
SUBSTITUTE HOUSE BILL 2696

State of Washington

57th Legislature

2002 Regular Session

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson and Wood; by request of Sentencing Guidelines Commission)

Read first time 02/07/2002. Referred to Committee on .

1 AN ACT Relating to a youthful offender sentencing alternative;
2 amending RCW 9.94A.505, 9.94A.585, and 13.40.300; reenacting and
3 amending RCW 9.94A.030; adding a new section to chapter 9.94A RCW; and
4 prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW
7 to read as follows:

8 (1) An offender who is convicted in adult criminal court pursuant
9 to RCW 13.04.030(1)(e)(v) of any charge other than murder in the first
10 degree or murder in the second degree, may be sentenced under the
11 youthful offender sentencing alternative.

12 (2) In considering whether to impose the youthful offender
13 sentencing alternative, the court shall consider relevant reports,
14 facts, opinions, and arguments justifying the imposition of the
15 youthful offender sentencing alternative. The court shall consider the
16 history, character, and condition of the offender, including the
17 offender's sophistication and maturity, pattern of living, and
18 emotional and mental development. The court may impose a youthful

1 offender sentencing alternative upon a finding that sentence would be
2 in the best interest of the community.

3 (3) If a youthful offender sentencing alternative is imposed, the
4 court shall:

5 (a) Impose an adult sentence according to the sentencing reform
6 act;

7 (b) Suspend the adult sentence on the condition that the offender
8 comply with the terms of the youthful offender sentencing alternative
9 sentence, which includes a commitment to the custody of the juvenile
10 rehabilitation administration;

11 (c) Commit the offender to the custody of the juvenile
12 rehabilitation administration until age twenty-one; and

13 (d) For cases involving serious violent offenses, order the
14 offender transferred to the custody of the department of corrections at
15 age twenty-one and committed to the department of corrections until age
16 twenty-five or the length of the adult sentence, whichever is shorter.

17 (4) The juvenile rehabilitation administration shall submit annual
18 reports on the offender's compliance with the terms of the youthful
19 offender sentencing alternative to the court.

20 (5) If, at any time while the offender is serving the youthful
21 offender alternative sentence, the offender fails to make progress in
22 rehabilitative programs made available to him or her, reoffends, or
23 constitutes a serious threat to the physical safety of others, the
24 court may, upon its own motion or upon application by the juvenile
25 rehabilitation administration or the department of corrections, revoke
26 the youthful offender sentencing alternative sentence and impose the
27 suspended adult sentence. If the youthful offender sentencing
28 alternative sentence is revoked, and the offender is in the custody of
29 the juvenile rehabilitation administration, the offender shall be
30 transferred to the department of corrections to serve the adult
31 sentence.

32 (6) For cases that are not serious violent offenses, no sooner than
33 three months before the offender's twenty-first birthday, the offender
34 shall appear before the court to determine compliance with the youthful
35 sentencing alternative sentence. Victims enrolled in the victim
36 notification program shall be notified of the hearing. Victims have
37 the right to participate in the hearing in whatever manner they choose.

38 (a) If the court determines at the hearing that the offender has
39 made progress in available rehabilitative programs, has not reoffended,

1 and has not posed a serious threat to the physical safety of others,
2 the court shall release the offender from the adult sentence and order
3 community custody with the department of corrections for up to forty-
4 eight months.

5 (b) If the court determines at the hearing that the offender has
6 not made progress in available rehabilitative programs, has reoffended,
7 or has posed a serious threat to the physical safety of others, then
8 the court shall revoke the youthful offender sentencing alternative and
9 impose the suspended adult sentence.

10 (7) For cases involving serious violent offenses, the offender
11 shall remain in the custody of the department of corrections until age
12 twenty-five or for the length of the adult sentence, whichever is
13 shorter. No sooner than three months before the offender's twenty-
14 fifth birthday or an expected release date, the offender shall appear
15 before the sentencing court to determine compliance with the youthful
16 sentencing alternative sentence. Victims enrolled in the victim
17 notification program shall be notified of the hearing. Victims have
18 the right to participate in the hearing in whatever manner they choose.

19 (a) If the sentencing court determines at the hearing that the
20 offender has made progress in available rehabilitative programs, has
21 not reoffended, and has not posed a serious threat to the physical
22 safety of others, the court may release the offender from the adult
23 conviction and order community custody with the department of
24 corrections for up to forty-eight months.

25 (b) If the court determines at the hearing that the offender has
26 not made progress in available rehabilitative programs, has reoffended,
27 or has posed a serious threat to the physical safety of others, then
28 the court shall revoke the youthful offender sentencing alternative and
29 impose the suspended adult sentence.

30 (8)(a) Except as provided under (b) of this subsection, if the
31 offender is released from the adult portion of the sentence as provided
32 in subsection (6)(a) or (7)(a) of this section, then the matter shall
33 be considered a juvenile offense for all purposes, except the
34 department of corrections shall continue to have jurisdiction over the
35 offender for the purposes of supervision of community custody as
36 provided in subsections (6)(a) and (7)(a) of this section.

37 (b) If the youthful offender sentencing alternative sentence is
38 revoked the matter shall be considered an adult conviction for all
39 purposes. The offender shall be given credit for the time served while

1 committed to the custody of the juvenile rehabilitation administration
2 and the department of corrections.

3 (9) The department of corrections and the juvenile rehabilitation
4 administration shall develop a system of shared information and
5 resources for assessment and placement of offenders in community
6 custody under this section.

7 **Sec. 2.** RCW 9.94A.505 and 2001 2nd sp.s. c 12 s 312 are each
8 amended to read as follows:

9 (1) When a person is convicted of a felony, the court shall impose
10 punishment as provided in this chapter.

11 (2)(a) The court shall impose a sentence as provided in the
12 following sections and as applicable in the case:

13 (i) Unless another term of confinement applies, the court shall
14 impose a sentence within the standard sentence range established in RCW
15 9.94A.510;

16 (ii) RCW 9.94A.700 and 9.94A.705, relating to community placement;

17 (iii) RCW 9.94A.710 and 9.94A.715, relating to community custody;

18 (iv) RCW 9.94A.545, relating to community custody for offenders
19 whose term of confinement is one year or less;

20 (v) RCW 9.94A.570, relating to persistent offenders;

21 (vi) RCW 9.94A.540, relating to mandatory minimum terms;

22 (vii) RCW 9.94A.650, relating to the first-time offender waiver;

23 (viii) RCW 9.94A.660, relating to the drug offender sentencing
24 alternative;

25 (ix) RCW 9.94A.670, relating to the special sex offender sentencing
26 alternative;

27 (x) Section 1 of this act, relating to the youthful offender
28 sentencing alternative;

29 (xi) RCW 9.94A.712, relating to certain sex offenses;

30 ~~((xi))~~ (xii) RCW 9.94A.535, relating to exceptional sentences;

31 ~~((xii))~~ (xiii) RCW 9.94A.589, relating to consecutive and
32 concurrent sentences.

33 (b) If a standard sentence range has not been established for the
34 offender's crime, the court shall impose a determinate sentence which
35 may include not more than one year of confinement; community service
36 work; until July 1, 2000, a term of community supervision not to exceed
37 one year and on and after July 1, 2000, a term of community custody not
38 to exceed one year, subject to conditions and sanctions as authorized

1 in RCW 9.94A.710 (2) and (3); and/or other legal financial obligations.
2 The court may impose a sentence which provides more than one year of
3 confinement if the court finds reasons justifying an exceptional
4 sentence as provided in RCW 9.94A.535.

5 (3) If the court imposes a sentence requiring confinement of thirty
6 days or less, the court may, in its discretion, specify that the
7 sentence be served on consecutive or intermittent days. A sentence
8 requiring more than thirty days of confinement shall be served on
9 consecutive days. Local jail administrators may schedule court-ordered
10 intermittent sentences as space permits.

11 (4) If a sentence imposed includes payment of a legal financial
12 obligation, it shall be imposed as provided in RCW 9.94A.750,
13 9.94A.753, and 9.94A.760.

14 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
15 court may not impose a sentence providing for a term of confinement or
16 community supervision, community placement, or community custody which
17 exceeds the statutory maximum for the crime as provided in chapter
18 9A.20 RCW.

19 (6) The sentencing court shall give the offender credit for all
20 confinement time served before the sentencing if that confinement was
21 solely in regard to the offense for which the offender is being
22 sentenced.

23 (7) The court shall order restitution as provided in RCW 9.94A.750
24 and 9.94A.753.

25 (8) As a part of any sentence, the court may impose and enforce
26 crime-related prohibitions and affirmative conditions as provided in
27 this chapter.

28 (9) The court may order an offender whose sentence includes
29 community placement or community supervision to undergo a mental status
30 evaluation and to participate in available outpatient mental health
31 treatment, if the court finds that reasonable grounds exist to believe
32 that the offender is a mentally ill person as defined in RCW 71.24.025,
33 and that this condition is likely to have influenced the offense. An
34 order requiring mental status evaluation or treatment must be based on
35 a presentence report and, if applicable, mental status evaluations that
36 have been filed with the court to determine the offender's competency
37 or eligibility for a defense of insanity. The court may order
38 additional evaluations at a later date if deemed appropriate.

1 (10) In any sentence of partial confinement, the court may require
2 the offender to serve the partial confinement in work release, in a
3 program of home detention, on work crew, or in a combined program of
4 work crew and home detention.

5 (11) In sentencing an offender convicted of a crime of domestic
6 violence, as defined in RCW 10.99.020, if the offender has a minor
7 child, or if the victim of the offense for which the offender was
8 convicted has a minor child, the court may, as part of any term of
9 community supervision, community placement, or community custody, order
10 the offender to participate in a domestic violence perpetrator program
11 approved under RCW 26.50.150.

12 **Sec. 3.** RCW 9.94A.030 and 2001 2nd sp.s. c 12 s 301, 2001 c 300 s
13 3, and 2001 c 7 s 2 are each reenacted and amended to read as follows:

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

16 (1) "Board" means the indeterminate sentence review board created
17 under chapter 9.95 RCW.

18 (2) "Collect," or any derivative thereof, "collect and remit," or
19 "collect and deliver," when used with reference to the department,
20 means that the department, either directly or through a collection
21 agreement authorized by RCW 9.94A.760, is responsible for monitoring
22 and enforcing the offender's sentence with regard to the legal
23 financial obligation, receiving payment thereof from the offender, and,
24 consistent with current law, delivering daily the entire payment to the
25 superior court clerk without depositing it in a departmental account.

26 (3) "Commission" means the sentencing guidelines commission.

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

31 (5) "Community custody" means that portion of an offender's
32 sentence of confinement in lieu of earned release time or imposed
33 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, section
34 1 of this act, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545,
35 served in the community subject to controls placed on the offender's
36 movement and activities by the department. For offenders placed on
37 community custody for crimes committed on or after July 1, 2000, the
38 department shall assess the offender's risk of reoffense and may

1 establish and modify conditions of community custody, in addition to
2 those imposed by the court, based upon the risk to community safety.

3 (6) "Community custody range" means the minimum and maximum period
4 of community custody included as part of a sentence under RCW
5 9.94A.715, as established by the commission or the legislature under
6 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

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

14 (8) "Community service" means compulsory service, without
15 compensation, performed for the benefit of the community by the
16 offender.

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

27 (10) "Confinement" means total or partial confinement.

28 (11) "Conviction" means an adjudication of guilt pursuant to Titles
29 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
30 acceptance of a plea of guilty.

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

38 (13) "Criminal history" means the list of a defendant's prior
39 convictions and juvenile adjudications, whether in this state, in

1 federal court, or elsewhere. The history shall include, where known,
2 for each conviction (a) whether the defendant has been placed on
3 probation and the length and terms thereof; and (b) whether the
4 defendant has been incarcerated and the length of incarceration.

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

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

14 (16) "Department" means the department of corrections.

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

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

35 (19) "Drug offender sentencing alternative" is a sentencing option
36 available to persons convicted of a felony offense other than a violent
37 offense or a sex offense and who are eligible for the option under RCW
38 9.94A.660.

39 (20) "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 (21) "Earned release" means earned release from confinement as
11 provided in RCW 9.94A.728.

12 (22) "Escape" means:

13 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
14 first degree (RCW 9A.76.110), escape in the second degree (RCW
15 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
16 willful failure to return from work release (RCW 72.65.070), or willful
17 failure to be available for supervision by the department while in
18 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 (23) "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 (24) "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 (25) "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 (26) "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 (27) "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 (28) "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, when caused by the operation or driving of
34 a vehicle by a person while under the influence of intoxicating liquor
35 or any drug or by the operation or driving of a vehicle in a reckless
36 manner;

37 (r) 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 (s) Any other class B felony offense with a finding of sexual
4 motivation;

5 (t) Any other felony with a deadly weapon verdict under RCW
6 9.94A.602;

7 (u) Any felony offense in effect at any time prior to December 2,
8 1993, that is comparable to a most serious offense under this
9 subsection, or any federal or out-of-state conviction for an offense
10 that under the laws of this state would be a felony classified as a
11 most serious offense under this subsection;

12 (v)(i) A prior conviction for indecent liberties under RCW
13 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
14 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
15 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
16 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

17 (ii) A prior conviction for indecent liberties under RCW
18 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
19 if: (A) The crime was committed against a child under the age of
20 fourteen; or (B) the relationship between the victim and perpetrator is
21 included in the definition of indecent liberties under RCW
22 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
23 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
24 through July 27, 1997.

25 (29) "Nonviolent offense" means an offense which is not a violent
26 offense.

27 (30) "Offender" means a person who has committed a felony
28 established by state law and is eighteen years of age or older or is
29 less than eighteen years of age but whose case is under superior court
30 jurisdiction under RCW 13.04.030 or has been transferred by the
31 appropriate juvenile court to a criminal court pursuant to RCW
32 13.40.110. Throughout this chapter, the terms "offender" and
33 "defendant" are used interchangeably.

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

1 detention, work crew, and a combination of work crew and home
2 detention.

3 (32) "Persistent offender" is an offender who:

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

6 (ii) Has, before the commission of the offense under (a) of this
7 subsection, been convicted as an offender on at least two separate
8 occasions, whether in this state or elsewhere, of felonies that under
9 the laws of this state would be considered most serious offenses and
10 would be included in the offender score under RCW 9.94A.525; provided
11 that of the two or more previous convictions, at least one conviction
12 must have occurred before the commission of any of the other most
13 serious offenses for which the offender was previously convicted; or

14 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
15 of a child in the first degree, child molestation in the first degree,
16 rape in the second degree, rape of a child in the second degree, or
17 indecent liberties by forcible compulsion; (B) any of the following
18 offenses with a finding of sexual motivation: Murder in the first
19 degree, murder in the second degree, homicide by abuse, kidnapping in
20 the first degree, kidnapping in the second degree, assault in the first
21 degree, assault in the second degree, assault of a child in the first
22 degree, or burglary in the first degree; or (C) an attempt to commit
23 any crime listed in this subsection (32)(b)(i); and

24 (ii) Has, before the commission of the offense under (b)(i) of this
25 subsection, been convicted as an offender on at least one occasion,
26 whether in this state or elsewhere, of an offense listed in (b)(i) of
27 this subsection or any federal or out-of-state offense or offense under
28 prior Washington law that is comparable to the offenses listed in
29 (b)(i) of this subsection. A conviction for rape of a child in the
30 first degree constitutes a conviction under (b)(i) of this subsection
31 only when the offender was sixteen years of age or older when the
32 offender committed the offense. A conviction for rape of a child in
33 the second degree constitutes a conviction under (b)(i) of this
34 subsection only when the offender was eighteen years of age or older
35 when the offender committed the offense.

36 (33) "Postrelease supervision" is that portion of an offender's
37 community placement that is not community custody.

38 (34) "Restitution" means a specific sum of money ordered by the
39 sentencing court to be paid by the offender to the court over a

1 specified period of time as payment of damages. The sum may include
2 both public and private costs.

3 (35) "Risk assessment" means the application of an objective
4 instrument supported by research and adopted by the department for the
5 purpose of assessing an offender's risk of reoffense, taking into
6 consideration the nature of the harm done by the offender, place and
7 circumstances of the offender related to risk, the offender's
8 relationship to any victim, and any information provided to the
9 department by victims. The results of a risk assessment shall not be
10 based on unconfirmed or unconfirmable allegations.

11 (36) "Serious traffic offense" means:

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

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

20 (37) "Serious violent offense" is a subcategory of violent offense
21 and means:

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

23 (ii) Homicide by abuse;

24 (iii) Murder in the second degree;

25 (iv) Manslaughter in the first degree;

26 (v) Assault in the first degree;

27 (vi) Kidnapping in the first degree;

28 (vii) Rape in the first degree;

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

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

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

35 (38) "Sex offense" means:

36 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
37 RCW 9A.44.130(11);

38 (ii) A violation of RCW 9A.64.020;

1 (iii) A felony that is a violation of chapter 9.68A RCW other than
2 RCW 9.68A.070 or 9.68A.080; or

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

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

8 (c) A felony with a finding of sexual motivation under RCW
9 9.94A.835 or 13.40.135; or

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

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

16 (40) "Standard sentence range" means the sentencing court's
17 discretionary range in imposing a nonappealable sentence.

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

22 (42) "Total confinement" means confinement inside the physical
23 boundaries of a facility or institution operated or utilized under
24 contract by the state or any other unit of government for twenty-four
25 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

26 (43) "Transition training" means written and verbal instructions
27 and assistance provided by the department to the offender during the
28 two weeks prior to the offender's successful completion of the work
29 ethic camp program. The transition training shall include instructions
30 in the offender's requirements and obligations during the offender's
31 period of community custody.

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

35 (45) "Violent offense" means:

36 (a) Any of the following felonies:

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

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

3 (iii) Manslaughter in the first degree;

4 (iv) Manslaughter in the second degree;

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

6 (vi) Kidnapping in the second degree;

7 (vii) Arson in the second degree;

8 (viii) Assault in the second degree;

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

10 (x) Extortion in the first degree;

11 (xi) Robbery in the second degree;

12 (xii) Drive-by shooting;

13 (xiii) Vehicular assault, when caused by the operation or driving
14 of a vehicle by a person while under the influence of intoxicating
15 liquor or any drug or by the operation or driving of a vehicle in a
16 reckless manner; and

17 (xiv) Vehicular homicide, when proximately caused by the driving of
18 any vehicle by any person while under the influence of intoxicating
19 liquor or any drug as defined by RCW 46.61.502, or by the operation of
20 any vehicle in a reckless manner;

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

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

27 (46) "Work crew" means a program of partial confinement consisting
28 of civic improvement tasks for the benefit of the community that
29 complies with RCW 9.94A.725.

30 (47) "Work ethic camp" means an alternative incarceration program
31 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
32 the cost of corrections by requiring offenders to complete a
33 comprehensive array of real-world job and vocational experiences,
34 character-building work ethics training, life management skills
35 development, substance abuse rehabilitation, counseling, literacy
36 training, and basic adult education.

37 (48) "Work release" means a program of partial confinement
38 available to offenders who are employed or engaged as a student in a
39 regular course of study at school.

1 **Sec. 4.** RCW 9.94A.585 and 2000 c 28 s 10 are each amended to read
2 as follows:

3 (1) A sentence within the standard sentence range for the offense
4 shall not be appealed. For purposes of this section, a sentence
5 imposed on a first-time offender under RCW 9.94A.650 or a youthful
6 offender under section 1 of this act shall also be deemed to be within
7 the standard sentence range for the offense and shall not be appealed.

8 (2) A sentence outside the standard sentence range for the offense
9 is subject to appeal by the defendant or the state. The appeal shall
10 be to the court of appeals in accordance with rules adopted by the
11 supreme court.

12 (3) Pending review of the sentence, the sentencing court or the
13 court of appeals may order the defendant confined or placed on
14 conditional release, including bond.

15 (4) To reverse a sentence which is outside the standard sentence
16 range, the reviewing court must find: (a) Either that the reasons
17 supplied by the sentencing court are not supported by the record which
18 was before the judge or that those reasons do not justify a sentence
19 outside the standard sentence range for that offense; or (b) that the
20 sentence imposed was clearly excessive or clearly too lenient.

21 (5) A review under this section shall be made solely upon the
22 record that was before the sentencing court. Written briefs shall not
23 be required and the review and decision shall be made in an expedited
24 manner according to rules adopted by the supreme court.

25 (6) The court of appeals shall issue a written opinion in support
26 of its decision whenever the judgment of the sentencing court is
27 reversed and may issue written opinions in any other case where the
28 court believes that a written opinion would provide guidance to
29 sentencing courts and others in implementing this chapter and in
30 developing a common law of sentencing within the state.

31 (7) The department may petition for a review of a sentence
32 committing an offender to the custody or jurisdiction of the
33 department. The review shall be limited to errors of law. Such
34 petition shall be filed with the court of appeals no later than ninety
35 days after the department has actual knowledge of terms of the
36 sentence. The petition shall include a certification by the department
37 that all reasonable efforts to resolve the dispute at the superior
38 court level have been exhausted.

1 **Sec. 5.** RCW 13.40.300 and 2000 c 71 s 2 are each amended to read
2 as follows:

3 (1) In no case may a juvenile offender be committed by the juvenile
4 court to the department of social and health services for placement in
5 a juvenile correctional institution beyond the juvenile offender's
6 twenty-first birthday. A juvenile may be under the jurisdiction of the
7 juvenile court or the authority of the department of social and health
8 services beyond the juvenile's eighteenth birthday only if prior to the
9 juvenile's eighteenth birthday:

10 (a) Proceedings are pending seeking the adjudication of a juvenile
11 offense and the court by written order setting forth its reasons
12 extends jurisdiction of juvenile court over the juvenile beyond his or
13 her eighteenth birthday;

14 (b) The juvenile has been found guilty after a fact finding or
15 after a plea of guilty and an automatic extension is necessary to allow
16 for the imposition of disposition; ~~((or))~~

17 (c) Disposition has been held and an automatic extension is
18 necessary to allow for the execution and enforcement of the court's
19 order of disposition. If an order of disposition imposes commitment to
20 the department, then jurisdiction is automatically extended to include
21 a period of up to twelve months of parole, in no case extending beyond
22 the offender's twenty-first birthday; or

23 (d) The juvenile has been sentenced under section 1 of this act,
24 the youthful offender sentencing alternative.

25 (2) If the juvenile court previously has extended jurisdiction
26 beyond the juvenile offender's eighteenth birthday and that period of
27 extension has not expired, the court may further extend jurisdiction by
28 written order setting forth its reasons.

29 (3) In no event may the juvenile court have authority to extend
30 jurisdiction over any juvenile offender beyond the juvenile offender's
31 twenty-first birthday except for the purpose of enforcing an order of
32 restitution or penalty assessment.

33 (4) Notwithstanding any extension of jurisdiction over a person
34 pursuant to this section, the juvenile court has no jurisdiction over
35 any offenses alleged to have been committed by a person eighteen years
36 of age or older.

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