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SECOND SUBSTITUTE HOUSE BILL 2338

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AS AMENDED BY THE SENATE

Passed Legislature - 2002 Regular Session

State of Washington                      57th Legislature                      2002 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Kagi, Ballasiotes, O'Brien, Lantz, Dickerson, Linville, McIntire, Conway and Wood)

Read first time 02/09/2002. Referred to Committee on .

1            AN ACT Relating to the recommendations of the sentencing guidelines  
2            commission regarding drug offenses; amending RCW 9.94A.525, 2.28.170,  
3            9.94A.470, 9.94A.475, 9.94A.480, 9.94A.505, 9.94A.530, 9.94A.585,  
4            9.94A.660, 9.94A.728, 9.94A.850, and 10.01.210; reenacting and amending  
5            RCW 9.94A.515, 9.94A.515, and 9.94A.510; adding a new section to  
6            chapter 70.96A RCW; adding a new section to chapter 43.135 RCW; adding  
7            a new section to chapter 43.20A RCW; adding new sections to chapter  
8            9.94A RCW; creating new sections; prescribing penalties; providing  
9            effective dates; providing expiration dates; and declaring an  
10           emergency.

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

12            NEW SECTION.    **Sec. 1.**    It is the intent of the legislature to  
13            increase the use of effective substance abuse treatment for defendants  
14            and offenders in Washington in order to make frugal use of state and  
15            local resources, thus reducing recidivism and increasing the likelihood  
16            that defendants and offenders will become productive and law-abiding  
17            persons. The legislature recognizes that substance abuse treatment can  
18            be effective if it is well planned and involves adequate monitoring,  
19            and that substance abuse and addiction is a public safety and public

1 health issue that must be more effectively addressed if recidivism is  
2 to be reduced. The legislature intends that sentences for drug  
3 offenses accurately reflect the adverse impact of substance abuse and  
4 addiction on public safety, that the public must have protection from  
5 violent offenders, and further intends that such sentences be based on  
6 policies that are supported by research and public policy goals  
7 established by the legislature.

8 **Sec. 2.** RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300 s  
9 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended to  
10 read as follows:

11 TABLE 2

12 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

13	XVI	Aggravated Murder 1 (RCW 10.95.020)
14	XV	Homicide by abuse (RCW 9A.32.055)
15		Malicious explosion 1 (RCW 70.74.280(1))
16		Murder 1 (RCW 9A.32.030)
17	XIV	Murder 2 (RCW 9A.32.050)
18	XIII	Malicious explosion 2 (RCW 70.74.280(2))
19		Malicious placement of an explosive 1 (RCW
20		70.74.270(1))
21	XII	Assault 1 (RCW 9A.36.011)
22		Assault of a Child 1 (RCW 9A.36.120)
23		Malicious placement of an imitation device
24		1 (RCW 70.74.272(1)(a))
25		Rape 1 (RCW 9A.44.040)
26		Rape of a Child 1 (RCW 9A.44.073)
27	XI	Manslaughter 1 (RCW 9A.32.060)
28		Rape 2 (RCW 9A.44.050)
29		Rape of a Child 2 (RCW 9A.44.076)
30	X	Child Molestation 1 (RCW 9A.44.083)
31		Indecent Liberties (with forcible
32		compulsion) (RCW 9A.44.100(1)(a))
33		Kidnapping 1 (RCW 9A.40.020)

1           Leading      Organized      Crime      (RCW  
2                      9A.82.060(1)(a))  
3           Malicious explosion 3 (RCW 70.74.280(3))  
4           Manufacture      of      methamphetamine      (RCW  
5                      69.50.401(a)(1)(ii))  
6           Over      18      and      deliver      heroin,  
7                      methamphetamine,      a      narcotic      from  
8                      Schedule I or II, or flunitrazepam  
9                      from Schedule IV to someone under 18  
10                     (RCW 69.50.406)  
11          Sexually Violent Predator Escape (RCW  
12                      9A.76.115)

13    IX           Assault of a Child 2 (RCW 9A.36.130)  
14           Controlled      Substance      Homicide      (RCW  
15                      69.50.415)  
16           Explosive      devices      prohibited      (RCW  
17                      70.74.180)  
18           Hit and Run--Death (RCW 46.52.020(4)(a))  
19           Homicide by Watercraft, by being under the  
20                      influence of intoxicating liquor or  
21                      any drug (RCW 79A.60.050)  
22           Inciting      Criminal      Profiteering      (RCW  
23                      9A.82.060(1)(b))  
24           Malicious placement of an explosive 2 (RCW  
25                      70.74.270(2))  
26           Over 18 and deliver narcotic from Schedule  
27                      III, IV, or V or a nonnarcotic, except  
28                      flunitrazepam or methamphetamine, from  
29                      Schedule I-V to someone under 18 and 3  
30                      years junior (RCW 69.50.406)  
31           Robbery 1 (RCW 9A.56.200)  
32           Sexual Exploitation (RCW 9.68A.040)  
33           Vehicular Homicide, by being under the  
34                      influence of intoxicating liquor or  
35                      any drug (RCW 46.61.520)

36    VIII          Arson 1 (RCW 9A.48.020)

1 Deliver or possess with intent to deliver  
2 methamphetamine (RCW  
3 69.50.401(a)(1)(ii))  
4 Homicide by Watercraft, by the operation of  
5 any vessel in a reckless manner (RCW  
6 79A.60.050)  
7 Manslaughter 2 (RCW 9A.32.070)  
8 Manufacture, deliver, or possess with  
9 intent to deliver amphetamine (RCW  
10 69.50.401(a)(1)(ii))  
11 Manufacture, deliver, or possess with  
12 intent to deliver heroin or cocaine  
13 (when the offender has a criminal  
14 history in this state or any other  
15 state that includes a sex offense or  
16 serious violent offense or the  
17 Washington equivalent) (RCW  
18 69.50.401(a)(1)(i))  
19 Possession of Ephedrine, Pseudoephedrine,  
20 or Anhydrous Ammonia with intent to  
21 manufacture methamphetamine (RCW  
22 69.50.440)  
23 Promoting Prostitution 1 (RCW 9A.88.070)  
24 Selling for profit (controlled or  
25 counterfeit) any controlled substance  
26 (RCW 69.50.410)  
27 Theft of Anhydrous Ammonia (RCW 69.55.010)  
28 Vehicular Homicide, by the operation of any  
29 vehicle in a reckless manner (RCW  
30 46.61.520)  
31 VII Burglary 1 (RCW 9A.52.020)  
32 Child Molestation 2 (RCW 9A.44.086)  
33 Dealing in depictions of minor engaged in  
34 sexually explicit conduct (RCW  
35 9.68A.050)  
36 Drive-by Shooting (RCW 9A.36.045)  
37 Homicide by Watercraft, by disregard for  
38 the safety of others (RCW 79A.60.050)

1 Indecent Liberties (without forcible  
2 compulsion) (RCW 9A.44.100(1) (b) and  
3 (c))  
4 Introducing Contraband 1 (RCW 9A.76.140)  
5 Involving a minor in drug dealing (RCW  
6 69.50.401(f))  
7 Malicious placement of an explosive 3 (RCW  
8 70.74.270(3))  
9 Manufacture, deliver, or possess with  
10 intent to deliver heroin or cocaine  
11 (except when the offender has a  
12 criminal history in this state or any  
13 other state that includes a sex  
14 offense or serious violent offense or  
15 the Washington equivalent) (RCW  
16 69.50.401(a)(1)(i))  
17 Sending, bringing into state depictions of  
18 minor engaged in sexually explicit  
19 conduct (RCW 9.68A.060)  
20 Unlawful Possession of a Firearm in the  
21 first degree (RCW 9.41.040(1)(a))  
22 Use of a Machine Gun in Commission of a  
23 Felony (RCW 9.41.225)  
24 Vehicular Homicide, by disregard for the  
25 safety of others (RCW 46.61.520)  
26 VI Bail Jumping with Murder 1 (RCW  
27 9A.76.170(3)(a))  
28 Bribery (RCW 9A.68.010)  
29 Incest 1 (RCW 9A.64.020(1))  
30 Intimidating a Judge (RCW 9A.72.160)  
31 Intimidating a Juror/Witness (RCW  
32 9A.72.110, 9A.72.130)  
33 Malicious placement of an imitation device  
34 2 (RCW 70.74.272(1)(b))  
35 Manufacture, deliver, or possess with  
36 intent to deliver narcotics from  
37 Schedule I or II (except heroin or  
38 cocaine) or flunitrazepam from  
39 Schedule IV (RCW 69.50.401(a)(1)(i))

1 Rape of a Child 3 (RCW 9A.44.079)  
2 Theft of a Firearm (RCW 9A.56.300)  
3 Unlawful Storage of Anhydrous Ammonia (RCW  
4 69.55.020)  
5 V Abandonment of dependent person 1 (RCW  
6 9A.42.060)  
7 Advancing money or property for  
8 extortionate extension of credit (RCW  
9 9A.82.030)  
10 Bail Jumping with class A Felony (RCW  
11 9A.76.170(3)(b))  
12 Child Molestation 3 (RCW 9A.44.089)  
13 Criminal Mistreatment 1 (RCW 9A.42.020)  
14 Custodial Sexual Misconduct 1 (RCW  
15 9A.44.160)  
16 Delivery of imitation controlled substance  
17 by person eighteen or over to person  
18 under eighteen (RCW 69.52.030(2))  
19 Domestic Violence Court Order Violation  
20 (RCW 10.99.040, 10.99.050, 26.09.300,  
21 26.10.220, 26.26.138, 26.50.110,  
22 26.52.070, or 74.34.145)  
23 Extortion 1 (RCW 9A.56.120)  
24 Extortionate Extension of Credit (RCW  
25 9A.82.020)  
26 Extortionate Means to Collect Extensions of  
27 Credit (RCW 9A.82.040)  
28 Incest 2 (RCW 9A.64.020(2))  
29 Kidnapping 2 (RCW 9A.40.030)  
30 Perjury 1 (RCW 9A.72.020)  
31 Persistent prison misbehavior (RCW  
32 9.94.070)  
33 Possession of a Stolen Firearm (RCW  
34 9A.56.310)  
35 Rape 3 (RCW 9A.44.060)  
36 Rendering Criminal Assistance 1 (RCW  
37 9A.76.070)  
38 Sexual Misconduct with a Minor 1 (RCW  
39 9A.44.093)

1 Sexually Violating Human Remains (RCW  
2 9A.44.105)  
3 Stalking (RCW 9A.46.110)  
4 IV Arson 2 (RCW 9A.48.030)  
5 Assault 2 (RCW 9A.36.021)  
6 Assault by Watercraft (RCW 79A.60.060)  
7 Bribing a Witness/Bribe Received by Witness  
8 (RCW 9A.72.090, 9A.72.100)  
9 Commercial Bribery (RCW 9A.68.060)  
10 Counterfeiting (RCW 9.16.035(4))  
11 Escape 1 (RCW 9A.76.110)  
12 Hit and Run--Injury (RCW 46.52.020(4)(b))  
13 Hit and Run with Vessel--Injury Accident  
14 (RCW 79A.60.200(3))  
15 Identity Theft 1 (RCW 9.35.020(2)(a))  
16 Indecent Exposure to Person Under Age  
17 Fourteen (subsequent sex offense) (RCW  
18 9A.88.010)  
19 Influencing Outcome of Sporting Event (RCW  
20 9A.82.070)  
21 Knowingly Trafficking in Stolen Property  
22 (RCW 9A.82.050(2))  
23 Malicious Harassment (RCW 9A.36.080)  
24 Manufacture, deliver, or possess with  
25 intent to deliver narcotics from  
26 Schedule III, IV, or V or nonnarcotics  
27 from Schedule I-V (except marijuana,  
28 amphetamine, methamphetamines, or  
29 flunitrazepam) (RCW 69.50.401(a)(1)  
30 (iii) through (v))  
31 Residential Burglary (RCW 9A.52.025)  
32 Robbery 2 (RCW 9A.56.210)  
33 Theft of Livestock 1 (RCW 9A.56.080)  
34 Threats to Bomb (RCW 9.61.160)  
35 Use of Proceeds of Criminal Profiteering  
36 (RCW 9A.82.080 (1) and (2))  
37 Vehicular Assault, by being under the  
38 influence of intoxicating liquor or  
39 any drug, or by the operation or

1 driving of a vehicle in a reckless  
2 manner (RCW 46.61.522)  
3 Willful Failure to Return from Furlough  
4 (RCW 72.66.060)

5 III Abandonment of dependent person 2 (RCW  
6 9A.42.070)  
7 Assault 3 (RCW 9A.36.031)  
8 Assault of a Child 3 (RCW 9A.36.140)  
9 Bail Jumping with class B or C Felony (RCW  
10 9A.76.170(3)(c))  
11 Burglary 2 (RCW 9A.52.030)  
12 Communication with a Minor for Immoral  
13 Purposes (RCW 9.68A.090)  
14 Criminal Gang Intimidation (RCW 9A.46.120)  
15 Criminal Mistreatment 2 (RCW 9A.42.030)  
16 Custodial Assault (RCW 9A.36.100)  
17 Delivery of a material in lieu of a  
18 controlled substance (RCW  
19 69.50.401(c))  
20 Escape 2 (RCW 9A.76.120)  
21 Extortion 2 (RCW 9A.56.130)  
22 Harassment (RCW 9A.46.020)  
23 Intimidating a Public Servant (RCW  
24 9A.76.180)  
25 Introducing Contraband 2 (RCW 9A.76.150)  
26 Maintaining a Dwelling or Place for  
27 Controlled Substances (RCW  
28 69.50.402(a)(6))  
29 Malicious Injury to Railroad Property (RCW  
30 81.60.070)  
31 Manufacture, deliver, or possess with  
32 intent to deliver marijuana (RCW  
33 69.50.401(a)(1)(iii))  
34 Manufacture, distribute, or possess with  
35 intent to distribute an imitation  
36 controlled substance (RCW  
37 69.52.030(1))  
38 Patronizing a Juvenile Prostitute (RCW  
39 9.68A.100)



1 Perjury 2 (RCW 9A.72.030)  
2 Possession of Incendiary Device (RCW  
3 9.40.120)  
4 Possession of Machine Gun or Short-Barreled  
5 Shotgun or Rifle (RCW 9.41.190)  
6 Promoting Prostitution 2 (RCW 9A.88.080)  
7 Recklessly Trafficking in Stolen Property  
8 (RCW 9A.82.050(1))  
9 Securities Act violation (RCW 21.20.400)  
10 Tampering with a Witness (RCW 9A.72.120)  
11 Telephone Harassment (subsequent conviction  
12 or threat of death) (RCW 9.61.230)  
13 Theft of Livestock 2 (RCW 9A.56.080)  
14 Unlawful Imprisonment (RCW 9A.40.040)  
15 Unlawful possession of firearm in the  
16 second degree (RCW 9.41.040(1)(b))  
17 Unlawful Use of Building for Drug Purposes  
18 (RCW 69.53.010)  
19 Vehicular Assault, by the operation or  
20 driving of a vehicle with disregard  
21 for the safety of others (RCW  
22 46.61.522)  
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 Identity Theft 2 (RCW 9.35.020(2)(b))  
34 Improperly Obtaining Financial Information  
35 (RCW 9.35.010)  
36 Malicious Mischief 1 (RCW 9A.48.070)  
37 Possession of controlled substance that is  
38 either heroin or narcotics from

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

1                   thousand five hundred dollars) (RCW  
2                   9A.56.096(4))  
3                   Unlawful Issuance of Checks or Drafts (RCW  
4                   9A.56.060)  
5                   Unlawful Use of Food Stamps (RCW 9.91.140  
6                   (2) and (3))  
7                   Vehicle Prowl 1 (RCW 9A.52.095)

8           **Sec. 3.** RCW 9.94A.525 and 2001 c 264 s 5 are each amended to read  
9 as follows:

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

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

14           (1) A prior conviction is a conviction which exists before the date  
15 of sentencing for the offense for which the offender score is being  
16 computed. Convictions entered or sentenced on the same date as the  
17 conviction for which the offender score is being computed shall be  
18 deemed "other current offenses" within the meaning of RCW 9.94A.589.

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

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

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

13 (5)(a) In the case of multiple prior convictions, for the purpose  
14 of computing the offender score, count all convictions separately,  
15 except:

16 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to  
17 encompass the same criminal conduct, shall be counted as one offense,  
18 the offense that yields the highest offender score. The current  
19 sentencing court shall determine with respect to other prior adult  
20 offenses for which sentences were served concurrently or prior juvenile  
21 offenses for which sentences were served consecutively, whether those  
22 offenses shall be counted as one offense or as separate offenses using  
23 the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and  
24 if the court finds that they shall be counted as one offense, then the  
25 offense that yields the highest offender score shall be used. The  
26 current sentencing court may presume that such other prior offenses  
27 were not the same criminal conduct from sentences imposed on separate  
28 dates, or in separate counties or jurisdictions, or in separate  
29 complaints, indictments, or informations;

30 (ii) In the case of multiple prior convictions for offenses  
31 committed before July 1, 1986, for the purpose of computing the  
32 offender score, count all adult convictions served concurrently as one  
33 offense, and count all juvenile convictions entered on the same date as  
34 one offense. Use the conviction for the offense that yields the  
35 highest offender score.

36 (b) As used in this subsection (5), "served concurrently" means  
37 that: (i) The latter sentence was imposed with specific reference to  
38 the former; (ii) the concurrent relationship of the sentences was  
39 judicially imposed; and (iii) the concurrent timing of the sentences

1 was not the result of a probation or parole revocation on the former  
2 offense.

3 (6) If the present conviction is one of the anticipatory offenses  
4 of criminal attempt, solicitation, or conspiracy, count each prior  
5 conviction as if the present conviction were for a completed offense.  
6 When these convictions are used as criminal history, score them the  
7 same as a completed crime.

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

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

18 (9) If the present conviction is for a serious violent offense,  
19 count three points for prior adult and juvenile convictions for crimes  
20 in this category, two points for each prior adult and juvenile violent  
21 conviction (not already counted), one point for each prior adult  
22 nonviolent felony conviction, and 1/2 point for each prior juvenile  
23 nonviolent felony conviction.

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

29 (11) If the present conviction is for a felony traffic offense  
30 count two points for each adult or juvenile prior conviction for  
31 Vehicular Homicide or Vehicular Assault; for each felony offense count  
32 one point for each adult and 1/2 point for each juvenile prior  
33 conviction; for each serious traffic offense, other than those used for  
34 an enhancement pursuant to RCW 46.61.520(2), count one point for each  
35 adult and 1/2 point for each juvenile prior conviction.

36 (12) If the present conviction is for ((a drug offense))  
37 manufacture of methamphetamine count three points for each adult prior  
38 ((felony drug offense)) manufacture of methamphetamine conviction and  
39 two points for each juvenile ((drug)) manufacture of methamphetamine

1 offense. If the present conviction is for a drug offense and the  
2 offender has a criminal history that includes a sex offense or serious  
3 violent offense, count three points for each adult prior felony drug  
4 offense conviction and two points for each juvenile drug offense. All  
5 other adult and juvenile felonies are scored as in subsection (8) of  
6 this section if the current drug offense is violent, or as in  
7 subsection (7) of this section if the current drug offense is  
8 nonviolent.

9 (13) If the present conviction is for Escape from Community  
10 Custody, RCW 72.09.310, count only prior escape convictions in the  
11 offender score. Count adult prior escape convictions as one point and  
12 juvenile prior escape convictions as 1/2 point.

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

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

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

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

27 NEW SECTION. Sec. 4. A new section is added to chapter 70.96A RCW  
28 to read as follows:

29 (1) The criminal justice treatment account is created in the state  
30 treasury. Moneys in the account may be expended solely for: (a)  
31 Substance abuse treatment and treatment support services for offenders  
32 with an addiction or a substance abuse problem that, if not treated,  
33 would result in addiction, against whom charges are filed by a  
34 prosecuting attorney in Washington state; and (b) the provision of drug  
35 and alcohol treatment services and treatment support services for  
36 nonviolent offenders within a drug court program. Moneys in the  
37 account may be spent only after appropriation.

38 (2) For purposes of this section:

1 (a) "Treatment" means services that are critical to a participant's  
2 successful completion of his or her substance abuse treatment program,  
3 but does not include the following services: Housing other than that  
4 provided as part of an inpatient substance abuse treatment program,  
5 vocational training, and mental health counseling; and

6 (b) "Treatment support" means transportation to or from inpatient  
7 or outpatient treatment services when no viable alternative exists, and  
8 child care services that are necessary to ensure a participant's  
9 ability to attend outpatient treatment sessions.

10 (3) Revenues to the criminal justice treatment account consist of:  
11 (a) Savings to the state general fund resulting from implementation of  
12 this act, as calculated pursuant to this section; and (b) any other  
13 revenues appropriated to or deposited in the account.

14 (4)(a) The department of corrections, the sentencing guidelines  
15 commission, the office of financial management, and the caseload  
16 forecast council shall develop a methodology for calculating the  
17 projected biennial savings under this section. Savings shall be  
18 projected for the fiscal biennium beginning on July 1, 2003, and for  
19 each biennium thereafter. By September 1, 2002, the proposed  
20 methodology shall be submitted to the governor and the appropriate  
21 committees of the legislature. The methodology is deemed approved  
22 unless the legislature enacts legislation to modify or reject the  
23 methodology.

24 (b) When the department of corrections submits its biennial budget  
25 request to the governor in 2002 and in each even-numbered year  
26 thereafter, the department of corrections shall use the methodology  
27 approved in (a) of this subsection to calculate savings to the state  
28 general fund for the ensuing fiscal biennium resulting from reductions  
29 in drug offender sentencing as a result of sections 2 and 3, chapter  
30 . . ., Laws of 2002 (sections 2 and 3 this act) and sections 7, 8, and  
31 9, chapter . . ., Laws of 2002 (sections 7, 8, and 9 this act). The  
32 department shall report the dollar amount of the savings to the state  
33 treasurer, the office of financial management, and the fiscal  
34 committees of the legislature.

35 (c) For the fiscal biennium beginning July 1, 2003, and each fiscal  
36 biennium thereafter, the state treasurer shall transfer seventy-five  
37 percent of the amount reported in (b) of this subsection from the  
38 general fund into the criminal justice treatment account, divided into  
39 eight equal quarterly payments. However, the amount transferred to the

1 criminal justice treatment account shall not exceed the limit of eight  
2 million two hundred fifty thousand dollars per fiscal year. After the  
3 first fiscal year in which the amount to be transferred equals or  
4 exceeds eight million two hundred fifty thousand dollars, this limit  
5 shall be increased on an annual basis by the implicit price deflator as  
6 published by the federal bureau of labor statistics.

7 (d) For the fiscal biennium beginning July 1, 2003, and each  
8 biennium thereafter, the state treasurer shall transfer twenty-five  
9 percent of the amount reported in (b) of this subsection from the  
10 general fund into the violence reduction and drug enforcement account,  
11 divided into eight quarterly payments. The amounts transferred  
12 pursuant to this subsection (4)(d) shall be used solely for providing  
13 drug and alcohol treatment services to offenders confined in a state  
14 correctional facility receiving a reduced sentence as a result of  
15 implementation of this act and who are assessed with an addiction or a  
16 substance abuse problem that if not treated would result in addiction.  
17 Any excess funds remaining after providing drug and alcohol treatment  
18 services to offenders receiving a reduced sentence as a result of  
19 implementation of this act may be expended to provide treatment for  
20 offenders confined in a state correctional facility and who are  
21 assessed with an addiction or a substance abuse problem that  
22 contributed to the crime.

23 (e) In each odd-numbered year, the legislature shall appropriate  
24 the amount transferred to the criminal justice treatment account in (c)  
25 of this subsection to the division of alcohol and substance abuse for  
26 the purposes of subsection (5) of this section.

27 (5) Moneys appropriated to the division of alcohol and substance  
28 abuse from the criminal justice treatment account shall be distributed  
29 as specified in this subsection. The department shall serve as the  
30 fiscal agent for purposes of distribution. Until July 1, 2004, the  
31 department may not use moneys appropriated from the criminal justice  
32 treatment account for administrative expenses and shall distribute all  
33 amounts appropriated under subsection (4)(e) of this section in  
34 accordance with this subsection. Beginning in July 1, 2004, the  
35 department may retain up to three percent of the amount appropriated  
36 under subsection (4)(e) of this section for its administrative costs.

37 (a) Seventy percent of amounts appropriated to the division from  
38 the account shall be distributed to counties pursuant to the  
39 distribution formula adopted under this section. The division of



1 alcohol and substance abuse, in consultation with the department of  
2 corrections, the sentencing guidelines commission, the Washington state  
3 association of counties, the Washington state association of drug court  
4 professionals, the superior court judges' association, the Washington  
5 association of prosecuting attorneys, representatives of the criminal  
6 defense bar, representatives of substance abuse treatment providers,  
7 and any other person deemed by the division to be necessary, shall  
8 establish a fair and reasonable methodology for distribution to  
9 counties of moneys in the criminal justice treatment account. County  
10 or regional plans submitted for the expenditure of formula funds must  
11 be approved by the panel established in (b) of this subsection.

12 (b) Thirty percent of the amounts appropriated to the division from  
13 the account shall be distributed as grants for purposes of treating  
14 offenders against whom charges are filed by a county prosecuting  
15 attorney. The division shall appoint a panel of representatives from  
16 the Washington association of prosecuting attorneys, the Washington  
17 association of sheriffs and police chiefs, the superior court judges'  
18 association, the Washington state association of counties, the  
19 Washington defender's association or the Washington association of  
20 criminal defense lawyers, the department of corrections, the Washington  
21 state association of drug court professionals, substance abuse  
22 treatment providers, and the division. The panel shall review county  
23 or regional plans for funding under (a) of this subsection and grants  
24 approved under this subsection. The panel shall attempt to ensure that  
25 treatment as funded by the grants is available to offenders statewide.

26 (6) The county alcohol and drug coordinator, county prosecutor,  
27 county sheriff, county superior court, a substance abuse treatment  
28 provider appointed by the county legislative authority, a member of the  
29 criminal defense bar appointed by the county legislative authority,  
30 and, in counties with a drug court, a representative of the drug court  
31 shall jointly submit a plan, approved by the county legislative  
32 authority or authorities, to the panel established in subsection (5)(b)  
33 of this section, for disposition of all the funds provided from the  
34 criminal justice treatment account within that county. The funds shall  
35 be used solely to provide approved alcohol and substance abuse  
36 treatment pursuant to RCW 70.96A.090 and treatment support services.  
37 No more than ten percent of the total moneys received under subsections  
38 (4) and (5) of this section by a county or group of counties

1 participating in a regional agreement shall be spent for treatment  
2 support services.

3 (7) Counties are encouraged to consider regional agreements and  
4 submit regional plans for the efficient delivery of treatment under  
5 this section.

6 (8) Moneys allocated under this section shall be used to  
7 supplement, not supplant, other federal, state, and local funds used  
8 for substance abuse treatment.

9 (9) Counties must meet the criteria established in RCW  
10 2.28.170(3)(b).

11 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.135 RCW  
12 to read as follows:

13 RCW 43.135.035(4) does not apply to the transfers established in  
14 section 4 of this act.

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.20A RCW  
16 to read as follows:

17 The department of social and health services shall annually review  
18 and monitor the expenditures made by any county or group of counties  
19 which is funded, in whole or in part, with funds provided by this act.  
20 Counties shall repay any funds that are not spent in accordance with  
21 the requirements of this act.

22 **Sec. 7.** RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300 s  
23 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended to  
24 read as follows:

25 TABLE 2

26 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

27 XVI	Aggravated Murder 1 (RCW 10.95.020)
28 XV	Homicide by abuse (RCW 9A.32.055)
29	Malicious explosion 1 (RCW 70.74.280(1))
30	Murder 1 (RCW 9A.32.030)
31 XIV	Murder 2 (RCW 9A.32.050)
32 XIII	Malicious explosion 2 (RCW 70.74.280(2))

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

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

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

12 X Child Molestation 1 (RCW 9A.44.083)  
13 Indecent Liberties (with forcible  
14 compulsion) (RCW 9A.44.100(1)(a))  
15 Kidnapping 1 (RCW 9A.40.020)  
16 Leading Organized Crime (RCW  
17 9A.82.060(1)(a))  
18 Malicious explosion 3 (RCW 70.74.280(3))  
19 (~~Manufacture of methamphetamine (RCW~~  
20 ~~69.50.401(a)(1)(ii))~~  
21 ~~Over 18 and deliver heroin,~~  
22 ~~methamphetamine, a narcotic from~~  
23 ~~Schedule I or II, or flunitrazepam~~  
24 ~~from Schedule IV to someone under 18~~  
25 ~~(RCW 69.50.406))~~)  
26 Sexually Violent Predator Escape (RCW  
27 9A.76.115)

28 IX Assault of a Child 2 (RCW 9A.36.130)  
29 (~~Controlled Substance Homicide (RCW~~  
30 ~~69.50.415))~~)  
31 Explosive devices prohibited (RCW  
32 70.74.180)  
33 Hit and Run--Death (RCW 46.52.020(4)(a))  
34 Homicide by Watercraft, by being under the  
35 influence of intoxicating liquor or  
36 any drug (RCW 79A.60.050)

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

16 VIII Arson 1 (RCW 9A.48.020)  
17 (~~Deliver or possess with intent to deliver~~  
18 ~~methamphetamine (RCW~~  
19 ~~69.50.401(a)(1)(ii))~~)  
20 Homicide by Watercraft, by the operation of  
21 any vessel in a reckless manner (RCW  
22 79A.60.050)  
23 Manslaughter 2 (RCW 9A.32.070)  
24 (~~Manufacture, deliver, or possess with~~  
25 ~~intent to deliver amphetamine (RCW~~  
26 ~~69.50.401(a)(1)(ii))~~)  
27 ~~Manufacture, deliver, or possess with~~  
28 ~~intent to deliver heroin or cocaine~~  
29 ~~(RCW 69.50.401(a)(1)(i))~~)  
30 ~~Possession of Ephedrine, Pseudoephedrine,~~  
31 ~~or Anhydrous Ammonia with intent to~~  
32 ~~manufacture methamphetamine (RCW~~  
33 ~~69.50.440))~~)  
34 Promoting Prostitution 1 (RCW 9A.88.070)  
35 (~~Selling for profit (controlled or~~  
36 ~~counterfeit) any controlled substance~~  
37 ~~(RCW 69.50.410))~~)  
38 Theft of Anhydrous Ammonia (RCW 69.55.010)

1 Vehicular Homicide, by the operation of any  
2 vehicle in a reckless manner (RCW  
3 46.61.520)

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

29 VI Bail Jumping with Murder 1 (RCW  
30 9A.76.170(3)(a))  
31 Bribery (RCW 9A.68.010)  
32 Incest 1 (RCW 9A.64.020(1))  
33 Intimidating a Judge (RCW 9A.72.160)  
34 Intimidating a Juror/Witness (RCW  
35 9A.72.110, 9A.72.130)  
36 Malicious placement of an imitation device  
37 2 (RCW 70.74.272(1)(b))

1 ((Manufacture, deliver, or possess with  
2 intent to deliver narcotics from  
3 Schedule I or II (except heroin or  
4 cocaine) or flunitrazepam from  
5 Schedule IV (RCW 69.50.401(a)(1)(i)))  
6 Rape of a Child 3 (RCW 9A.44.079)  
7 Theft of a Firearm (RCW 9A.56.300)  
8 Unlawful Storage of Anhydrous Ammonia (RCW  
9 69.55.020)

10 V Abandonment of dependent person 1 (RCW  
11 9A.42.060)  
12 Advancing money or property for  
13 extortionate extension of credit (RCW  
14 9A.82.030)  
15 Bail Jumping with class A Felony (RCW  
16 9A.76.170(3)(b))  
17 Child Molestation 3 (RCW 9A.44.089)  
18 Criminal Mistreatment 1 (RCW 9A.42.020)  
19 Custodial Sexual Misconduct 1 (RCW  
20 9A.44.160)  
21 ((Delivery of imitation controlled  
22 substance by person eighteen or over  
23 to person under eighteen (RCW  
24 69.52.030(2))))  
25 Domestic Violence Court Order Violation  
26 (RCW 10.99.040, 10.99.050, 26.09.300,  
27 26.10.220, 26.26.138, 26.50.110,  
28 26.52.070, or 74.34.145)  
29 Extortion 1 (RCW 9A.56.120)  
30 Extortionate Extension of Credit (RCW  
31 9A.82.020)  
32 Extortionate Means to Collect Extensions of  
33 Credit (RCW 9A.82.040)  
34 Incest 2 (RCW 9A.64.020(2))  
35 Kidnapping 2 (RCW 9A.40.030)  
36 Perjury 1 (RCW 9A.72.020)  
37 Persistent prison misbehavior (RCW  
38 9.94.070)

1 Possession of a Stolen Firearm (RCW  
2 9A.56.310)  
3 Rape 3 (RCW 9A.44.060)  
4 Rendering Criminal Assistance 1 (RCW  
5 9A.76.070)  
6 Sexual Misconduct with a Minor 1 (RCW  
7 9A.44.093)  
8 Sexually Violating Human Remains (RCW  
9 9A.44.105)  
10 Stalking (RCW 9A.46.110)  
11 IV Arson 2 (RCW 9A.48.030)  
12 Assault 2 (RCW 9A.36.021)  
13 Assault by Watercraft (RCW 79A.60.060)  
14 Bribing a Witness/Bribe Received by Witness  
15 (RCW 9A.72.090, 9A.72.100)  
16 Commercial Bribery (RCW 9A.68.060)  
17 Counterfeiting (RCW 9.16.035(4))  
18 Escape 1 (RCW 9A.76.110)  
19 Hit and Run--Injury (RCW 46.52.020(4)(b))  
20 Hit and Run with Vessel--Injury Accident  
21 (RCW 79A.60.200(3))  
22 Identity Theft 1 (RCW 9.35.020(2)(a))  
23 Indecent Exposure to Person Under Age  
24 Fourteen (subsequent sex offense) (RCW  
25 9A.88.010)  
26 Influencing Outcome of Sporting Event (RCW  
27 9A.82.070)  
28 Knowingly Trafficking in Stolen Property  
29 (RCW 9A.82.050(2))  
30 Malicious Harassment (RCW 9A.36.080)  
31 (~~(Manufacture, deliver, or possess with~~  
32 ~~intent to deliver narcotics from~~  
33 ~~Schedule III, IV, or V or nonnarcotics~~  
34 ~~from Schedule I-V (except marijuana,~~  
35 ~~amphetamine, methamphetamines, or~~  
36 ~~flunitrazepam) (RCW 69.50.401(a)(1)~~  
37 ~~(iii) through (v)))~~)  
38 Residential Burglary (RCW 9A.52.025)  
39 Robbery 2 (RCW 9A.56.210)

1 Theft of Livestock 1 (RCW 9A.56.080)  
2 Threats to Bomb (RCW 9.61.160)  
3 Use of Proceeds of Criminal Profiteering  
4 (RCW 9A.82.080 (1) and (2))  
5 Vehicular Assault, by being under the  
6 influence of intoxicating liquor or  
7 any drug, or by the operation or  
8 driving of a vehicle in a reckless  
9 manner (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(3)(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~~  
27   ~~Purposes (RCW 69.53.010))~~  
28   Vehicular Assault, by the operation or  
29           driving of a vehicle with disregard  
30           for the safety of others (RCW  
31           46.61.522)  
32   Willful Failure to Return from Work Release  
33           (RCW 72.65.070)  
34   II   Computer Trespass 1 (RCW 9A.52.110)  
35   Counterfeiting (RCW 9.16.035(3))  
36   (~~(Create, deliver, or possess a counterfeit~~  
37   ~~controlled substance (RCW~~  
38   ~~69.50.401(b))~~)

1           Escape from Community Custody (RCW  
2           72.09.310)  
3           Health Care False Claims (RCW 48.80.030)  
4           Identity Theft 2 (RCW 9.35.020(2)(b))  
5           Improperly Obtaining Financial Information  
6           (RCW 9.35.010)  
7           Malicious Mischief 1 (RCW 9A.48.070)  
8           ~~((Possession of controlled substance that  
9           is either heroin or narcotics from  
10           Schedule I or II or flunitrazepam from  
11           Schedule IV (RCW 69.50.401(d))  
12           Possession of phencyclidine (PCP) (RCW  
13           69.50.401(d))))~~  
14           Possession of Stolen Property 1 (RCW  
15           9A.56.150)  
16           Theft 1 (RCW 9A.56.030)  
17           Theft of Rental, Leased, or Lease-purchased  
18           Property (valued at one thousand five  
19           hundred dollars or more) (RCW  
20           9A.56.096(4))  
21           Trafficking in Insurance Claims (RCW  
22           48.30A.015)  
23           Unlawful Practice of Law (RCW 2.48.180)  
24           Unlicensed Practice of a Profession or  
25           Business (RCW 18.130.190(7))  
26           I           Attempting to Elude a Pursuing Police  
27                        Vehicle (RCW 46.61.024)  
28           False Verification for Welfare (RCW  
29           74.08.055)  
30           ~~((Forged Prescription (RCW 69.41.020)  
31           Forged Prescription for a Controlled  
32           Substance (RCW 69.50.403))))~~  
33           Forgery (RCW 9A.60.020)  
34           Malicious Mischief 2 (RCW 9A.48.080)  
35           ~~((Possess Controlled Substance that is a  
36           Narcotic from Schedule III, IV, or V  
37           or Non-narcotic from Schedule I-V  
38           (except phencyclidine or  
39           flunitrazepam) (RCW 69.50.401(d))))~~

1 Possession of Stolen Property 2 (RCW  
 2 9A.56.160)  
 3 Reckless Burning 1 (RCW 9A.48.040)  
 4 Taking Motor Vehicle Without Permission  
 5 (RCW 9A.56.070)  
 6 Theft 2 (RCW 9A.56.040)  
 7 Theft of Rental, Leased, or Lease-purchased  
 8 Property (valued at two hundred fifty  
 9 dollars or more but less than one  
 10 thousand five hundred dollars) (RCW  
 11 9A.56.096(4))  
 12 Unlawful Issuance of Checks or Drafts (RCW  
 13 9A.56.060)  
 14 Unlawful Use of Food Stamps (RCW 9.91.140  
 15 (2) and (3))  
 16 Vehicle Prowl 1 (RCW 9A.52.095)

17 NEW SECTION. **Sec. 8.** A new section is added to chapter 9.94A RCW  
 18 to read as follows:

19 (1) TABLE 3

20 DRUG OFFENSE SENTENCING GRID

21 Seriousness	Offender Score	Offender Score	Offender Score
22 Level	0 to 2	3 to 5	6 to 9 or more
23 III	51 to 68 months	68+ to 100 months	100+ to 120 months
24 II	12+ to 20 months	20+ to 60 months	60+ to 120 months
25 I	0 to 6 months	6+ to 18 months	12+ to 24 months

26 References to months represent the standard sentence ranges. 12+  
 27 equals one year and one day.

28 (2) The court may utilize any other sanctions or alternatives as  
 29 authorized by law, including but not limited to the special drug  
 30 offender sentencing alternative under RCW 9.94A.660 or drug court under  
 31 RCW 2.28.170.

32 (3) Nothing in this section creates an entitlement for a criminal  
 33 defendant to any specific sanction, alternative, sentence option, or  
 34 substance abuse treatment.

1         NEW SECTION.   **Sec. 9.**   A new section is added to chapter 9.94A RCW  
2         to read as follows:

3                                                 TABLE 4  
4                   DRUG OFFENSES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

5    III         Any felony offense under chapter 69.50 RCW  
6                     with a deadly weapon special verdict  
7                     under RCW 9.94A.602  
8                     Controlled Substance Homicide (RCW  
9                     69.50.415)  
10                    Delivery of imitation controlled substance  
11                    by person eighteen or over to person  
12                    under eighteen (RCW 69.52.030(2))  
13                    Involving a minor in drug dealing (RCW  
14                    69.50.401(f))  
15                    Manufacture of methamphetamine (RCW  
16                    69.50.401(a)(1)(ii))  
17                    Over 18 and deliver heroin,  
18                    methamphetamine, a narcotic from  
19                    Schedule I or II, or flunitrazepam  
20                    from Schedule IV to someone under 18  
21                    (RCW 69.50.406)  
22                    Over 18 and deliver narcotic from Schedule  
23                    III, IV, or V or a nonnarcotic, except  
24                    flunitrazepam or methamphetamine, from  
25                    Schedule I-V to someone under 18 and 3  
26                    years junior (RCW 69.50.406)  
27                    Possession of Ephedrine, Pseudoephedrine,  
28                    or Anhydrous Ammonia with intent to  
29                    manufacture methamphetamine (RCW  
30                    69.50.440)  
31                    Selling for profit (controlled or  
32                    counterfeit) any controlled substance  
33                    (RCW 69.50.410)  
34    II         Create, deliver, or possess a counterfeit  
35                     controlled substance (RCW  
36                     69.50.401(b))

1 Deliver or possess with intent to deliver  
2 methamphetamine (RCW  
3 69.50.401(a)(1)(ii))  
4 Delivery of a material in lieu of a  
5 controlled substance (RCW  
6 69.50.401(c))  
7 Maintaining a Dwelling or Place for  
8 Controlled Substances (RCW  
9 69.50.402(a)(6))  
10 Manufacture, deliver, or possess with  
11 intent to deliver amphetamine (RCW  
12 69.50.401(a)(1)(ii))  
13 Manufacture, deliver, or possess with  
14 intent to deliver narcotics from  
15 Schedule I or II or flunitrazepam from  
16 Schedule IV (RCW 69.50.401(a)(1)(i))  
17 Manufacture, deliver, or possess with  
18 intent to deliver narcotics from  
19 Schedule III, IV, or V or nonnarcotics  
20 from Schedule I-V (except marijuana,  
21 amphetamine, methamphetamines, or  
22 flunitrazepam) (RCW 69.50.401(a)(1)  
23 (iii) through (v))  
24 Manufacture, distribute, or possess with  
25 intent to distribute an imitation  
26 controlled substance (RCW  
27 69.52.030(1))  
28 I Forged Prescription (RCW 69.41.020)  
29 Forged Prescription for a Controlled  
30 Substance (RCW 69.50.403)  
31 Manufacture, deliver, or possess with  
32 intent to deliver marijuana (RCW  
33 69.50.401(a)(1)(iii))  
34 Possess Controlled Substance that is a  
35 Narcotic from Schedule III, IV, or V  
36 or Non-narcotic from Schedule I-V (RCW  
37 69.50.401(d))

1 Possession of Controlled Substance that is  
 2 either heroin or narcotics from  
 3 Schedule I or II (RCW 69.50.401(d))  
 4 Unlawful Use of Building for Drug Purposes  
 5 (RCW 69.53.010)

6 **Sec. 10.** RCW 9.94A.510 and 2000 c 132 s 2 and 2000 c 28 s 11 are  
 7 each reenacted and amended to read as follows:

8 ((+1)) TABLE 1

9 Sentencing Grid

10 SERIOUSNESS  
 11 LEVEL OFFENDER SCORE  
 12  
 13 0 1 2 3 4 5 6 7 8 9 or more

14  
 15 XVI Life Sentence without Parole/Death Penalty

16  
 17 XV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y  
 18 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-  
 19 320 333 347 361 374 388 416 450 493 548

20  
 21 XIV 14y4m 15y4m 16y2m 17y 17y11m 18y9m 20y5m 22y2m 25y7m 29y  
 22 123- 134- 144- 154- 165- 175- 195- 216- 257- 298-  
 23 220 234 244 254 265 275 295 316 357 397

24  
 25 XIII 12y 13y 14y 15y 16y 17y 19y 21y 25y 29y  
 26 123- 134- 144- 154- 165- 175- 195- 216- 257- 298-  
 27 164 178 192 205 219 233 260 288 342 397

28  
 29 XII 9y 9y11m 10y9m 11y8m 12y6m 13y5m 15y9m 17y3m 20y3m 23y3m  
 30 93- 102- 111- 120- 129- 138- 162- 178- 209- 240-  
 31 123 136 147 160 171 184 216 236 277 318

32  
 33 XI 7y6m 8y4m 9y2m 9y11m 10y9m 11y7m 14y2m 15y5m 17y11m 20y5m  
 34 78- 86- 95- 102- 111- 120- 146- 159- 185- 210-  
 35 102 114 125 136 147 158 194 211 245 280

36  
 37 X 5y 5y6m 6y 6y6m 7y 7y6m 9y6m 10y6m 12y6m 14y6m  
 38 51- 57- 62- 67- 72- 77- 98- 108- 129- 149-  
 39 68 75 82 89 96 102 130 144 171 198

40  
 41 IX 3y 3y6m 4y 4y6m 5y 5y6m 7y6m 8y6m 10y6m 12y6m  
 42 31- 36- 41- 46- 51- 57- 77- 87- 108- 129-  
 43 41 48 54 61 68 75 102 116 144 171

1	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
2		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
3		27	34	41	48	54	61	89	102	116	144
4	<hr/>										
5	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
6		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
7		20	27	34	41	48	54	75	89	102	116
8	<hr/>										
9	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
10		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
11		14	20	27	34	41	48	61	75	89	102
12	<hr/>										
13	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
14		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
15		12	14	17	20	29	43	54	68	82	96
16	<hr/>										
17	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
18		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
19		9	12	14	17	20	29	43	57	70	84
20	<hr/>										
21	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
22		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
23		3	8	12	12	16	22	29	43	57	68
24	<hr/>										
25	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
26		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
27		Days	6	9	12	14	18	22	29	43	57
28	<hr/>										
29	I			3m	4m	5m	8m	13m	16m	20m	2y2m
30		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
31		Days	Days	5	6	8	12	14	18	22	29
32	<hr/>										

33 Numbers in the first horizontal row of each seriousness category  
34 represent sentencing midpoints in years(y) and months(m). Numbers in  
35 the second and third rows represent standard sentence ranges in months,  
36 or in days if so designated. 12+ equals one year and one day.

37 ~~((2) For persons convicted of the anticipatory offenses of~~  
38 ~~criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW,~~  
39 ~~the standard sentence range is determined by locating the sentencing~~  
40 ~~grid sentence range defined by the appropriate offender score and the~~  
41 ~~seriousness level of the completed crime, and multiplying the range by~~  
42 ~~75 percent.~~

43 (3) ~~The following additional times shall be added to the standard~~  
44 ~~sentence range for felony crimes committed after July 23, 1995, if the~~  
45 ~~offender or an accomplice was armed with a firearm as defined in RCW~~  
46 ~~9.41.010 and the offender is being sentenced for one of the crimes~~  
47 ~~listed in this subsection as eligible for any firearm enhancements~~

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

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

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

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

22 (d) If the offender is being sentenced for any firearm enhancements  
23 under (a), (b), and/or (c) of this subsection and the offender has  
24 previously been sentenced for any deadly weapon enhancements after July  
25 23, 1995, under (a), (b), and/or (c) of this subsection or subsection  
26 (4)(a), (b), and/or (c) of this section, or both, all firearm  
27 enhancements under this subsection shall be twice the amount of the  
28 enhancement listed.

29 (e) Notwithstanding any other provision of law, all firearm  
30 enhancements under this section are mandatory, shall be served in total  
31 confinement, and shall run consecutively to all other sentencing  
32 provisions, including other firearm or deadly weapon enhancements, for  
33 all offenses sentenced under this chapter. However, whether or not a  
34 mandatory minimum term has expired, an offender serving a sentence  
35 under this subsection may be granted an extraordinary medical placement  
36 when authorized under RCW 9.94A.728(4).

37 (f) The firearm enhancements in this section shall apply to all  
38 felony crimes except the following: Possession of a machine gun,  
39 possessing a stolen firearm, drive by shooting, theft of a firearm,



1 ~~unlawful possession of a firearm in the first and second degree, and~~  
2 ~~use of a machine gun in a felony.~~

3 ~~(g) If the standard sentence range under this section exceeds the~~  
4 ~~statutory maximum sentence for the offense, the statutory maximum~~  
5 ~~sentence shall be the presumptive sentence unless the offender is a~~  
6 ~~persistent offender. If the addition of a firearm enhancement~~  
7 ~~increases the sentence so that it would exceed the statutory maximum~~  
8 ~~for the offense, the portion of the sentence representing the~~  
9 ~~enhancement may not be reduced.~~

10 ~~(4) The following additional times shall be added to the standard~~  
11 ~~sentence range for felony crimes committed after July 23, 1995, if the~~  
12 ~~offender or an accomplice was armed with a deadly weapon other than a~~  
13 ~~firearm as defined in RCW 9.41.010 and the offender is being sentenced~~  
14 ~~for one of the crimes listed in this subsection as eligible for any~~  
15 ~~deadly weapon enhancements based on the classification of the completed~~  
16 ~~felony crime. If the offender is being sentenced for more than one~~  
17 ~~offense, the deadly weapon enhancement or enhancements must be added to~~  
18 ~~the total period of confinement for all offenses, regardless of which~~  
19 ~~underlying offense is subject to a deadly weapon enhancement. If the~~  
20 ~~offender or an accomplice was armed with a deadly weapon other than a~~  
21 ~~firearm as defined in RCW 9.41.010 and the offender is being sentenced~~  
22 ~~for an anticipatory offense under chapter 9A.28 RCW to commit one of~~  
23 ~~the crimes listed in this subsection as eligible for any deadly weapon~~  
24 ~~enhancements, the following additional times shall be added to the~~  
25 ~~standard sentence range determined under subsection (2) of this section~~  
26 ~~based on the felony crime of conviction as classified under RCW~~  
27 ~~9A.28.020:~~

28 ~~(a) Two years for any felony defined under any law as a class A~~  
29 ~~felony or with a statutory maximum sentence of at least twenty years,~~  
30 ~~or both, and not covered under (f) of this subsection.~~

31 ~~(b) One year for any felony defined under any law as a class B~~  
32 ~~felony or with a statutory maximum sentence of ten years, or both, and~~  
33 ~~not covered under (f) of this subsection.~~

34 ~~(c) Six months for any felony defined under any law as a class C~~  
35 ~~felony or with a statutory maximum sentence of five years, or both, and~~  
36 ~~not covered under (f) of this subsection.~~

37 ~~(d) If the offender is being sentenced under (a), (b), and/or (c)~~  
38 ~~of this subsection for any deadly weapon enhancements and the offender~~  
39 ~~has previously been sentenced for any deadly weapon enhancements after~~

1 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
2 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly  
3 weapon enhancements under this subsection shall be twice the amount of  
4 the enhancement listed.

5 (e) Notwithstanding any other provision of law, all deadly weapon  
6 enhancements under this section are mandatory, shall be served in total  
7 confinement, and shall run consecutively to all other sentencing  
8 provisions, including other firearm or deadly weapon enhancements, for  
9 all offenses sentenced under this chapter. However, whether or not a  
10 mandatory minimum term has expired, an offender serving a sentence  
11 under this subsection may be granted an extraordinary medical placement  
12 when authorized under RCW 9.94A.728(4).

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

18 (g) If the standard sentence range under this section exceeds the  
19 statutory maximum sentence for the offense, the statutory maximum  
20 sentence shall be the presumptive sentence unless the offender is a  
21 persistent offender. If the addition of a deadly weapon enhancement  
22 increases the sentence so that it would exceed the statutory maximum  
23 for the offense, the portion of the sentence representing the  
24 enhancement may not be reduced.

25 (5) The following additional times shall be added to the standard  
26 sentence range if the offender or an accomplice committed the offense  
27 while in a county jail or state correctional facility and the offender  
28 is being sentenced for one of the crimes listed in this subsection. If  
29 the offender or an accomplice committed one of the crimes listed in  
30 this subsection while in a county jail or state correctional facility,  
31 and the offender is being sentenced for an anticipatory offense under  
32 chapter 9A.28 RCW to commit one of the crimes listed in this  
33 subsection, the following additional times shall be added to the  
34 standard sentence range determined under subsection (2) of this  
35 section:

36 (a) Eighteen months for offenses committed under RCW  
37 69.50.401(a)(1) (i) or (ii) or 69.50.410;

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

1       ~~(c) Twelve months for offenses committed under RCW 69.50.401(d).~~  
2       ~~For the purposes of this subsection, all of the real property of a~~  
3       ~~state correctional facility or county jail shall be deemed to be part~~  
4       ~~of that facility or county jail.~~

5       ~~(6) An additional twenty four months shall be added to the standard~~  
6       ~~sentence range for any ranked offense involving a violation of chapter~~  
7       ~~69.50 RCW if the offense was also a violation of RCW 69.50.435 or~~  
8       ~~9.94A.605.~~

9       ~~(7) An additional two years shall be added to the standard sentence~~  
10       ~~range for vehicular homicide committed while under the influence of~~  
11       ~~intoxicating liquor or any drug as defined by RCW 46.61.502 for each~~  
12       ~~prior offense as defined in RCW 46.61.5055.))~~

13       NEW SECTION.   **Sec. 11.** A new section is added to chapter 9.94A RCW  
14       to read as follows:

15       (1) The provisions of this section apply to the standard sentence  
16       ranges determined by RCW 9.94A.510 or section 8 of this act.

17       (2) For persons convicted of the anticipatory offenses of criminal  
18       attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
19       standard sentence range is determined by locating the sentencing grid  
20       sentence range defined by the appropriate offender score and the  
21       seriousness level of the completed crime, and multiplying the range by  
22       seventy-five percent.

23       (3) The following additional times shall be added to the standard  
24       sentence range for felony crimes committed after July 23, 1995, if the  
25       offender or an accomplice was armed with a firearm as defined in RCW  
26       9.41.010 and the offender is being sentenced for one of the crimes  
27       listed in this subsection as eligible for any firearm enhancements  
28       based on the classification of the completed felony crime. If the  
29       offender is being sentenced for more than one offense, the firearm  
30       enhancement or enhancements must be added to the total period of  
31       confinement for all offenses, regardless of which underlying offense is  
32       subject to a firearm enhancement. If the offender or an accomplice was  
33       armed with a firearm as defined in RCW 9.41.010 and the offender is  
34       being sentenced for an anticipatory offense under chapter 9A.28 RCW to  
35       commit one of the crimes listed in this subsection as eligible for any  
36       firearm enhancements, the following additional times shall be added to  
37       the standard sentence range determined under subsection (2) of this

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

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

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

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

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

19 (e) Notwithstanding any other provision of law, all firearm  
20 enhancements under this section are mandatory, shall be served in total  
21 confinement, and shall run consecutively to all other sentencing  
22 provisions, including other firearm or deadly weapon enhancements, for  
23 all offenses sentenced under this chapter. However, whether or not a  
24 mandatory minimum term has expired, an offender serving a sentence  
25 under this subsection may be granted an extraordinary medical placement  
26 when authorized under RCW 9.94A.728(4);

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

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

1 (4) The following additional times shall be added to the standard  
2 sentence range for felony crimes committed after July 23, 1995, if the  
3 offender or an accomplice was armed with a deadly weapon other than a  
4 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
5 for one of the crimes listed in this subsection as eligible for any  
6 deadly weapon enhancements based on the classification of the completed  
7 felony crime. If the offender is being sentenced for more than one  
8 offense, the deadly weapon enhancement or enhancements must be added to  
9 the total period of confinement for all offenses, regardless of which  
10 underlying offense is subject to a deadly weapon enhancement. If the  
11 offender or an accomplice was armed with a deadly weapon other than a  
12 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
13 for an anticipatory offense under chapter 9A.28 RCW to commit one of  
14 the crimes listed in this subsection as eligible for any deadly weapon  
15 enhancements, the following additional times shall be added to the  
16 standard sentence range determined under subsection (2) of this section  
17 based on the felony crime of conviction as classified under RCW  
18 9A.28.020:

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

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

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

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

35 (e) Notwithstanding any other provision of law, all deadly weapon  
36 enhancements under this section are mandatory, shall be served in total  
37 confinement, and shall run consecutively to all other sentencing  
38 provisions, including other firearm or deadly weapon enhancements, for  
39 all offenses sentenced under this chapter. However, whether or not a

1 mandatory minimum term has expired, an offender serving a sentence  
2 under this subsection may be granted an extraordinary medical placement  
3 when authorized under RCW 9.94A.728(4);

4 (f) The deadly weapon enhancements in this section shall apply to  
5 all felony crimes except the following: Possession of a machine gun,  
6 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
7 unlawful possession of a firearm in the first and second degree, and  
8 use of a machine gun in a felony;

9 (g) If the standard sentence range under this section exceeds the  
10 statutory maximum sentence for the offense, the statutory maximum  
11 sentence shall be the presumptive sentence unless the offender is a  
12 persistent offender. If the addition of a deadly weapon enhancement  
13 increases the sentence so that it would exceed the statutory maximum  
14 for the offense, the portion of the sentence representing the  
15 enhancement may not be reduced.

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

27 (a) Eighteen months for offenses committed under RCW  
28 69.50.401(a)(1) (i) or (ii) or 69.50.410;

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

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

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

35 (6) An additional twenty-four months shall be added to the standard  
36 sentence range for any ranked offense involving a violation of chapter  
37 69.50 RCW if the offense was also a violation of RCW 69.50.435 or  
38 9.94A.605.

1 (7) An additional two years shall be added to the standard sentence  
2 range for vehicular homicide committed while under the influence of  
3 intoxicating liquor or any drug as defined by RCW 46.61.502 for each  
4 prior offense as defined in RCW 46.61.5055.

5 NEW SECTION. **Sec. 12.** (1) A joint select committee on the drug  
6 offense sentencing grid is established.

7 (2) The committee shall consist of the following persons:

8 (a) One member from each of the two largest caucuses of the senate,  
9 appointed by the president of the senate;

10 (b) One member from each of the two largest caucuses of the house  
11 of representatives, appointed by the speaker of the house;

12 (c) A superior court judge, selected by the superior court judges'  
13 association;

14 (d) A prosecuting attorney, selected by the Washington association  
15 of prosecuting attorneys;

16 (e) A member selected by the Washington state bar association,  
17 whose practice includes a significant amount of time devoted to  
18 criminal defense work;

19 (f) An elected sheriff or a police chief, selected by the  
20 Washington association of sheriffs and police chiefs;

21 (g) A representative from the division of alcohol and substance  
22 abuse in the department of social and health services;

23 (h) A member of the sentencing guidelines commission;

24 (i) A member of the caseload forecast council;

25 (j) A representative from the governor's office of financial  
26 management;

27 (k) A representative from the department of corrections;

28 (l) A representative from the Washington state association of  
29 counties;

30 (m) A county chemical dependency treatment provider;

31 (n) A chemical dependency treatment provider; and

32 (o) A representative from the Washington state association of drug  
33 court professionals.

34 (3) The chair and vice-chair of the committee shall be chosen by  
35 the members of the committee.

36 (4) The committee shall review and make recommendations to the  
37 legislature and governor regarding the drug offense sentencing grid

1 created pursuant to section 8 of this act. In preparing the  
2 recommendations, the committee shall:

3 (a) Establish a methodology of determining the fiscal consequences  
4 to the state and local governments, including the calculation of  
5 savings to be dedicated to substance abuse treatment, resulting from  
6 the implementation of the grid and any recommended revisions to the  
7 grid;

8 (b) Review and recommend any changes in the sentencing levels and  
9 penalties in the drug sentencing grid;

10 (c) Consider the proportionality of sentencing based on the  
11 quantity of controlled substances;

12 (d) Examine methods for addressing issues of racial  
13 disproportionality in sentencing;

14 (e) Recommend a statewide method of evaluating the success of drug  
15 courts in terms of reducing recidivism and increasing the number of  
16 persons who participate in drug court programs and remain free of  
17 substance abuse;

18 (f) Review and make any appropriate revisions in statewide criteria  
19 for funding substance abuse treatment programs for defendants and  
20 offenders; and

21 (g) Review and make any recommendations for changes in the method  
22 of distribution of funding methods established in this act for  
23 defendant and offender drug treatment programs.

24 (5) The committee shall complete its review and submit its  
25 recommendations to the legislature and governor not later than June 1,  
26 2003.

27 (6) The staff of the legislature, the sentencing guidelines  
28 commission, and the caseload forecast council shall provide support to  
29 the committee.

30 (7) Nonlegislative members of the committee shall serve without  
31 compensation, but shall be reimbursed for travel expenses as provided  
32 in RCW 43.03.050 and 43.03.060. Legislative members of the committee  
33 shall be reimbursed for travel expenses as provided in RCW 44.04.120.

34 (8) This section expires December 31, 2003.

35 **Sec. 13.** RCW 2.28.170 and 1999 c 197 s 9 are each amended to read  
36 as follows:

37 (1) Counties may establish and operate drug courts.



1 (2) For the purposes of this section, "drug court" means a court  
2 that has special calendars or dockets designed to achieve a reduction  
3 in recidivism and substance abuse among nonviolent, substance abusing  
4 offenders by increasing their likelihood for successful rehabilitation  
5 through early, continuous, and intense judicially supervised treatment;  
6 mandatory periodic drug testing; and the use of appropriate sanctions  
7 and other rehabilitation services.

8 (3)(a) Any jurisdiction that seeks a state appropriation to fund a  
9 drug court program must first:

10 (~~(a)~~) (i) Exhaust all federal funding received from the office of  
11 national drug control policy that is available to support the  
12 operations of its drug court and associated services; and

13 (~~(b)~~) (ii) Match, on a dollar-for-dollar basis, state moneys  
14 allocated for drug court programs with local cash or in-kind resources.  
15 Moneys allocated by the state must be used to supplement, not supplant,  
16 other federal, state, and local funds for drug court operations and  
17 associated services.

18 (b) Any county that establishes a drug court pursuant to this  
19 section shall establish minimum requirements for the participation of  
20 offenders in the program. The drug court may adopt local requirements  
21 that are more stringent than the minimum. The minimum requirements  
22 are:

23 (i) The offender would benefit from substance abuse treatment;

24 (ii) The offender has not previously been convicted of a serious  
25 violent offense or sex offense as defined in RCW 9.94A.030; and

26 (iii) Without regard to whether proof of any of these elements is  
27 required to convict, the offender is not currently charged with or  
28 convicted of an offense:

29 (A) That is a sex offense;

30 (B) That is a serious violent offense;

31 (C) During which the defendant used a firearm; or

32 (D) During which the defendant caused substantial or great bodily  
33 harm or death to another person.

34 **Sec. 14.** RCW 9.94A.470 and 1995 c 129 s 4 are each amended to read  
35 as follows:

36 Notwithstanding the current placement or listing of crimes in  
37 categories or classifications of prosecuting standards for deciding to  
38 prosecute under RCW 9.94A.411(2), any and all felony crimes involving

1 any deadly weapon special verdict under RCW 9.94A.602, any deadly  
2 weapon enhancements under (~~RCW 9.94A.510~~) section 11 (3) or (4) of  
3 this act, or both, and any and all felony crimes as defined in (~~RCW~~  
4 ~~9.94A.510~~) section 11 (3)(f) or (4)(f) of this act, or both, which are  
5 excluded from the deadly weapon enhancements shall all be treated as  
6 crimes against a person and subject to the prosecuting standards for  
7 deciding to prosecute under RCW 9.94A.411(2) as crimes against persons.

8 **Sec. 15.** RCW 9.94A.475 and 1997 c 338 s 48 are each amended to  
9 read as follows:

10 Any and all recommended sentencing agreements or plea agreements  
11 and the sentences for any and all felony crimes shall be made and  
12 retained as public records if the felony crime involves:

- 13 (1) Any violent offense as defined in this chapter;
- 14 (2) Any most serious offense as defined in this chapter;
- 15 (3) Any felony with a deadly weapon special verdict under RCW  
16 9.94A.602;
- 17 (4) Any felony with any deadly weapon enhancements under (~~RCW~~  
18 ~~9.94A.510~~) section 11 (3) or (4) of this act, or both; and/or
- 19 (5) The felony crimes of possession of a machine gun, possessing a  
20 stolen firearm, drive-by shooting, theft of a firearm, unlawful  
21 possession of a firearm in the first or second degree, and/or use of a  
22 machine gun in a felony.

23 **Sec. 16.** RCW 9.94A.480 and 1997 c 338 s 49 are each amended to  
24 read as follows:

25 (1) A current, newly created or reworked judgment and sentence  
26 document for each felony sentencing shall record any and all  
27 recommended sentencing agreements or plea agreements and the sentences  
28 for any and all felony crimes kept as public records under RCW  
29 9.94A.475 shall contain the clearly printed name and legal signature of  
30 the sentencing judge. The judgment and sentence document as defined in  
31 this section shall also provide additional space for the sentencing  
32 judge's reasons for going either above or below the presumptive  
33 sentence range for any and all felony crimes covered as public records  
34 under RCW 9.94A.475. Both the sentencing judge and the prosecuting  
35 attorney's office shall each retain or receive a completed copy of each  
36 sentencing document as defined in this section for their own records.

1 (2) The sentencing guidelines commission shall be sent a completed  
2 copy of the judgment and sentence document upon conviction for each  
3 felony sentencing under subsection (1) of this section and shall  
4 compile a yearly and cumulative judicial record of each sentencing  
5 judge in regards to his or her sentencing practices for any and all  
6 felony crimes involving:

7 (a) Any violent offense as defined in this chapter;

8 (b) Any most serious offense as defined in this chapter;

9 (c) Any felony with any deadly weapon special verdict under RCW  
10 9.94A.602;

11 (d) Any felony with any deadly weapon enhancements under ((RCW  
12 9.94A.510)) section 11 (3) or (4) of this act, or both; and/or

13 (e) The felony crimes of possession of a machine gun, possessing a  
14 stolen firearm, drive-by shooting, theft of a firearm, unlawful  
15 possession of a firearm in the first or second degree, and/or use of a  
16 machine gun in a felony.

17 (3) The sentencing guidelines commission shall compare each  
18 individual judge's sentencing practices to the standard or presumptive  
19 sentence range for any and all felony crimes listed in subsection (2)  
20 of this section for the appropriate offense level as defined in RCW  
21 9.94A.515 or section 9 of this act, offender score as defined in RCW  
22 9.94A.525, and any applicable deadly weapon enhancements as defined in  
23 ((RCW 9.94A.510)) section 11 (3) or (4) of this act, or both. These  
24 comparative records shall be retained and made available to the public  
25 for review in a current, newly created or reworked official published  
26 document by the sentencing guidelines commission.

27 (4) Any and all felony sentences which are either above or below  
28 the standard or presumptive sentence range in subsection (3) of this  
29 section shall also mark whether the prosecuting attorney in the case  
30 also recommended a similar sentence, if any, which was either above or  
31 below the presumptive sentence range and shall also indicate if the  
32 sentence was in conjunction with an approved alternative sentencing  
33 option including a first-time offender waiver, sex offender sentencing  
34 alternative, or other prescribed sentencing option.

35 (5) If any completed judgment and sentence document as defined in  
36 subsection (1) of this section is not sent to the sentencing guidelines  
37 commission as required in subsection (2) of this section, the  
38 sentencing guidelines commission shall have the authority and shall  
39 undertake reasonable and necessary steps to assure that all past,

1 current, and future sentencing documents as defined in subsection (1)  
2 of this section are received by the sentencing guidelines commission.

3 **Sec. 17.** RCW 9.94A.505 and 2001 2nd sp.s. c 12 s 312 are each  
4 amended to read as follows:

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

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

9 (i) Unless another term of confinement applies, the court shall  
10 impose a sentence within the standard sentence range established in RCW  
11 9.94A.510 or section 8 of this act;

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

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

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

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

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

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

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

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

23 (x) RCW 9.94A.712, relating to certain sex offenses;

24 (xi) RCW 9.94A.535, relating to exceptional sentences;

25 (xii) RCW 9.94A.589, relating to consecutive and concurrent  
26 sentences.

27 (b) If a standard sentence range has not been established for the  
28 offender's crime, the court shall impose a determinate sentence which  
29 may include not more than one year of confinement; community service  
30 work; until July 1, 2000, a term of community supervision not to exceed  
31 one year and on and after July 1, 2000, a term of community custody not  
32 to exceed one year, subject to conditions and sanctions as authorized  
33 in RCW 9.94A.710 (2) and (3); and/or other legal financial obligations.  
34 The court may impose a sentence which provides more than one year of  
35 confinement if the court finds reasons justifying an exceptional  
36 sentence as provided in RCW 9.94A.535.

37 (3) If the court imposes a sentence requiring confinement of thirty  
38 days or less, the court may, in its discretion, specify that the

1 sentence be served on consecutive or intermittent days. A sentence  
2 requiring more than thirty days of confinement shall be served on  
3 consecutive days. Local jail administrators may schedule court-ordered  
4 intermittent sentences as space permits.

5 (4) If a sentence imposed includes payment of a legal financial  
6 obligation, it shall be imposed as provided in RCW 9.94A.750,  
7 9.94A.753, and 9.94A.760.

8 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a  
9 court may not impose a sentence providing for a term of confinement or  
10 community supervision, community placement, or community custody which  
11 exceeds the statutory maximum for the crime as provided in chapter  
12 9A.20 RCW.

13 (6) The sentencing court shall give the offender credit for all  
14 confinement time served before the sentencing if that confinement was  
15 solely in regard to the offense for which the offender is being  
16 sentenced.

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

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

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

33 (10) In any sentence of partial confinement, the court may require  
34 the offender to serve the partial confinement in work release, in a  
35 program of home detention, on work crew, or in a combined program of  
36 work crew and home detention.

37 (11) In sentencing an offender convicted of a crime of domestic  
38 violence, as defined in RCW 10.99.020, if the offender has a minor  
39 child, or if the victim of the offense for which the offender was

1 convicted has a minor child, the court may, as part of any term of  
2 community supervision, community placement, or community custody, order  
3 the offender to participate in a domestic violence perpetrator program  
4 approved under RCW 26.50.150.

5 **Sec. 18.** RCW 9.94A.530 and 2000 c 28 s 12 are each amended to read  
6 as follows:

7 (1) The intersection of the column defined by the offender score  
8 and the row defined by the offense seriousness score determines the  
9 standard sentence range (see RCW 9.94A.510, (Table 1) and section 8 of  
10 this act, (Table 3)). The additional time for deadly weapon findings  
11 or for those offenses enumerated in (~~RCW 9.94A.510~~) section 11(4) of  
12 this act that were committed in a state correctional facility or county  
13 jail shall be added to the entire standard sentence range. The court  
14 may impose any sentence within the range that it deems appropriate.  
15 All standard sentence ranges are expressed in terms of total  
16 confinement.

17 (2) In determining any sentence, the trial court may rely on no  
18 more information than is admitted by the plea agreement, or admitted,  
19 acknowledged, or proved in a trial or at the time of sentencing.  
20 Acknowledgement includes not objecting to information stated in the  
21 presentence reports. Where the defendant disputes material facts, the  
22 court must either not consider the fact or grant an evidentiary hearing  
23 on the point. The facts shall be deemed proved at the hearing by a  
24 preponderance of the evidence. Facts that establish the elements of a  
25 more serious crime or additional crimes may not be used to go outside  
26 the standard sentence range except upon stipulation or when  
27 specifically provided for in RCW 9.94A.535(2) (d), (e), (g), and (h).

28 **Sec. 19.** RCW 9.94A.585 and 2000 c 28 s 10 are each amended to read  
29 as follows:

30 (1) A sentence within the standard sentence range, under RCW  
31 9.94A.510 or section 8 of this act, for (~~the~~) an offense shall not be  
32 appealed. For purposes of this section, a sentence imposed on a first-  
33 time offender under RCW 9.94A.650 shall also be deemed to be within the  
34 standard sentence range for the offense and shall not be appealed.

35 (2) A sentence outside the standard sentence range for the offense  
36 is subject to appeal by the defendant or the state. The appeal shall

1 be to the court of appeals in accordance with rules adopted by the  
2 supreme court.

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

6 (4) To reverse a sentence which is outside the standard sentence  
7 range, the reviewing court must find: (a) Either that the reasons  
8 supplied by the sentencing court are not supported by the record which  
9 was before the judge or that those reasons do not justify a sentence  
10 outside the standard sentence range for that offense; or (b) that the  
11 sentence imposed was clearly excessive or clearly too lenient.

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

16 (6) The court of appeals shall issue a written opinion in support  
17 of its decision whenever the judgment of the sentencing court is  
18 reversed and may issue written opinions in any other case where the  
19 court believes that a written opinion would provide guidance to  
20 sentencing courts and others in implementing this chapter and in  
21 developing a common law of sentencing within the state.

22 (7) The department may petition for a review of a sentence  
23 committing an offender to the custody or jurisdiction of the  
24 department. The review shall be limited to errors of law. Such  
25 petition shall be filed with the court of appeals no later than ninety  
26 days after the department has actual knowledge of terms of the  
27 sentence. The petition shall include a certification by the department  
28 that all reasonable efforts to resolve the dispute at the superior  
29 court level have been exhausted.

30 **Sec. 20.** RCW 9.94A.660 and 2001 c 10 s 4 are each amended to read  
31 as follows:

32 (1) An offender is eligible for the special drug offender  
33 sentencing alternative if:

34 (a) The offender is convicted of a felony that is not a violent  
35 offense or sex offense and the violation does not involve a sentence  
36 enhancement under ((RCW 9.94A.510)) section 11 (3) or (4) of this act;

1 (b) The offender has no current or prior convictions for a sex  
2 offense or violent offense in this state, another state, or the United  
3 States;

4 (c) For a violation of the Uniform Controlled Substances Act under  
5 chapter 69.50 RCW or a criminal solicitation to commit such a violation  
6 under chapter 9A.28 RCW, the offense involved only a small quantity of  
7 the particular controlled substance as determined by the judge upon  
8 consideration of such factors as the weight, purity, packaging, sale  
9 price, and street value of the controlled substance; and

10 (d) The offender has not been found by the United States attorney  
11 general to be subject to a deportation detainer or order and does not  
12 become subject to a deportation order during the period of the  
13 sentence.

14 (2) If the standard sentence range is greater than one year and the  
15 sentencing court determines that the offender is eligible for this  
16 alternative and that the offender and the community will benefit from  
17 the use of the alternative, the judge may waive imposition of a  
18 sentence within the standard sentence range and impose a sentence that  
19 must include a period of total confinement in a state facility for one-  
20 half of the midpoint of the standard sentence range. During  
21 incarceration in the state facility, offenders sentenced under this  
22 subsection shall undergo a comprehensive substance abuse assessment and  
23 receive, within available resources, treatment services appropriate for  
24 the offender. The treatment services shall be designed by the division  
25 of alcohol and substance abuse of the department of social and health  
26 services, in cooperation with the department of corrections.

27 The court shall also impose:

28 (a) The remainder of the midpoint of the standard range as a term  
29 of community custody which must include appropriate substance abuse  
30 treatment in a program that has been approved by the division of  
31 alcohol and substance abuse of the department of social and health  
32 services;

33 (b) Crime-related prohibitions including a condition not to use  
34 illegal controlled substances;

35 (c) A requirement to submit to urinalysis or other testing to  
36 monitor that status; and

37 (d) A term of community custody pursuant to RCW 9.94A.715 to be  
38 imposed upon failure to complete or administrative termination from the  
39 special drug offender sentencing alternative program.



1 The court may prohibit the offender from using alcohol or  
2 controlled substances and may require that the monitoring for  
3 controlled substances be conducted by the department or by a treatment  
4 alternatives to street crime program or a comparable court or agency-  
5 referred program. The offender may be required to pay thirty dollars  
6 per month while on community custody to offset the cost of monitoring.  
7 In addition, the court shall impose three or more of the following  
8 conditions:

9 (i) Devote time to a specific employment or training;

10 (ii) Remain within prescribed geographical boundaries and notify  
11 the court or the community corrections officer before any change in the  
12 offender's address or employment;

13 (iii) Report as directed to a community corrections officer;

14 (iv) Pay all court-ordered legal financial obligations;

15 (v) Perform community service work;

16 (vi) Stay out of areas designated by the sentencing court;

17 (vii) Such other conditions as the court may require such as  
18 affirmative conditions.

19 (3) If the offender violates any of the sentence conditions in  
20 subsection (2) of this section or is found by the United States  
21 attorney general to be subject to a deportation order, a violation  
22 hearing shall be held by the department unless waived by the offender.

23 (a) If the department finds that conditions have been willfully  
24 violated, the offender may be reclassified to serve the remaining  
25 balance of the original sentence.

26 (b) If the department finds that the offender is subject to a valid  
27 deportation order, the department may administratively terminate the  
28 offender from the program and reclassify the offender to serve the  
29 remaining balance of the original sentence.

30 (4) The department shall determine the rules for calculating the  
31 value of a day fine based on the offender's income and reasonable  
32 obligations which the offender has for the support of the offender and  
33 any dependents. These rules shall be developed in consultation with  
34 the administrator for the courts, the office of financial management,  
35 and the commission.

36 (5) An offender who fails to complete the special drug offender  
37 sentencing alternative program or who is administratively terminated  
38 from the program shall be reclassified to serve the unexpired term of  
39 his or her sentence as ordered by the sentencing court and shall be

1 subject to all rules relating to earned release time. An offender who  
2 violates any conditions of supervision as defined by the department  
3 shall be sanctioned. Sanctions may include, but are not limited to,  
4 reclassifying the offender to serve the unexpired term of his or her  
5 sentence as ordered by the sentencing court. If an offender is  
6 reclassified to serve the unexpired term of his or her sentence, the  
7 offender shall be subject to all rules relating to earned release time.

8 **Sec. 21.** RCW 9.94A.728 and 2000 c 28 s 28 are each amended to read  
9 as follows:

10 No person serving a sentence imposed pursuant to this chapter and  
11 committed to the custody of the department shall leave the confines of  
12 the correctional facility or be released prior to the expiration of the  
13 sentence except as follows:

14 (1) Except as otherwise provided for in subsection (2) of this  
15 section, the term of the sentence of an offender committed to a  
16 correctional facility operated by the department may be reduced by  
17 earned release time in accordance with procedures that shall be  
18 developed and promulgated by the correctional agency having  
19 jurisdiction in which the offender is confined. The earned release  
20 time shall be for good behavior and good performance, as determined by  
21 the correctional agency having jurisdiction. The correctional agency  
22 shall not credit the offender with earned release credits in advance of  
23 the offender actually earning the credits. Any program established  
24 pursuant to this section shall allow an offender to earn early release  
25 credits for presentence incarceration. If an offender is transferred  
26 from a county jail to the department, the administrator of a county  
27 jail facility shall certify to the department the amount of time spent  
28 in custody at the facility and the amount of earned release time. An  
29 offender who has been convicted of a felony committed after July 23,  
30 1995, that involves any applicable deadly weapon enhancements under  
31 (~~RCW 9.94A.510~~) section 11 (3) or (4) of this act, or both, shall not  
32 receive any good time credits or earned release time for that portion  
33 of his or her sentence that results from any deadly weapon  
34 enhancements. In the case of an offender convicted of a serious  
35 violent offense, or a sex offense that is a class A felony, committed  
36 on or after July 1, 1990, the aggregate earned release time may not  
37 exceed fifteen percent of the sentence. In no other case shall the  
38 aggregate earned release time exceed one-third of the total sentence;

1 (2)(a) A person convicted of a sex offense or an offense  
2 categorized as a serious violent offense, assault in the second degree,  
3 vehicular homicide, vehicular assault, assault of a child in the second  
4 degree, any crime against persons where it is determined in accordance  
5 with RCW 9.94A.602 that the offender or an accomplice was armed with a  
6 deadly weapon at the time of commission, or any felony offense under  
7 chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become  
8 eligible, in accordance with a program developed by the department, for  
9 transfer to community custody status in lieu of earned release time  
10 pursuant to subsection (1) of this section;

11 (b) A person convicted of a sex offense, a violent offense, any  
12 crime against persons under RCW 9.94A.411(2), or a felony offense under  
13 chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may  
14 become eligible, in accordance with a program developed by the  
15 department, for transfer to community custody status in lieu of earned  
16 release time pursuant to subsection (1) of this section;

17 (3) An offender may leave a correctional facility pursuant to an  
18 authorized furlough or leave of absence. In addition, offenders may  
19 leave a correctional facility when in the custody of a corrections  
20 officer or officers;

21 (4)(a) The secretary may authorize an extraordinary medical  
22 placement for an offender when all of the following conditions exist:

23 (i) The offender has a medical condition that is serious enough to  
24 require costly care or treatment;

25 (ii) The offender poses a low risk to the community because he or  
26 she is physically incapacitated due to age or the medical condition;  
27 and

28 (iii) Granting the extraordinary medical placement will result in  
29 a cost savings to the state.

30 (b) An offender sentenced to death or to life imprisonment without  
31 the possibility of release or parole is not eligible for an  
32 extraordinary medical placement.

33 (c) The secretary shall require electronic monitoring for all  
34 offenders in extraordinary medical placement unless the electronic  
35 monitoring equipment interferes with the function of the offender's  
36 medical equipment or results in the loss of funding for the offender's  
37 medical care. The secretary shall specify who shall provide the  
38 monitoring services and the terms under which the monitoring shall be  
39 performed.

1 (d) The secretary may revoke an extraordinary medical placement  
2 under this subsection at any time.

3 (5) The governor, upon recommendation from the clemency and pardons  
4 board, may grant an extraordinary release for reasons of serious health  
5 problems, senility, advanced age, extraordinary meritorious acts, or  
6 other extraordinary circumstances;

7 (6) No more than the final six months of the sentence may be served  
8 in partial confinement designed to aid the offender in finding work and  
9 reestablishing himself or herself in the community;

10 (7) The governor may pardon any offender;

11 (8) The department may release an offender from confinement any  
12 time within ten days before a release date calculated under this  
13 section; and

14 (9) An offender may leave a correctional facility prior to  
15 completion of his or her sentence if the sentence has been reduced as  
16 provided in RCW 9.94A.870.

17 Notwithstanding any other provisions of this section, an offender  
18 sentenced for a felony crime listed in RCW 9.94A.540 as subject to a  
19 mandatory minimum sentence of total confinement shall not be released  
20 from total confinement before the completion of the listed mandatory  
21 minimum sentence for that felony crime of conviction unless allowed  
22 under RCW 9.94A.540, however persistent offenders are not eligible for  
23 extraordinary medical placement.

24 **Sec. 22.** RCW 9.94A.850 and 2000 c 28 s 41 are each amended to read  
25 as follows:

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

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

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

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

34 (ii) The intent of the legislature to emphasize confinement for the  
35 violent offender and alternatives to confinement for the nonviolent  
36 offender.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (4) The standard sentence ranges of total and partial confinement  
18 under this chapter, except as provided in section 8 of this act, are  
19 subject to the following limitations:

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

25 (b) If the maximum term in the range is greater than one year, the  
26 minimum term in the range shall be no less than seventy-five percent of  
27 the maximum term in the range, except that for murder in the second  
28 degree in seriousness level XIV under RCW 9.94A.510, the minimum term  
29 in the range shall be no less than fifty percent of the maximum term in  
30 the range; and

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

33 (5)(a) Not later than December 31, 1999, the commission shall  
34 propose to the legislature the initial community custody ranges to be  
35 included in sentences under RCW 9.94A.715 for crimes committed on or  
36 after July 1, 2000. Not later than December 31 of each year, the  
37 commission may propose modifications to the ranges. The ranges shall  
38 be based on the principles in RCW 9.94A.010, and shall take into  
39 account the funds available to the department for community custody.

1 The minimum term in each range shall not be less than one-half of the  
2 maximum term.

3 (b) The legislature may, by enactment of a legislative bill, adopt  
4 or modify the community custody ranges proposed by the commission. If  
5 the legislature fails to adopt or modify the initial ranges in its next  
6 regular session after they are proposed, the proposed ranges shall take  
7 effect without legislative approval for crimes committed on or after  
8 July 1, 2000.

9 (c) When the commission proposes modifications to ranges pursuant  
10 to this subsection, the legislature may, by enactment of a bill, adopt  
11 or modify the ranges proposed by the commission for crimes committed on  
12 or after July 1 of the year after they were proposed. Unless the  
13 legislature adopts or modifies the commission's proposal in its next  
14 regular session, the proposed ranges shall not take effect.

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

17 **Sec. 23.** RCW 10.01.210 and 1995 c 129 s 18 are each amended to  
18 read as follows:

19 Any and all law enforcement agencies and personnel, criminal  
20 justice attorneys, sentencing judges, and state and local correctional  
21 facilities and personnel may, but are not required to, give any and all  
22 offenders either written or oral notice, or both, of the sanctions  
23 imposed and criminal justice changes regarding armed offenders,  
24 including but not limited to the subjects of:

25 (1) Felony crimes involving any deadly weapon special verdict under  
26 RCW 9.94A.602;

27 (2) Any and all deadly weapon enhancements under ((RCW 9.94A.510))  
28 section 11 (3) or (4) of this act, or both, as well as any federal  
29 firearm, ammunition, or other deadly weapon enhancements;

30 (3) Any and all felony crimes requiring the possession, display, or  
31 use of any deadly weapon as well as the many increased penalties for  
32 these crimes including the creation of theft of a firearm and  
33 possessing a stolen firearm;

34 (4) New prosecuting standards established for filing charges for  
35 all crimes involving any deadly weapons;

36 (5) Removal of good time for any and all deadly weapon  
37 enhancements; and

1 (6) Providing the death penalty for those who commit first degree  
2 murder: (a) To join, maintain, or advance membership in an  
3 identifiable group; (b) as part of a drive-by shooting; or (c) to avoid  
4 prosecution as a persistent offender as defined in RCW 9.94A.030.

5 NEW SECTION. **Sec. 24.** The Washington state institute for public  
6 policy shall evaluate the effectiveness of the drug offense sentencing  
7 grid in reducing recidivism and its financial impact. The Washington  
8 state institute for public policy shall present a preliminary report to  
9 the legislature by December 1, 2007, and shall present a final report  
10 regarding long-term recidivism and its financial impacts to the  
11 legislature by December 1, 2008.

12 NEW SECTION. **Sec. 25.** A new section is added to chapter 9.94A RCW  
13 to read as follows:

14 The Washington state institute for public policy shall by March 1,  
15 2003, report on the cost-effectiveness of existing drug courts in  
16 Washington and their impacts on reducing recidivism.

17 NEW SECTION. **Sec. 26.** Nothing in this act creates an entitlement  
18 for a criminal defendant to any specific sanction, alternative,  
19 sentence option, or substance abuse treatment.

20 NEW SECTION. **Sec. 27.** If specific funding for the purposes of  
21 this act, referencing this act by bill or chapter number, is not  
22 provided by June 30, 2002, in the omnibus appropriations act, this act  
23 is null and void.

24 NEW SECTION. **Sec. 28.** If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 29.** Sections 2 and 3 of this act take effect  
29 July 1, 2002, and apply to crimes committed on or after July 1, 2002.

30 NEW SECTION. **Sec. 30.** Section 2 of this act expires July 1, 2004.



1        NEW SECTION.    **Sec. 31.**    Sections 7 through 11 and 14 through 23 of  
2 this act take effect July 1, 2004, and apply to crimes committed on or  
3 after July 1, 2004.

4        NEW SECTION.    **Sec. 32.**    Sections 1, 4 through 6, 12, 13, 26, and 27  
5 of this act are necessary for the immediate preservation of the public  
6 peace, health, or safety, or support of the state government and its  
7 existing public institutions, and take effect immediately.

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