

SENATE BILL 5119

State of Washington 57th Legislature 2001 Regular Session

By Senators Costa, Long, Kastama, McCaslin, Fairley, Hargrove, Gardner, Eide, McAuliffe, Carlson, Rasmussen and Oke

Read first time 01/11/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to vehicular homicide; amending RCW 9.94A.030;
2 reenacting and amending RCW 9.94A.320; and prescribing penalties.

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

4 Sec. 1. RCW 9.94A.320 and 2000 c 225 s 5, 2000 c 119 s 17, and
5 2000 c 66 s 2 are each reenacted and amended to read as follows:

6 TABLE 2

7 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

8	XVI	Aggravated Murder 1 (RCW 10.95.020)
9	XV	Homicide by abuse (RCW 9A.32.055)
10		Malicious explosion 1 (RCW 70.74.280(1))
11		Murder 1 (RCW 9A.32.030)
12	XIV	Murder 2 (RCW 9A.32.050)
13	XIII	Malicious explosion 2 (RCW 70.74.280(2))
14		Malicious placement of an explosive 1 (RCW
15		70.74.270(1))
16	XII	Assault 1 (RCW 9A.36.011)

1 Assault of a Child 1 (RCW 9A.36.120)
2 Malicious placement of an imitation device
3 1 (RCW 70.74.272(1)(a))
4 Rape 1 (RCW 9A.44.040)
5 Rape of a Child 1 (RCW 9A.44.073)
6 XI Manslaughter 1 (RCW 9A.32.060)
7 Rape 2 (RCW 9A.44.050)
8 Rape of a Child 2 (RCW 9A.44.076)
9 Vehicular Homicide, by being under the
10 influence of intoxicating liquor or
11 any drug (RCW 46.61.520)
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 IX Assault of a Child 2 (RCW 9A.36.130)
27 Controlled Substance Homicide (RCW
28 69.50.415)
29 Explosive devices prohibited (RCW
30 70.74.180)
31 Homicide by Watercraft, by being under the
32 influence of intoxicating liquor or
33 any drug (RCW 79A.60.050)
34 Inciting Criminal Profiteering (RCW
35 9A.82.060(1)(b))
36 Malicious placement of an explosive 2 (RCW
37 70.74.270(2))

1 Over 18 and deliver narcotic from Schedule
2 III, IV, or V or a nonnarcotic, except
3 flunitrazepam or methamphetamine, from
4 Schedule I-V to someone under 18 and 3
5 years junior (RCW 69.50.406)
6 Robbery 1 (RCW 9A.56.200)
7 Sexual Exploitation (RCW 9.68A.040)
8 ~~((Vehicular Homicide, by being under the
9 influence of intoxicating liquor or
10 any drug (RCW 46.61.520))~~
11 VIII Arson 1 (RCW 9A.48.020)
12 Deliver or possess with intent to deliver
13 m e t h a m p h e t a m i n e (R C W
14 69.50.401(a)(1)(ii))
15 Hit and Run--Death (RCW 46.52.020(4)(a))
16 Homicide by Watercraft, by the operation of
17 any vessel in a reckless manner (RCW
18 79A.60.050)
19 Manslaughter 2 (RCW 9A.32.070)
20 Manufacture, deliver, or possess with
21 intent to deliver amphetamine (RCW
22 69.50.401(a)(1)(ii))
23 Manufacture, deliver, or possess with
24 intent to deliver heroin or cocaine
25 (RCW 69.50.401(a)(1)(i))
26 Possession of Ephedrine, Pseudoephedrine,
27 or Anhydrous Ammonia with intent to
28 manufacture methamphetamine (RCW
29 69.50.440)
30 Promoting Prostitution 1 (RCW 9A.88.070)
31 Selling for profit (controlled or
32 counterfeit) any controlled substance
33 (RCW 69.50.410)
34 Theft of Anhydrous Ammonia (RCW 69.55.010)
35 Vehicular Homicide, by the operation of any
36 vehicle in a reckless manner (RCW
37 46.61.520)
38 VII Burglary 1 (RCW 9A.52.020)

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

25 VI Bail Jumping with Murder 1 (RCW
26 9A.76.170(2)(a))
27 Bribery (RCW 9A.68.010)
28 Incest 1 (RCW 9A.64.020(1))
29 Intimidating a Judge (RCW 9A.72.160)
30 Intimidating a Juror/Witness (RCW
31 9A.72.110, 9A.72.130)
32 Malicious placement of an imitation device
33 2 (RCW 70.74.272(1)(b))
34 Manufacture, deliver, or possess with
35 intent to deliver narcotics from
36 Schedule I or II (except heroin or
37 cocaine) or flunitrazepam from
38 Schedule IV (RCW 69.50.401(a)(1)(i))
39 Rape of a Child 3 (RCW 9A.44.079)

1 Theft of a Firearm (RCW 9A.56.300)
2 Unlawful Storage of Anhydrous Ammonia (RCW
3 69.55.020)
4 V Abandonment of dependent person 1 (RCW
5 9A.42.060)
6 Advancing money or property for
7 extortionate extension of credit (RCW
8 9A.82.030)
9 Bail Jumping with class A Felony (RCW
10 9A.76.170(2)(b))
11 Child Molestation 3 (RCW 9A.44.089)
12 Criminal Mistreatment 1 (RCW 9A.42.020)
13 Custodial Sexual Misconduct 1 (RCW
14 9A.44.160)
15 Delivery of imitation controlled substance
16 by person eighteen or over to person
17 under eighteen (RCW 69.52.030(2))
18 Domestic Violence Court Order Violation
19 (RCW 10.99.040, 10.99.050, 26.09.300,
20 26.10.220, 26.26.138, 26.50.110,
21 26.52.070, or 74.34.145)
22 Extortion 1 (RCW 9A.56.120)
23 Extortionate Extension of Credit (RCW
24 9A.82.020)
25 Extortionate Means to Collect Extensions of
26 Credit (RCW 9A.82.040)
27 Incest 2 (RCW 9A.64.020(2))
28 Kidnapping 2 (RCW 9A.40.030)
29 Perjury 1 (RCW 9A.72.020)
30 Persistent prison misbehavior (RCW
31 9.94.070)
32 Possession of a Stolen Firearm (RCW
33 9A.56.310)
34 Rape 3 (RCW 9A.44.060)
35 Rendering Criminal Assistance 1 (RCW
36 9A.76.070)
37 Sexual Misconduct with a Minor 1 (RCW
38 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 Indecent Exposure to Person Under Age
16 Fourteen (subsequent sex offense) (RCW
17 9A.88.010)
18 Influencing Outcome of Sporting Event (RCW
19 9A.82.070)
20 Knowingly Trafficking in Stolen Property
21 (RCW 9A.82.050(2))
22 Malicious Harassment (RCW 9A.36.080)
23 Manufacture, deliver, or possess with
24 intent to deliver narcotics from
25 Schedule III, IV, or V or nonnarcotics
26 from Schedule I-V (except marijuana,
27 amphetamine, methamphetamines, or
28 flunitrazepam) (RCW 69.50.401(a)(1)
29 (iii) through (v))
30 Residential Burglary (RCW 9A.52.025)
31 Robbery 2 (RCW 9A.56.210)
32 Theft of Livestock 1 (RCW 9A.56.080)
33 Threats to Bomb (RCW 9.61.160)
34 Use of Proceeds of Criminal Profiteering
35 (RCW 9A.82.080 (1) and (2))
36 Vehicular Assault (RCW 46.61.522)
37 Willful Failure to Return from Furlough
38 (RCW 72.66.060)

1 III Abandonment of dependent person 2 (RCW
2 9A.42.070)
3 Assault 3 (RCW 9A.36.031)
4 Assault of a Child 3 (RCW 9A.36.140)
5 Bail Jumping with class B or C Felony (RCW
6 9A.76.170(2)(c))
7 Burglary 2 (RCW 9A.52.030)
8 Communication with a Minor for Immoral
9 Purposes (RCW 9.68A.090)
10 Criminal Gang Intimidation (RCW 9A.46.120)
11 Criminal Mistreatment 2 (RCW 9A.42.030)
12 Custodial Assault (RCW 9A.36.100)
13 Delivery of a material in lieu of a
14 controlled substance (RCW
15 69.50.401(c))
16 Escape 2 (RCW 9A.76.120)
17 Extortion 2 (RCW 9A.56.130)
18 Harassment (RCW 9A.46.020)
19 Intimidating a Public Servant (RCW
20 9A.76.180)
21 Introducing Contraband 2 (RCW 9A.76.150)
22 Maintaining a Dwelling or Place for
23 Controlled Substances (RCW
24 69.50.402(a)(6))
25 Malicious Injury to Railroad Property (RCW
26 81.60.070)
27 Manufacture, deliver, or possess with
28 intent to deliver marijuana (RCW
29 69.50.401(a)(1)(iii))
30 Manufacture, distribute, or possess with
31 intent to distribute an imitation
32 controlled substance (RCW
33 69.52.030(1))
34 Patronizing a Juvenile Prostitute (RCW
35 9.68A.100)
36 Perjury 2 (RCW 9A.72.030)
37 Possession of Incendiary Device (RCW
38 9.40.120)

1 Possession of Machine Gun or Short-Barreled
2 Shotgun or Rifle (RCW 9.41.190)
3 Promoting Prostitution 2 (RCW 9A.88.080)
4 Recklessly Trafficking in Stolen Property
5 (RCW 9A.82.050(1))
6 Securities Act violation (RCW 21.20.400)
7 Tampering with a Witness (RCW 9A.72.120)
8 Telephone Harassment (subsequent conviction
9 or threat of death) (RCW 9.61.230)
10 Theft of Livestock 2 (RCW 9A.56.080)
11 Unlawful Imprisonment (RCW 9A.40.040)
12 Unlawful possession of firearm in the
13 second degree (RCW 9.41.040(1)(b))
14 Unlawful Use of Building for Drug Purposes
15 (RCW 69.53.010)
16 Willful Failure to Return from Work Release
17 (RCW 72.65.070)

18 II Computer Trespass 1 (RCW 9A.52.110)
19 Counterfeiting (RCW 9.16.035(3))
20 Create, deliver, or possess a counterfeit
21 controlled substance (RCW
22 69.50.401(b))
23 Escape from Community Custody (RCW
24 72.09.310)
25 Health Care False Claims (RCW 48.80.030)
26 Malicious Mischief 1 (RCW 9A.48.070)
27 Possession of controlled substance that is
28 either heroin or narcotics from
29 Schedule I or II or flunitrazepam from
30 Schedule IV (RCW 69.50.401(d))
31 Possession of phencyclidine (PCP) (RCW
32 69.50.401(d))
33 Possession of Stolen Property 1 (RCW
34 9A.56.150)
35 Theft 1 (RCW 9A.56.030)
36 Theft of Rental, Leased, or Lease-purchased
37 Property (valued at one thousand five
38 hundred dollars or more) (RCW
39 9A.56.096(4))

1 Trafficking in Insurance Claims (RCW
2 48.30A.015)
3 Unlawful Practice of Law (RCW 2.48.180)
4 Unlicensed Practice of a Profession or
5 Business (RCW 18.130.190(7))
6 I Attempting to Elude a Pursuing Police
7 Vehicle (RCW 46.61.024)
8 False Verification for Welfare (RCW
9 74.08.055)
10 Forged Prescription (RCW 69.41.020)
11 Forged Prescription for a Controlled
12 Substance (RCW 69.50.403)
13 Forgery (RCW 9A.60.020)
14 Malicious Mischief 2 (RCW 9A.48.080)
15 Possess Controlled Substance that is a
16 Narcotic from Schedule III, IV, or V
17 or Non-narcotic from Schedule I-V
18 (except phencyclidine or
19 flunitrazepam) (RCW 69.50.401(d))
20 Possession of Stolen Property 2 (RCW
21 9A.56.160)
22 Reckless Burning 1 (RCW 9A.48.040)
23 Taking Motor Vehicle Without Permission
24 (RCW 9A.56.070)
25 Theft 2 (RCW 9A.56.040)
26 Theft of Rental, Leased, or Lease-purchased
27 Property (valued at two hundred fifty
28 dollars or more but less than one
29 thousand five hundred dollars) (RCW
30 9A.56.096(4))
31 Unlawful Issuance of Checks or Drafts (RCW
32 9A.56.060)
33 Unlawful Use of Food Stamps (RCW 9.91.140
34 (2) and (3))
35 Vehicle Prowl 1 (RCW 9A.52.095)

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

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

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

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

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

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

28 (5) "Community custody range" means the minimum and maximum period
29 of community custody included as part of a sentence under RCW
30 9.94A.715, as established by the commission or the legislature under
31 RCW 9.94A.040, for crimes committed on or after July 1, 2000.

32 (6) "Community placement" means that period during which the
33 offender is subject to the conditions of community custody and/or
34 postrelease supervision, which begins either upon completion of the
35 term of confinement (postrelease supervision) or at such time as the
36 offender is transferred to community custody in lieu of earned release.
37 Community placement may consist of entirely community custody, entirely
38 postrelease supervision, or a combination of the two.

1 (7) "Community service" means compulsory service, without
2 compensation, performed for the benefit of the community by the
3 offender.

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

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

15 (10) "Conviction" means an adjudication of guilt pursuant to Titles
16 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
17 acceptance of a plea of guilty.

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

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

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

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

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

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

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

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

26 (19) "Drug offense" means:

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

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

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

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

38 (21) "Escape" means:

1 (a) Escape in the first degree (RCW 9A.76.110), escape in the
2 second degree (RCW 9A.76.120), willful failure to return from furlough
3 (RCW 72.66.060), willful failure to return from work release (RCW
4 72.65.070), or willful failure to be available for supervision by the
5 department while in community custody (RCW 72.09.310); or

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

9 (22) "Felony traffic offense" means:

10 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
11 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
12 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

25 (26) "Legal financial obligation" means a sum of money that is
26 ordered by a superior court of the state of Washington for legal
27 financial obligations which may include restitution to the victim,
28 statutorily imposed crime victims' compensation fees as assessed
29 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
30 court-appointed attorneys' fees, and costs of defense, fines, and any
31 other financial obligation that is assessed to the offender as a result
32 of a felony conviction. Upon conviction for vehicular assault while
33 under the influence of intoxicating liquor or any drug, RCW
34 46.61.522(1)(b), or vehicular homicide while under the influence of
35 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
36 obligations may also include payment to a public agency of the expense
37 of an emergency response to the incident resulting in the conviction,
38 subject to RCW 38.52.430.

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

3 (a) Any felony defined under any law as a class A felony or
4 criminal solicitation of or criminal conspiracy to commit a class A
5 felony;

6 (b) Assault in the second degree;

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

8 (d) Child molestation in the second degree;

9 (e) Controlled substance homicide;

10 (f) Extortion in the first degree;

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

12 (h) Indecent liberties;

13 (i) Kidnapping in the second degree;

14 (j) Leading organized crime;

15 (k) Manslaughter in the first degree;

16 (l) Manslaughter in the second degree;

17 (m) Promoting prostitution in the first degree;

18 (n) Rape in the third degree;

19 (o) Robbery in the second degree;

20 (p) Sexual exploitation;

21 (q) Vehicular assault;

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

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

28 (t) Any other felony with a deadly weapon verdict under RCW
29 9.94A.125;

30 (u) Any felony offense in effect at any time prior to December 2,
31 1993, that is comparable to a most serious offense under this
32 subsection, or any federal or out-of-state conviction for an offense
33 that under the laws of this state would be a felony classified as a
34 most serious offense under this subsection;

35 (v)(i) A prior conviction for indecent liberties under RCW
36 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
37 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
38 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
39 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

1 (ii) A prior conviction for indecent liberties under RCW
2 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
3 if: (A) The crime was committed against a child under the age of
4 fourteen; or (B) the relationship between the victim and perpetrator is
5 included in the definition of indecent liberties under RCW
6 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
7 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
8 through July 27, 1997.

9 (28) "Nonviolent offense" means an offense which is not a violent
10 offense.

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

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

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

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

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

37 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
38 of a child in the first degree, child molestation in the first degree,
39 rape in the second degree, rape of a child in the second degree, or

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

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

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

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

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

32 (35) "Serious traffic offense" means:

33 (a) Driving while under the influence of intoxicating liquor or any
34 drug (RCW 46.61.502), actual physical control while under the influence
35 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
36 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
37 or

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

4 (36) "Serious violent offense" is a subcategory of violent offense
5 and means:

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

7 (ii) Homicide by abuse;

8 (iii) Murder in the second degree;

9 (iv) Manslaughter in the first degree;

10 (v) Vehicular homicide, when proximately caused by the driving of
11 any vehicle by any person while under the influence of intoxicating
12 liquor or any drug as defined by RCW 46.61.502;

13 ~~(vi)~~ Assault in the first degree;

14 ~~((~~vi~~))~~ (vii) Kidnapping in the first degree;

15 ~~((~~vii~~))~~ (viii) Rape in the first degree;

16 ~~((~~viii~~))~~ (ix) Assault of a child in the first degree; or

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

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

22 (37) "Sex offense" means:

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

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

25 (ii) RCW 9A.64.020;

26 (iii) RCW 9.68A.090; or

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

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

32 (c) A felony with a finding of sexual motivation under RCW
33 9.94A.127 or 13.40.135; or

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

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

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

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

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

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

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

20 (44) "Violent offense" means:

21 (a) Any of the following felonies:

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

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

26 (iii) Manslaughter in the first degree;

27 (iv) Manslaughter in the second degree;

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

29 (vi) Kidnapping in the second degree;

30 (vii) Arson in the second degree;

31 (viii) Assault in the second degree;

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

33 (x) Extortion in the first degree;

34 (xi) Robbery in the second degree;

35 (xii) Drive-by shooting;

36 (xiii) Vehicular assault; and

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

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

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

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

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

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

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

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