix) Assault of a child in the second degree;  
2 (x) Extortion in the first degree;  
3 (xi) Robbery in the second degree;  
4 (xii) Drive-by shooting;  
5 (xiii) Vehicular assault; and  
6 (xiv) Vehicular homicide, when proximately caused by the driving of  
7 any vehicle by any person while under the influence of intoxicating  
8 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
9 any vehicle in a reckless manner;

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

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

16 (45) "Work crew" means a program of partial confinement consisting  
17 of civic improvement tasks for the benefit of the community that  
18 complies with RCW 9.94A.135.

19 (46) "Work ethic camp" means an alternative incarceration program  
20 as provided in RCW 9.94A.137 designed to reduce recidivism and lower  
21 the cost of corrections by requiring offenders to complete a  
22 comprehensive array of real-world job and vocational experiences,  
23 character-building work ethics training, life management skills  
24 development, substance abuse rehabilitation, counseling, literacy  
25 training, and basic adult education.

26 (47) "Work release" means a program of partial confinement  
27 available to offenders who are employed or engaged as a student in a  
28 regular course of study at school.

29 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
30 preservation of the public peace, health, or safety, or support of the  
31 state government and its existing public institutions, and takes effect  
32 immediately except for section 4 of this act, which takes effect July  
33 1, 2001."

34 Correct the title.

--- END ---