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HOUSE BILL 2226

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State of Washington

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By Representatives Carrell, Kirby, Talcott, Conway, Esser, Lantz, Roach, Haigh, DeBolt, Campbell, Delvin, Marine, Armstrong, Bush, Morell, Casada and Jackley

Read first time 03/22/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to establishing a life sentence for sexually  
2 violent predators who escape from the special commitment center or from  
3 a less restrictive alternative; amending RCW 9A.76.120 and 9.94A.030;  
4 reenacting and amending RCW 9.94A.320; adding a new section to chapter  
5 9A.76 RCW; prescribing penalties; providing an effective date; and  
6 declaring an emergency.

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

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

10 (1) A person is guilty of aggravated escape if:

11 (a) He or she escapes from the special commitment center on McNeil  
12 Island;

13 (b) He or she escapes from the less restrictive alternative  
14 treatment facility for sexually violent predators established on McNeil  
15 Island pursuant to section 2, chapter ..., Laws of 2001 (House Bill No.  
16 2223);

17 (c) He or she is a resident of the less restrictive alternative  
18 treatment facility referenced in (b) of this subsection and he or she

1 escapes from his or her escorted supervision while off the premises of  
2 such facility; or

3 (d) He or she is a sexually violent predator on court-ordered  
4 conditional release as provided under RCW 71.09.090 residing in a  
5 location other than that specified in (a) or (b) of this subsection and  
6 he or she leaves, or remains absent from, the state of Washington  
7 without prior court authorization.

8 (2) Aggravated escape is a class A felony. Any person convicted of  
9 the crime of aggravated escape shall be sentenced to life imprisonment  
10 without the possibility of release or parole. This term is mandatory  
11 and may not be varied or modified under RCW 9.94A.390 or any other  
12 provision of law. A person sentenced to life imprisonment under this  
13 section is not eligible for community custody, earned release time,  
14 furlough, home detention, partial confinement, work crew, work release,  
15 or any other form of early release authorized under RCW 9.94A.150, or  
16 any other form of authorized leave of absence from the correctional  
17 facility while not in the direct custody of a corrections officer,  
18 except in the case of an offender in need of emergency medical  
19 treatment.

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:

32 TABLE 2

33 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

34 XVI Aggravated Murder 1 (RCW 10.95.020)

35 Aggravated Escape (section 1 of this act)

1 XV Homicide by abuse (RCW 9A.32.055)  
2 Malicious explosion 1 (RCW 70.74.280(1))  
3 Murder 1 (RCW 9A.32.030)  
4 XIV Murder 2 (RCW 9A.32.050)  
5 XIII Malicious explosion 2 (RCW 70.74.280(2))  
6 Malicious placement of an explosive 1 (RCW  
7 70.74.270(1))  
8 XII Assault 1 (RCW 9A.36.011)  
9 Assault of a Child 1 (RCW 9A.36.120)  
10 Malicious placement of an imitation device  
11 1 (RCW 70.74.272(1)(a))  
12 Rape 1 (RCW 9A.44.040)  
13 Rape of a Child 1 (RCW 9A.44.073)  
14 XI Manslaughter 1 (RCW 9A.32.060)  
15 Rape 2 (RCW 9A.44.050)  
16 Rape of a Child 2 (RCW 9A.44.076)  
17 X Child Molestation 1 (RCW 9A.44.083)  
18 Indecent Liberties (with forcible  
19 compulsion) (RCW 9A.44.100(1)(a))  
20 Kidnapping 1 (RCW 9A.40.020)  
21 Leading Organized Crime (RCW  
22 9A.82.060(1)(a))  
23 Malicious explosion 3 (RCW 70.74.280(3))  
24 Manufacture of methamphetamine (RCW  
25 69.50.401(a)(1)(ii))  
26 Over 18 and deliver heroin,  
27 methamphetamine, a narcotic from  
28 Schedule I or II, or flunitrazepam  
29 from Schedule IV to someone under 18  
30 (RCW 69.50.406)  
31 IX Assault of a Child 2 (RCW 9A.36.130)  
32 Controlled Substance Homicide (RCW  
33 69.50.415)  
34 Explosive devices prohibited (RCW  
35 70.74.180)

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

18 VIII Arson 1 (RCW 9A.48.020)  
19 Deliver or possess with intent to deliver  
20 m e t h a m p h e t a m i n e ( R C W  
21 69.50.401(a)(1)(ii))  
22 Hit and Run--Death (RCW 46.52.020(4)(a))  
23 Homicide by Watercraft, by the operation of  
24 any vessel in a reckless manner (RCW  
25 79A.60.050)  
26 Manslaughter 2 (RCW 9A.32.070)  
27 Manufacture, deliver, or possess with  
28 intent to deliver amphetamine (RCW  
29 69.50.401(a)(1)(ii))  
30 Manufacture, deliver, or possess with  
31 intent to deliver heroin or cocaine  
32 (RCW 69.50.401(a)(1)(i))  
33 Possession of Ephedrine, Pseudoephedrine,  
34 or Anhydrous Ammonia with intent to  
35 manufacture methamphetamine (RCW  
36 69.50.440)  
37 Promoting Prostitution 1 (RCW 9A.88.070)

1           Selling for profit (controlled or  
2           counterfeit) any controlled substance  
3           (RCW 69.50.410)  
4           Theft of Anhydrous Ammonia (RCW 69.55.010)  
5           Vehicular Homicide, by the operation of any  
6           vehicle in a reckless manner (RCW  
7           46.61.520)

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

33       VI       Bail Jumping with Murder 1 (RCW  
34           9A.76.170(2)(a))  
35           Bribery (RCW 9A.68.010)  
36           Incest 1 (RCW 9A.64.020(1))  
37           Intimidating a Judge (RCW 9A.72.160)

1 Intimidating a Juror/Witness (RCW  
2 9A.72.110, 9A.72.130)  
3 Malicious placement of an imitation device  
4 2 (RCW 70.74.272(1)(b))  
5 Manufacture, deliver, or possess with  
6 intent to deliver narcotics from  
7 Schedule I or II (except heroin or  
8 cocaine) or flunitrazepam from  
9 Schedule IV (RCW 69.50.401(a)(1)(i))  
10 Rape of a Child 3 (RCW 9A.44.079)  
11 Theft of a Firearm (RCW 9A.56.300)  
12 Unlawful Storage of Anhydrous Ammonia (RCW  
13 69.55.020)  
14 V Abandonment of dependent person 1 (RCW  
15 9A.42.060)  
16 Advancing money or property for  
17 extortionate extension of credit (RCW  
18 9A.82.030)  
19 Bail Jumping with class A Felony (RCW  
20 9A.76.170(2)(b))  
21 Child Molestation 3 (RCW 9A.44.089)  
22 Criminal Mistreatment 1 (RCW 9A.42.020)  
23 Custodial Sexual Misconduct 1 (RCW  
24 9A.44.160)  
25 Delivery of imitation controlled substance  
26 by person eighteen or over to person  
27 under eighteen (RCW 69.52.030(2))  
28 Domestic Violence Court Order Violation  
29 (RCW 10.99.040, 10.99.050, 26.09.300,  
30 26.10.220, 26.26.138, 26.50.110,  
31 26.52.070, or 74.34.145)  
32 Extortion 1 (RCW 9A.56.120)  
33 Extortionate Extension of Credit (RCW  
34 9A.82.020)  
35 Extortionate Means to Collect Extensions of  
36 Credit (RCW 9A.82.040)  
37 Incest 2 (RCW 9A.64.020(2))  
38 Kidnapping 2 (RCW 9A.40.030)  
39 Perjury 1 (RCW 9A.72.020)

1 Persistent prison misbehavior (RCW  
2 9.94.070)  
3 Possession of a Stolen Firearm (RCW  
4 9A.56.310)  
5 Rape 3 (RCW 9A.44.060)  
6 Rendering Criminal Assistance 1 (RCW  
7 9A.76.070)  
8 Sexual Misconduct with a Minor 1 (RCW  
9 9A.44.093)  
10 Sexually Violating Human Remains (RCW  
11 9A.44.105)  
12 Stalking (RCW 9A.46.110)  
13 IV Arson 2 (RCW 9A.48.030)  
14 Assault 2 (RCW 9A.36.021)  
15 Assault by Watercraft (RCW 79A.60.060)  
16 Bribing a Witness/Bribe Received by Witness  
17 (RCW 9A.72.090, 9A.72.100)  
18 Commercial Bribery (RCW 9A.68.060)  
19 Counterfeiting (RCW 9.16.035(4))  
20 Escape 1 (RCW 9A.76.110)  
21 Hit and Run--Injury (RCW 46.52.020(4)(b))  
22 Hit and Run with Vessel--Injury Accident  
23 (RCW 79A.60.200(3))  
24 Indecent Exposure to Person Under Age  
25 Fourteen (subsequent sex offense) (RCW  
26 9A.88.010)  
27 Influencing Outcome of Sporting Event (RCW  
28 9A.82.070)  
29 Knowingly Trafficking in Stolen Property  
30 (RCW 9A.82.050(2))  
31 Malicious Harassment (RCW 9A.36.080)  
32 Manufacture, deliver, or possess with  
33 intent to deliver narcotics from  
34 Schedule III, IV, or V or nonnarcotics  
35 from Schedule I-V (except marijuana,  
36 amphetamine, methamphetamines, or  
37 flunitrazepam) (RCW 69.50.401(a)(1)  
38 (iii) through (v))  
39 Residential Burglary (RCW 9A.52.025)

1 Robbery 2 (RCW 9A.56.210)  
2 Theft of Livestock 1 (RCW 9A.56.080)  
3 Threats to Bomb (RCW 9.61.160)  
4 Use of Proceeds of Criminal Profiteering  
5 (RCW 9A.82.080 (1) and (2))  
6 Vehicular Assault (RCW 46.61.522)  
7 Willful Failure to Return from Furlough  
8 (RCW 72.66.060)

9 III Abandonment of dependent person 2 (RCW  
10 9A.42.070)  
11 Assault 3 (RCW 9A.36.031)  
12 Assault of a Child 3 (RCW 9A.36.140)  
13 Bail Jumping with class B or C Felony (RCW  
14 9A.76.170(2)(c))  
15 Burglary 2 (RCW 9A.52.030)  
16 Communication with a Minor for Immoral  
17 Purposes (RCW 9.68A.090)  
18 Criminal Gang Intimidation (RCW 9A.46.120)  
19 Criminal Mistreatment 2 (RCW 9A.42.030)  
20 Custodial Assault (RCW 9A.36.100)  
21 Delivery of a material in lieu of a  
22 controlled substance (RCW  
23 69.50.401(c))  
24 Escape 2 (RCW 9A.76.120)  
25 Extortion 2 (RCW 9A.56.130)  
26 Harassment (RCW 9A.46.020)  
27 Intimidating a Public Servant (RCW  
28 9A.76.180)  
29 Introducing Contraband 2 (RCW 9A.76.150)  
30 Maintaining a Dwelling or Place for  
31 Controlled Substances (RCW  
32 69.50.402(a)(6))  
33 Malicious Injury to Railroad Property (RCW  
34 81.60.070)  
35 Manufacture, deliver, or possess with  
36 intent to deliver marijuana (RCW  
37 69.50.401(a)(1)(iii))  
38 Manufacture, distribute, or possess with  
39 intent to distribute an imitation



1                   controlled        substance       (RCW  
2                   69.52.030(1))  
3       Patronizing a Juvenile Prostitute (RCW  
4                   9.68A.100)  
5       Perjury 2 (RCW 9A.72.030)  
6       Possession of Incendiary Device (RCW  
7                   9.40.120)  
8       Possession of Machine Gun or Short-Barreled  
9                   Shotgun or Rifle (RCW 9.41.190)  
10      Promoting Prostitution 2 (RCW 9A.88.080)  
11      Recklessly Trafficking in Stolen Property  
12                   (RCW 9A.82.050(1))  
13      Securities Act violation (RCW 21.20.400)  
14      Tampering with a Witness (RCW 9A.72.120)  
15      Telephone Harassment (subsequent conviction  
16                   or threat of death) (RCW 9.61.230)  
17      Theft of Livestock 2 (RCW 9A.56.080)  
18      Unlawful Imprisonment (RCW 9A.40.040)  
19      Unlawful possession of firearm in the  
20                   second degree (RCW 9.41.040(1)(b))  
21      Unlawful Use of Building for Drug Purposes  
22                   (RCW 69.53.010)  
23      Willful Failure to Return from Work Release  
24                   (RCW 72.65.070)  
  
25      II       Computer Trespass 1 (RCW 9A.52.110)  
26               Counterfeiting (RCW 9.16.035(3))  
27               Create, deliver, or possess a counterfeit  
28                   controlled        substance       (RCW  
29                   69.50.401(b))  
30               Escape from Community Custody (RCW  
31                   72.09.310)  
32               Health Care False Claims (RCW 48.80.030)  
33               Malicious Mischief 1 (RCW 9A.48.070)  
34               Possession of controlled substance that is  
35                   either heroin or narcotics from  
36                   Schedule I or II or flunitrazepam from  
37                   Schedule IV (RCW 69.50.401(d))  
38               Possession of phencyclidine (PCP) (RCW  
39                   69.50.401(d))

1 Possession of Stolen Property 1 (RCW  
2 9A.56.150)  
3 Theft 1 (RCW 9A.56.030)  
4 Theft of Rental, Leased, or Lease-purchased  
5 Property (valued at one thousand five  
6 hundred dollars or more) (RCW  
7 9A.56.096(4))  
8 Trafficking in Insurance Claims (RCW  
9 48.30A.015)  
10 Unlawful Practice of Law (RCW 2.48.180)  
11 Unlicensed Practice of a Profession or  
12 Business (RCW 18.130.190(7))  
13 I Attempting to Elude a Pursuing Police  
14 Vehicle (RCW 46.61.024)  
15 False Verification for Welfare (RCW  
16 74.08.055)  
17 Forged Prescription (RCW 69.41.020)  
18 Forged Prescription for a Controlled  
19 Substance (RCW 69.50.403)  
20 Forgery (RCW 9A.60.020)  
21 Malicious Mischief 2 (RCW 9A.48.080)  
22 Possess Controlled Substance that is a  
23 Narcotic from Schedule III, IV, or V  
24 or Non-narcotic from Schedule I-V  
25 (except phencyclidine or  
26 flunitrazepam) (RCW 69.50.401(d))  
27 Possession of Stolen Property 2 (RCW  
28 9A.56.160)  
29 Reckless Burning 1 (RCW 9A.48.040)  
30 Taking Motor Vehicle Without Permission  
31 (RCW 9A.56.070)  
32 Theft 2 (RCW 9A.56.040)  
33 Theft of Rental, Leased, or Lease-purchased  
34 Property (valued at two hundred fifty  
35 dollars or more but less than one  
36 thousand five hundred dollars) (RCW  
37 9A.56.096(4))  
38 Unlawful Issuance of Checks or Drafts (RCW  
39 9A.56.060)

1 Unlawful Use of Food Stamps (RCW 9.91.140  
2 (2) and (3))  
3 Vehicle Prowl 1 (RCW 9A.52.095)

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

6 Unless the context clearly requires otherwise, the definitions in  
7 this section apply throughout this chapter.

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

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

17 (3) "Community corrections officer" means an employee of the  
18 department who is responsible for carrying out specific duties in  
19 supervision of sentenced offenders and monitoring of sentence  
20 conditions.

21 (4) "Community custody" means that portion of an offender's  
22 sentence of confinement in lieu of earned release time or imposed  
23 pursuant to RCW 9.94A.120(2)(b), 9.94A.650 through 9.94A.670,  
24 9.94A.137, 9.94A.700 through 9.94A.715, or 9.94A.383, served in the  
25 community subject to controls placed on the offender's movement and  
26 activities by the department. For offenders placed on community  
27 custody for crimes committed on or after July 1, 2000, the department  
28 shall assess the offender's risk of reoffense and may establish and  
29 modify conditions of community custody, in addition to those imposed by  
30 the court, based upon the risk to community safety.

31 (5) "Community custody range" means the minimum and maximum period  
32 of community custody included as part of a sentence under RCW  
33 9.94A.715, as established by the commission or the legislature under  
34 RCW 9.94A.040, for crimes committed on or after July 1, 2000.

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

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

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

7 (8) "Community supervision" means a period of time during which a  
8 convicted offender is subject to crime-related prohibitions and other  
9 sentence conditions imposed by a court pursuant to this chapter or RCW  
10 16.52.200(6) or 46.61.524. Where the court finds that any offender has  
11 a chemical dependency that has contributed to his or her offense, the  
12 conditions of supervision may, subject to available resources, include  
13 treatment. For purposes of the interstate compact for out-of-state  
14 supervision of parolees and probationers, RCW 9.95.270, community  
15 supervision is the functional equivalent of probation and should be  
16 considered the same as probation by other states.

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

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

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

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

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

38 (14) "Day reporting" means a program of enhanced supervision  
39 designed to monitor the offender's daily activities and compliance with

1 sentence conditions, and in which the offender is required to report  
2 daily to a specific location designated by the department or the  
3 sentencing court.

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

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

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

25 (18) "Drug offender sentencing alternative" is a sentencing option  
26 available to persons convicted of a felony offense other than a violent  
27 offense or a sex offense and who are eligible for the option under RCW  
28 9.94A.660.

29 (19) "Drug offense" means:

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

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

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

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

3 (21) "Escape" means:

4 (a) Aggravated escape (section 1 of this act), escape in the first  
5 degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120),  
6 willful failure to return from furlough (RCW 72.66.060), willful  
7 failure to return from work release (RCW 72.65.070), or willful failure  
8 to be available for supervision by the department while in community  
9 custody (RCW 72.09.310); or

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

13 (22) "Felony traffic offense" means:

14 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
15 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
16 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

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

1 obligations may also include payment to a public agency of the expense  
2 of an emergency response to the incident resulting in the conviction,  
3 subject to RCW 38.52.430.

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

6 (a) Any felony defined under any law as a class A felony or  
7 criminal solicitation of or criminal conspiracy to commit a class A  
8 felony;

9 (b) Assault in the second degree;

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

11 (d) Child molestation in the second degree;

12 (e) Controlled substance homicide;

13 (f) Extortion in the first degree;

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

15 (h) Indecent liberties;

16 (i) Kidnapping in the second degree;

17 (j) Leading organized crime;

18 (k) Manslaughter in the first degree;

19 (l) Manslaughter in the second degree;

20 (m) Promoting prostitution in the first degree;

21 (n) Rape in the third degree;

22 (o) Robbery in the second degree;

23 (p) Sexual exploitation;

24 (q) Vehicular assault;

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

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

31 (t) Any other felony with a deadly weapon verdict under RCW  
32 9.94A.125;

33 (u) Any felony offense in effect at any time prior to December 2,  
34 1993, that is comparable to a most serious offense under this  
35 subsection, or any federal or out-of-state conviction for an offense  
36 that under the laws of this state would be a felony classified as a  
37 most serious offense under this subsection;

38 (v)(i) A prior conviction for indecent liberties under RCW  
39 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.

1 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
2 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
3 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

4 (ii) A prior conviction for indecent liberties under RCW  
5 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
6 if: (A) The crime was committed against a child under the age of  
7 fourteen; or (B) the relationship between the victim and perpetrator is  
8 included in the definition of indecent liberties under RCW  
9 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
10 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
11 through July 27, 1997.

12 (28) "Nonviolent offense" means an offense which is not a violent  
13 offense.

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

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

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

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

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



1 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
2 of a child in the first degree, child molestation in the first degree,  
3 rape in the second degree, rape of a child in the second degree, or  
4 indecent liberties by forcible compulsion; (B) murder in the first  
5 degree, murder in the second degree, homicide by abuse, kidnapping in  
6 the first degree, kidnapping in the second degree, assault in the first  
7 degree, assault in the second degree, assault of a child in the first  
8 degree, or burglary in the first degree, with a finding of sexual  
9 motivation; or (C) an attempt to commit any crime listed in this  
10 subsection (31)(b)(i); and

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

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

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

27 (34) "Risk assessment" means the application of an objective  
28 instrument supported by research and adopted by the department for the  
29 purpose of assessing an offender's risk of reoffense, taking into  
30 consideration the nature of the harm done by the offender, place and  
31 circumstances of the offender related to risk, the offender's  
32 relationship to any victim, and any information provided to the  
33 department by victims. The results of a risk assessment shall not be  
34 based on unconfirmed or unconfirmable allegations.

35 (35) "Serious traffic offense" means:

36 (a) Driving while under the influence of intoxicating liquor or any  
37 drug (RCW 46.61.502), actual physical control while under the influence  
38 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving

1 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
2 or

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

6 (36) "Serious violent offense" is a subcategory of violent offense  
7 and means:

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

9 (ii) Homicide by abuse;

10 (iii) Murder in the second degree;

11 (iv) Manslaughter in the first degree;

12 (v) Assault in the first degree;

13 (vi) Kidnapping in the first degree;

14 (vii) Rape in the first degree;

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

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

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

21 (37) "Sex offense" means:

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

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

24 (ii) RCW 9A.64.020;

25 (iii) RCW 9.68A.090; or

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

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

31 (c) A felony with a finding of sexual motivation under RCW  
32 9.94A.127 or 13.40.135; or

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

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

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

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

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

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

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

20 (44) "Violent offense" means:

21 (a) Any of the following felonies:

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

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

26 (iii) Manslaughter in the first degree;

27 (iv) Manslaughter in the second degree;

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

29 (vi) Kidnapping in the second degree;

30 (vii) Arson in the second degree;

31 (viii) Assault in the second degree;

32 (ix) Assault of a child in the second degree;

33 (x) Extortion in the first degree;

34 (xi) Robbery in the second degree;

35 (xii) Drive-by shooting;

36 (xiii) Vehicular assault; and

37 (xiv) Vehicular homicide, when proximately caused by the driving of  
38 any vehicle by any person while under the influence of intoxicating

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

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

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

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

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

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

22 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of the  
24 state government and its existing public institutions, and takes effect  
25 immediately except for section 4 of this act, which takes effect July  
26 1, 2001.

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