

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5123

57th Legislature
2001 Regular Session

Passed by the Senate April 16, 2001
YEAS 47 NAYS 0

President of the Senate

Passed by the House April 11, 2001
YEAS 93 NAYS 0

**Speaker of the
House of Representatives**

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5123** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5123

AS AMENDED BY THE HOUSE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Costa, Long and Hargrove)

READ FIRST TIME 02/01/01.

1 AN ACT Relating to the crime of escape when committed by persons
2 committed to the department of social and health services; amending RCW
3 9A.76.120 and 9.94A.030; reenacting and amending RCW 9.94A.320; adding
4 a new section to chapter 9A.76 RCW; prescribing penalties; providing an
5 effective date; and declaring an emergency.

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

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

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

12 (a) Escapes from custody;

13 (b) Escapes from a commitment facility;

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

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

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

1 Indecent Liberties (with forcible
2 compulsion) (RCW 9A.44.100(1)(a))
3 Kidnapping 1 (RCW 9A.40.020)
4 Leading Organized Crime (RCW
5 9A.82.060(1)(a))
6 Malicious explosion 3 (RCW 70.74.280(3))
7 Manufacture of methamphetamine (RCW
8 69.50.401(a)(1)(ii))
9 Over 18 and deliver heroin,
10 methamphetamine, a narcotic from
11 Schedule I or II, or flunitrazepam
12 from Schedule IV to someone under 18
13 (RCW 69.50.406)

14 IX Assault of a Child 2 (RCW 9A.36.130)
15 Controlled Substance Homicide (RCW
16 69.50.415)
17 Explosive devices prohibited (RCW
18 70.74.180)
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 Hit and Run--Death (RCW 46.52.020(4)(a))
5 Homicide by Watercraft, by the operation of
6 any vessel in a reckless manner (RCW
7 79A.60.050)
8 Manslaughter 2 (RCW 9A.32.070)
9 Manufacture, deliver, or possess with
10 intent to deliver amphetamine (RCW
11 69.50.401(a)(1)(ii))
12 Manufacture, deliver, or possess with
13 intent to deliver heroin or cocaine
14 (RCW 69.50.401(a)(1)(i))
15 Possession of Ephedrine, Pseudoephedrine,
16 or Anhydrous Ammonia with intent to
17 manufacture methamphetamine (RCW
18 69.50.440)
19 Promoting Prostitution 1 (RCW 9A.88.070)
20 Selling for profit (controlled or
21 counterfeit) any controlled substance
22 (RCW 69.50.410)
23 Theft of Anhydrous Ammonia (RCW 69.55.010)
24 Vehicular Homicide, by the operation of any
25 vehicle in a reckless manner (RCW
26 46.61.520)

27 VII Burglary 1 (RCW 9A.52.020)
28 Child Molestation 2 (RCW 9A.44.086)
29 Dealing in depictions of minor engaged in
30 sexually explicit conduct (RCW
31 9.68A.050)
32 Drive-by Shooting (RCW 9A.36.045)
33 Homicide by Watercraft, by disregard for
34 the safety of others (RCW 79A.60.050)
35 Indecent Liberties (without forcible
36 compulsion) (RCW 9A.44.100(1) (b) and
37 (c))
38 Introducing Contraband 1 (RCW 9A.76.140)

1 Involving a minor in drug dealing (RCW
2 69.50.401(f))
3 Malicious placement of an explosive 3 (RCW
4 70.74.270(3))
5 Sending, bringing into state depictions of
6 minor engaged in sexually explicit
7 conduct (RCW 9.68A.060)
8 Unlawful Possession of a Firearm in the
9 first degree (RCW 9.41.040(1)(a))
10 Use of a Machine Gun in Commission of a
11 Felony (RCW 9.41.225)
12 Vehicular Homicide, by disregard for the
13 safety of others (RCW 46.61.520)

14 VI Bail Jumping with Murder 1 (RCW
15 9A.76.170(2)(a))
16 Bribery (RCW 9A.68.010)
17 Incest 1 (RCW 9A.64.020(1))
18 Intimidating a Judge (RCW 9A.72.160)
19 Intimidating a Juror/Witness (RCW
20 9A.72.110, 9A.72.130)
21 Malicious placement of an imitation device
22 2 (RCW 70.74.272(1)(b))
23 Manufacture, deliver, or possess with
24 intent to deliver narcotics from
25 Schedule I or II (except heroin or
26 cocaine) or flunitrazepam from
27 Schedule IV (RCW 69.50.401(a)(1)(i))
28 Rape of a Child 3 (RCW 9A.44.079)
29 Theft of a Firearm (RCW 9A.56.300)
30 Unlawful Storage of Anhydrous Ammonia (RCW
31 69.55.020)

32 V Abandonment of dependent person 1 (RCW
33 9A.42.060)
34 Advancing money or property for
35 extortionate extension of credit (RCW
36 9A.82.030)
37 Bail Jumping with class A Felony (RCW
38 9A.76.170(2)(b))

1 Child Molestation 3 (RCW 9A.44.089)
2 Criminal Mistreatment 1 (RCW 9A.42.020)
3 Custodial Sexual Misconduct 1 (RCW
4 9A.44.160)
5 Delivery of imitation controlled substance
6 by person eighteen or over to person
7 under eighteen (RCW 69.52.030(2))
8 Domestic Violence Court Order Violation
9 (RCW 10.99.040, 10.99.050, 26.09.300,
10 26.10.220, 26.26.138, 26.50.110,
11 26.52.070, or 74.34.145)
12 Extortion 1 (RCW 9A.56.120)
13 Extortionate Extension of Credit (RCW
14 9A.82.020)
15 Extortionate Means to Collect Extensions of
16 Credit (RCW 9A.82.040)
17 Incest 2 (RCW 9A.64.020(2))
18 Kidnapping 2 (RCW 9A.40.030)
19 Perjury 1 (RCW 9A.72.020)
20 Persistent prison misbehavior (RCW
21 9.94.070)
22 Possession of a Stolen Firearm (RCW
23 9A.56.310)
24 Rape 3 (RCW 9A.44.060)
25 Rendering Criminal Assistance 1 (RCW
26 9A.76.070)
27 Sexual Misconduct with a Minor 1 (RCW
28 9A.44.093)
29 Sexually Violating Human Remains (RCW
30 9A.44.105)
31 Stalking (RCW 9A.46.110)
32 IV Arson 2 (RCW 9A.48.030)
33 Assault 2 (RCW 9A.36.021)
34 Assault by Watercraft (RCW 79A.60.060)
35 Bribing a Witness/Bribe Received by Witness
36 (RCW 9A.72.090, 9A.72.100)
37 Commercial Bribery (RCW 9A.68.060)
38 Counterfeiting (RCW 9.16.035(4))
39 Escape 1 (RCW 9A.76.110)

1 Hit and Run--Injury (RCW 46.52.020(4)(b))
2 Hit and Run with Vessel--Injury Accident
3 (RCW 79A.60.200(3))
4 Indecent Exposure to Person Under Age
5 Fourteen (subsequent sex offense) (RCW
6 9A.88.010)
7 Influencing Outcome of Sporting Event (RCW
8 9A.82.070)
9 Knowingly Trafficking in Stolen Property
10 (RCW 9A.82.050(2))
11 Malicious Harassment (RCW 9A.36.080)
12 Manufacture, deliver, or possess with
13 intent to deliver narcotics from
14 Schedule III, IV, or V or nonnarcotics
15 from Schedule I-V (except marijuana,
16 amphetamine, methamphetamines, or
17 flunitrazepam) (RCW 69.50.401(a)(1)
18 (iii) through (v))
19 Residential Burglary (RCW 9A.52.025)
20 Robbery 2 (RCW 9A.56.210)
21 Theft of Livestock 1 (RCW 9A.56.080)
22 Threats to Bomb (RCW 9.61.160)
23 Use of Proceeds of Criminal Profiteering
24 (RCW 9A.82.080 (1) and (2))
25 Vehicular Assault (RCW 46.61.522)
26 Willful Failure to Return from Furlough
27 (RCW 72.66.060)

28 III Abandonment of dependent person 2 (RCW
29 9A.42.070)
30 Assault 3 (RCW 9A.36.031)
31 Assault of a Child 3 (RCW 9A.36.140)
32 Bail Jumping with class B or C Felony (RCW
33 9A.76.170(2)(c))
34 Burglary 2 (RCW 9A.52.030)
35 Communication with a Minor for Immoral
36 Purposes (RCW 9.68A.090)
37 Criminal Gang Intimidation (RCW 9A.46.120)
38 Criminal Mistreatment 2 (RCW 9A.42.030)
39 Custodial Assault (RCW 9A.36.100)

1 Delivery of a material in lieu of a
2 controlled substance (RCW
3 69.50.401(c))
4 Escape 2 (RCW 9A.76.120)
5 Extortion 2 (RCW 9A.56.130)
6 Harassment (RCW 9A.46.020)
7 Intimidating a Public Servant (RCW
8 9A.76.180)
9 Introducing Contraband 2 (RCW 9A.76.150)
10 Maintaining a Dwelling or Place for
11 Controlled Substances (RCW
12 69.50.402(a)(6))
13 Malicious Injury to Railroad Property (RCW
14 81.60.070)
15 Manufacture, deliver, or possess with
16 intent to deliver marijuana (RCW
17 69.50.401(a)(1)(iii))
18 Manufacture, distribute, or possess with
19 intent to distribute an imitation
20 controlled substance (RCW
21 69.52.030(1))
22 Patronizing a Juvenile Prostitute (RCW
23 9.68A.100)
24 Perjury 2 (RCW 9A.72.030)
25 Possession of Incendiary Device (RCW
26 9.40.120)
27 Possession of Machine Gun or Short-Barreled
28 Shotgun or Rifle (RCW 9.41.190)
29 Promoting Prostitution 2 (RCW 9A.88.080)
30 Recklessly Trafficking in Stolen Property
31 (RCW 9A.82.050(1))
32 Securities Act violation (RCW 21.20.400)
33 Tampering with a Witness (RCW 9A.72.120)
34 Telephone Harassment (subsequent conviction
35 or threat of death) (RCW 9.61.230)
36 Theft of Livestock 2 (RCW 9A.56.080)
37 Unlawful Imprisonment (RCW 9A.40.040)
38 Unlawful possession of firearm in the
39 second degree (RCW 9.41.040(1)(b))

1 Unlawful Use of Building for Drug Purposes
2 (RCW 69.53.010)
3 Willful Failure to Return from Work Release
4 (RCW 72.65.070)

5 II Computer Trespass 1 (RCW 9A.52.110)
6 Counterfeiting (RCW 9.16.035(3))
7 Create, deliver, or possess a counterfeit
8 controlled substance (RCW
9 69.50.401(b))
10 Escape from Community Custody (RCW
11 72.09.310)
12 Health Care False Claims (RCW 48.80.030)
13 Malicious Mischief 1 (RCW 9A.48.070)
14 Possession of controlled substance that is
15 either heroin or narcotics from
16 Schedule I or II or flunitrazepam from
17 Schedule IV (RCW 69.50.401(d))
18 Possession of phencyclidine (PCP) (RCW
19 69.50.401(d))
20 Possession of Stolen Property 1 (RCW
21 9A.56.150)
22 Theft 1 (RCW 9A.56.030)
23 Theft of Rental, Leased, or Lease-purchased
24 Property (valued at one thousand five
25 hundred dollars or more) (RCW
26 9A.56.096(4))
27 Trafficking in Insurance Claims (RCW
28 48.30A.015)
29 Unlawful Practice of Law (RCW 2.48.180)
30 Unlicensed Practice of a Profession or
31 Business (RCW 18.130.190(7))

32 I Attempting to Elude a Pursuing Police
33 Vehicle (RCW 46.61.024)
34 False Verification for Welfare (RCW
35 74.08.055)
36 Forged Prescription (RCW 69.41.020)
37 Forged Prescription for a Controlled
38 Substance (RCW 69.50.403)

1 Forgery (RCW 9A.60.020)
2 Malicious Mischief 2 (RCW 9A.48.080)
3 Possess Controlled Substance that is a
4 Narcotic from Schedule III, IV, or V
5 or Non-narcotic from Schedule I-V
6 (except phencyclidine or
7 flunitrazepam) (RCW 69.50.401(d))
8 Possession of Stolen Property 2 (RCW
9 9A.56.160)
10 Reckless Burning 1 (RCW 9A.48.040)
11 Taking Motor Vehicle Without Permission
12 (RCW 9A.56.070)
13 Theft 2 (RCW 9A.56.040)
14 Theft of Rental, Leased, or Lease-purchased
15 Property (valued at two hundred fifty
16 dollars or more but less than one
17 thousand five hundred dollars) (RCW
18 9A.56.096(4))
19 Unlawful Issuance of Checks or Drafts (RCW
20 9A.56.060)
21 Unlawful Use of Food Stamps (RCW 9.91.140
22 (2) and (3))
23 Vehicle Prowl 1 (RCW 9A.52.095)

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

26 Unless the context clearly requires otherwise, the definitions in
27 this section apply throughout this chapter.

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

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

37 (3) "Community corrections officer" means an employee of the
38 department who is responsible for carrying out specific duties in

1 supervision of sentenced offenders and monitoring of sentence
2 conditions.

3 (4) "Community custody" means that portion of an offender's
4 sentence of confinement in lieu of earned release time or imposed
5 pursuant to RCW 9.94A.120(2)(b), 9.94A.650 through 9.94A.670,
6 9.94A.137, 9.94A.700 through 9.94A.715, or 9.94A.383, served in the
7 community subject to controls placed on the offender's movement and
8 activities by the department. For offenders placed on community
9 custody for crimes committed on or after July 1, 2000, the department
10 shall assess the offender's risk of reoffense and may establish and
11 modify conditions of community custody, in addition to those imposed by
12 the court, based upon the risk to community safety.

13 (5) "Community custody range" means the minimum and maximum period
14 of community custody included as part of a sentence under RCW
15 9.94A.715, as established by the commission or the legislature under
16 RCW 9.94A.040, for crimes committed on or after July 1, 2000.

17 (6) "Community placement" means that period during which the
18 offender is subject to the conditions of community custody and/or
19 postrelease supervision, which begins either upon completion of the
20 term of confinement (postrelease supervision) or at such time as the
21 offender is transferred to community custody in lieu of earned release.
22 Community placement may consist of entirely community custody, entirely
23 postrelease supervision, or a combination of the two.

24 (7) "Community service" means compulsory service, without
25 compensation, performed for the benefit of the community by the
26 offender.

27 (8) "Community supervision" means a period of time during which a
28 convicted offender is subject to crime-related prohibitions and other
29 sentence conditions imposed by a court pursuant to this chapter or RCW
30 16.52.200(6) or 46.61.524. Where the court finds that any offender has
31 a chemical dependency that has contributed to his or her offense, the
32 conditions of supervision may, subject to available resources, include
33 treatment. For purposes of the interstate compact for out-of-state
34 supervision of parolees and probationers, RCW 9.95.270, community
35 supervision is the functional equivalent of probation and should be
36 considered the same as probation by other states.

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

1 (10) "Conviction" means an adjudication of guilt pursuant to Titles
2 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
3 acceptance of a plea of guilty.

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

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

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

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

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

27 (16) "Determinate sentence" means a sentence that states with
28 exactitude the number of actual years, months, or days of total
29 confinement, of partial confinement, of community supervision, the
30 number of actual hours or days of community service work, or dollars or
31 terms of a legal financial obligation. The fact that an offender
32 through earned release can reduce the actual period of confinement
33 shall not affect the classification of the sentence as a determinate
34 sentence.

35 (17) "Disposable earnings" means that part of the earnings of an
36 offender remaining after the deduction from those earnings of any
37 amount required by law to be withheld. For the purposes of this
38 definition, "earnings" means compensation paid or payable for personal
39 services, whether denominated as wages, salary, commission, bonuses, or

1 otherwise, and, notwithstanding any other provision of law making the
2 payments exempt from garnishment, attachment, or other process to
3 satisfy a court-ordered legal financial obligation, specifically
4 includes periodic payments pursuant to pension or retirement programs,
5 or insurance policies of any type, but does not include payments made
6 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
7 or Title 74 RCW.

8 (18) "Drug offender sentencing alternative" is a sentencing option
9 available to persons convicted of a felony offense other than a violent
10 offense or a sex offense and who are eligible for the option under RCW
11 9.94A.660.

12 (19) "Drug offense" means:

13 (a) Any felony violation of chapter 69.50 RCW except possession of
14 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
15 controlled substance (RCW 69.50.403);

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

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

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

24 (21) "Escape" means:

25 (a) Escape by a sexually violent predator (section 1 of this act),
26 escape in the first degree (RCW 9A.76.110), escape in the second degree
27 (RCW 9A.76.120), willful failure to return from furlough (RCW
28 72.66.060), willful failure to return from work release (RCW
29 72.65.070), or willful failure to be available for supervision by the
30 department while in community custody (RCW 72.09.310); or

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

34 (22) "Felony traffic offense" means:

35 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
36 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
37 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

13 (26) "Legal financial obligation" means a sum of money that is
14 ordered by a superior court of the state of Washington for legal
15 financial obligations which may include restitution to the victim,
16 statutorily imposed crime victims' compensation fees as assessed
17 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
18 court-appointed attorneys' fees, and costs of defense, fines, and any
19 other financial obligation that is assessed to the offender as a result
20 of a felony conviction. Upon conviction for vehicular assault while
21 under the influence of intoxicating liquor or any drug, RCW
22 46.61.522(1)(b), or vehicular homicide while under the influence of
23 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
24 obligations may also include payment to a public agency of the expense
25 of an emergency response to the incident resulting in the conviction,
26 subject to RCW 38.52.430.

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

29 (a) Any felony defined under any law as a class A felony or
30 criminal solicitation of or criminal conspiracy to commit a class A
31 felony;

32 (b) Assault in the second degree;

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

34 (d) Child molestation in the second degree;

35 (e) Controlled substance homicide;

36 (f) Extortion in the first degree;

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

38 (h) Indecent liberties;

39 (i) Kidnapping in the second degree;

1 (j) Leading organized crime;
2 (k) Manslaughter in the first degree;
3 (l) Manslaughter in the second degree;
4 (m) Promoting prostitution in the first degree;
5 (n) Rape in the third degree;
6 (o) Robbery in the second degree;
7 (p) Sexual exploitation;
8 (q) Vehicular assault;
9 (r) Vehicular homicide, when proximately caused by the driving of
10 any vehicle by any person while under the influence of intoxicating
11 liquor or any drug as defined by RCW 46.61.502, or by the operation of
12 any vehicle in a reckless manner;
13 (s) Any other class B felony offense with a finding of sexual
14 motivation;
15 (t) Any other felony with a deadly weapon verdict under RCW
16 9.94A.125;
17 (u) Any felony offense in effect at any time prior to December 2,
18 1993, that is comparable to a most serious offense under this
19 subsection, or any federal or out-of-state conviction for an offense
20 that under the laws of this state would be a felony classified as a
21 most serious offense under this subsection;
22 (v)(i) A prior conviction for indecent liberties under RCW
23 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
24 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
25 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
26 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
27 (ii) A prior conviction for indecent liberties under RCW
28 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
29 if: (A) The crime was committed against a child under the age of
30 fourteen; or (B) the relationship between the victim and perpetrator is
31 included in the definition of indecent liberties under RCW
32 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
33 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
34 through July 27, 1997.
35 (28) "Nonviolent offense" means an offense which is not a violent
36 offense.
37 (29) "Offender" means a person who has committed a felony
38 established by state law and is eighteen years of age or older or is
39 less than eighteen years of age but whose case is under superior court

1 jurisdiction under RCW 13.04.030 or has been transferred by the
2 appropriate juvenile court to a criminal court pursuant to RCW
3 13.40.110. Throughout this chapter, the terms "offender" and
4 "defendant" are used interchangeably.

5 (30) "Partial confinement" means confinement for no more than one
6 year in a facility or institution operated or utilized under contract
7 by the state or any other unit of government, or, if home detention or
8 work crew has been ordered by the court, in an approved residence, for
9 a substantial portion of each day with the balance of the day spent in
10 the community. Partial confinement includes work release, home
11 detention, work crew, and a combination of work crew and home
12 detention.

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

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

16 (ii) Has, before the commission of the offense under (a) of this
17 subsection, been convicted as an offender on at least two separate
18 occasions, whether in this state or elsewhere, of felonies that under
19 the laws of this state would be considered most serious offenses and
20 would be included in the offender score under RCW 9.94A.360; provided
21 that of the two or more previous convictions, at least one conviction
22 must have occurred before the commission of any of the other most
23 serious offenses for which the offender was previously convicted; or

24 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
25 of a child in the first degree, child molestation in the first degree,
26 rape in the second degree, rape of a child in the second degree, or
27 indecent liberties by forcible compulsion; (B) murder in the first
28 degree, murder in the second degree, homicide by abuse, kidnapping in
29 the first degree, kidnapping in the second degree, assault in the first
30 degree, assault in the second degree, assault of a child in the first
31 degree, or burglary in the first degree, with a finding of sexual
32 motivation; or (C) an attempt to commit any crime listed in this
33 subsection (31)(b)(i); and

34 (ii) Has, before the commission of the offense under (b)(i) of this
35 subsection, been convicted as an offender on at least one occasion,
36 whether in this state or elsewhere, of an offense listed in (b)(i) of
37 this subsection. A conviction for rape of a child in the first degree
38 constitutes a conviction under (b)(i) of this subsection only when the
39 offender was sixteen years of age or older when the offender committed

1 the offense. A conviction for rape of a child in the second degree
2 constitutes a conviction under (b)(i) of this subsection only when the
3 offender was eighteen years of age or older when the offender committed
4 the offense.

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

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

11 (34) "Risk assessment" means the application of an objective
12 instrument supported by research and adopted by the department for the
13 purpose of assessing an offender's risk of reoffense, taking into
14 consideration the nature of the harm done by the offender, place and
15 circumstances of the offender related to risk, the offender's
16 relationship to any victim, and any information provided to the
17 department by victims. The results of a risk assessment shall not be
18 based on unconfirmed or unconfirmable allegations.

19 (35) "Serious traffic offense" means:

20 (a) Driving while under the influence of intoxicating liquor or any
21 drug (RCW 46.61.502), actual physical control while under the influence
22 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
23 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
24 or

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

28 (36) "Serious violent offense" is a subcategory of violent offense
29 and means:

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

31 (ii) Homicide by abuse;

32 (iii) Murder in the second degree;

33 (iv) Manslaughter in the first degree;

34 (v) Assault in the first degree;

35 (vi) Kidnapping in the first degree;

36 (vii) Rape in the first degree;

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

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

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

4 (37) "Sex offense" means:

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

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

7 (ii) RCW 9A.64.020;

8 (iii) RCW 9.68A.090; or

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

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

14 (c) A felony with a finding of sexual motivation under RCW
15 9.94A.127 or 13.40.135; or

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

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

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

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

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

32 (42) "Transition training" means written and verbal instructions
33 and assistance provided by the department to the offender during the
34 two weeks prior to the offender's successful completion of the work
35 ethic camp program. The transition training shall include instructions
36 in the offender's requirements and obligations during the offender's
37 period of community custody.

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

4 (44) "Violent offense" means:

5 (a) Any of the following felonies:

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

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

10 (iii) Manslaughter in the first degree;

11 (iv) Manslaughter in the second degree;

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

13 (vi) Kidnapping in the second degree;

14 (vii) Arson in the second degree;

15 (viii) Assault in the second degree;

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

17 (x) Extortion in the first degree;

18 (xi) Robbery in the second degree;

19 (xii) Drive-by shooting;

20 (xiii) Vehicular assault; and

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

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

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

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

34 (46) "Work ethic camp" means an alternative incarceration program
35 as provided in RCW 9.94A.137 designed to reduce recidivism and lower
36 the cost of corrections by requiring offenders to complete a
37 comprehensive array of real-world job and vocational experiences,
38 character-building work ethics training, life management skills

1 development, substance abuse rehabilitation, counseling, literacy
2 training, and basic adult education.

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

6 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
7 preservation of the public peace, health, or safety, or support of the
8 state government and its existing public institutions, and takes effect
9 immediately except for section 4 of this act, which takes effect July
10 1, 2001.

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