
HOUSE BILL 1147

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By Representatives Dickerson, Delvin, McDonald, O'Brien, Kagi and Chase

Read first time 01/20/2003. Referred to Committee on Juvenile Justice & Family Law.

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

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

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

9 (1) An offender is eligible for the youthful offender sentencing
10 alternative if:

11 (a) The offender has been convicted in adult criminal court
12 pursuant to RCW 13.04.030(1)(e)(v) of any charge other than murder in
13 the first degree or murder in the second degree;

14 (b) The offender has no prior convictions for any serious violent
15 offense; and

16 (c) The offender has not previously been transferred to the
17 department of corrections from a facility for juveniles under RCW
18 13.40.280.

1 (2) If the court finds that the offender is eligible for this
2 alternative, the court shall impose the youthful offender sentencing
3 alternative under subsection (3) of this section, unless after a
4 hearing on the motion of the court or either party, the court
5 determines that this alternative is not appropriate for the offender.
6 The court shall set forth its reasons for not imposing the youthful
7 offender sentencing alternative in written findings of fact and
8 conclusions of law.

9 (3) If the court determines that the youthful offender sentencing
10 alternative is appropriate for the offender, the court shall impose a
11 sentence under this chapter, suspend the execution of the sentence, and
12 impose the following conditions of suspension:

13 (a) Commitment of the offender to the custody of the department of
14 social and health services for placement in a juvenile correctional
15 facility for the length of time that the offender would have served in
16 total confinement with the department of corrections under the
17 suspended sentence or until the offender's twenty-first birthday,
18 whichever is shorter;

19 (b) Crime-related prohibitions;

20 (c) Any other conditions as the court may find appropriate.

21 (4)(a) The department of social and health services shall place an
22 offender sentenced under this section in a juvenile correctional
23 facility, subject to capacity, unless the department of social and
24 health services determines, after an intake evaluation, that placement
25 in the facility is not appropriate.

26 (b) The department of social and health services shall have
27 jurisdiction over an offender sentenced under this section until the
28 offender is returned to the custody of the department of corrections or
29 until the offender's twenty-first birthday, whichever occurs first.

30 (c) The department of social and health services shall submit
31 annual reports to the court and the department of corrections regarding
32 the offender's compliance with the conditions of the youthful offender
33 sentencing alternative.

34 (5)(a) No sooner than three months prior to the offender's twenty-
35 first birthday or an expected release date, the offender shall appear
36 before the court to determine compliance with the youthful offender
37 sentencing alternative.

1 (b) Except as provided in (c) of this subsection, if the court
2 determines at the hearing that the offender has made sufficient
3 progress in available rehabilitative programs, has not reoffended, and
4 has not posed a serious threat to the physical safety of others, the
5 court shall: (i) Order the offender released from the custody of the
6 department of social and health services; (ii) enter a finding that
7 the offender has completed the requirements of the suspended sentence;
8 (iii) order that the offense for which the offender received a youthful
9 offender sentencing alternative be considered a juvenile adjudication
10 for all purposes and not an adult conviction; and (iv) determine if a
11 period of community custody would be appropriate for the offender based
12 on recommendations from the department of social and health services
13 and the department of corrections. If the court determines a period of
14 community custody is appropriate, the court shall order a period of
15 community custody not to exceed forty-eight months, and the department
16 of corrections shall have jurisdiction over the offender for the
17 purposes of supervision of community custody.

18 (c)(i) For offenders convicted of rape in the first degree or rape
19 in the second degree and whose suspended adult sentence would require
20 the offender to be incarcerated beyond the offender's twenty-first
21 birthday, if the court finds that the offender has made sufficient
22 progress in available rehabilitative programs, has not reoffended, and
23 has not posed a serious threat to the physical safety of others, the
24 court shall: (A) Order the offender released from the custody of the
25 department of social and health services; and (B) determine if the
26 offender should be returned to the custody of the department of
27 corrections for a period of confinement in an adult facility until the
28 offender's twenty-fifth birthday or for the length of time remaining on
29 the adult sentence, whichever period is shorter. If the court finds
30 that the offender's return to the custody of the department of
31 corrections is not appropriate, the court shall enter the order and
32 findings listed in (b) of this subsection.

33 (ii) For offenders returned to the department of corrections, no
34 sooner than three months prior to the offender's twenty-fifth birthday
35 or an expected release date, the offender shall appear before the
36 court. If the court finds that the offender has made sufficient
37 progress in available rehabilitative programs, has not reoffended, and
38 has not posed a serious threat to the physical safety of others, the

1 court shall: (A) Order the offender released from the custody of the
2 department of corrections; (B) order that the offense for which the
3 offender received a youthful offender sentencing alternative be
4 considered a juvenile adjudication for all purposes and not an adult
5 conviction; (C) enter a finding that the offender has completed the
6 requirements of the suspended sentence; and (D) order a period of
7 community custody not to exceed forty-eight months, unless the court
8 finds that community custody is not appropriate.

9 (6) The court, upon its own motion or upon application by the
10 department of social and health services or the department of
11 corrections, may revoke the suspended sentence at any time while the
12 offender is serving the youthful offender sentencing alternative and
13 order execution of the sentence if the offender:

14 (a) Fails to comply with any of the conditions imposed by the
15 court;

16 (b) Fails to make sufficient progress in rehabilitative programs
17 made available to the offender;

18 (c) Constitutes a serious threat to the physical safety of others;
19 or

20 (d) Reoffends.

21 (7) If the court revokes the suspended sentence while the offender
22 is in custody of the department of social and health services, the
23 court shall order execution of the original sentence. The offender
24 shall be removed from the custody of the department of social and
25 health services and returned to the department of corrections to serve
26 the suspended sentence imposed. The offender's confinement time served
27 while in the custody of the department of social and health services
28 shall be credited to the offender.

29 **Sec. 2.** RCW 9.94A.505 and 2002 c 289 s 6 and 2002 c 175 s 6 are
30 each reenacted and amended to read as follows:

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

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

35 (i) Unless another term of confinement applies, the court shall
36 impose a sentence within the standard sentence range established in RCW
37 9.94A.510;

- 1 (ii) RCW 9.94A.700 and 9.94A.705, relating to community placement;
2 (iii) RCW 9.94A.710 and 9.94A.715, relating to community custody;
3 (iv) RCW 9.94A.545, relating to community custody for offenders
4 whose term of confinement is one year or less;
5 (v) RCW 9.94A.570, relating to persistent offenders;
6 (vi) RCW 9.94A.540, relating to mandatory minimum terms;
7 (vii) RCW 9.94A.650, relating to the first-time offender waiver;
8 (viii) RCW 9.94A.660, relating to the drug offender sentencing
9 alternative;
10 (ix) RCW 9.94A.670, relating to the special sex offender sentencing
11 alternative;
12 (x) RCW 9.94A.712, relating to certain sex offenses;
13 (xi) RCW 9.94A.535, relating to exceptional sentences;
14 (xii) RCW 9.94A.589, relating to consecutive and concurrent
15 sentences;
16 (xiii) Section 1 of this act, relating to the youthful offender
17 sentencing alternative.

18 (b) If a standard sentence range has not been established for the
19 offender's crime, the court shall impose a determinate sentence which
20 may include not more than one year of confinement; community
21 restitution work; until July 1, 2000, a term of community supervision
22 not to exceed one year and on and after July 1, 2000, a term of
23 community custody not to exceed one year, subject to conditions and
24 sanctions as authorized in RCW 9.94A.710 (2) and (3); and/or other
25 legal financial obligations. The court may impose a sentence which
26 provides more than one year of confinement if the court finds reasons
27 justifying an exceptional sentence as provided in RCW 9.94A.535.

28 (3) If the court imposes a sentence requiring confinement of thirty
29 days or less, the court may, in its discretion, specify that the
30 sentence be served on consecutive or intermittent days. A sentence
31 requiring more than thirty days of confinement shall be served on
32 consecutive days. Local jail administrators may schedule court-ordered
33 intermittent sentences as space permits.

34 (4) If a sentence imposed includes payment of a legal financial
35 obligation, it shall be imposed as provided in RCW 9.94A.750,
36 9.94A.753, 9.94A.760, and 43.43.7541.

37 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
38 court may not impose a sentence providing for a term of confinement or

1 community supervision, community placement, or community custody which
2 exceeds the statutory maximum for the crime as provided in chapter
3 9A.20 RCW.

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

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

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

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

24 (10) In any sentence of partial confinement, the court may require
25 the offender to serve the partial confinement in work release, in a
26 program of home detention, on work crew, or in a combined program of
27 work crew and home detention.

28 (11) In sentencing an offender convicted of a crime of domestic
29 violence, as defined in RCW 10.99.020, if the offender has a minor
30 child, or if the victim of the offense for which the offender was
31 convicted has a minor child, the court may, as part of any term of
32 community supervision, community placement, or community custody, order
33 the offender to participate in a domestic violence perpetrator program
34 approved under RCW 26.50.150.

35 **Sec. 3.** RCW 9.94A.505 and 2002 c 290 s 17, 2002 c 289 s 6, and
36 2002 c 175 s 6 are each reenacted and amended to read as follows:

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

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

5 (i) Unless another term of confinement applies, the court shall
6 impose a sentence within the standard sentence range established in RCW
7 9.94A.510 or 9.94A.517;

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

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

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

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

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

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

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

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

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

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

21 (xii) RCW 9.94A.589, relating to consecutive and concurrent
22 sentences;

23 (xiii) Section 1 of this act, relating to the youthful offender
24 sentencing alternative.

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

35 (3) If the court imposes a sentence requiring confinement of thirty
36 days or less, the court may, in its discretion, specify that the
37 sentence be served on consecutive or intermittent days. A sentence

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

4 (4) If a sentence imposed includes payment of a legal financial
5 obligation, it shall be imposed as provided in RCW 9.94A.750,
6 9.94A.753, 9.94A.760, and 43.43.7541.

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

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

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

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

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

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

36 (11) In sentencing an offender convicted of a crime of domestic
37 violence, as defined in RCW 10.99.020, if the offender has a minor
38 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. 4.** RCW 9.94A.030 and 2002 c 175 s 5 and 2002 c 107 s 2 are
6 each reenacted and amended to read as follows:

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

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

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

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

20 (4) "Community corrections officer" means an employee of the
21 department who is responsible for carrying out specific duties in
22 supervision of sentenced offenders and monitoring of sentence
23 conditions.

24 (5) "Community custody" means that portion of an offender's
25 sentence of confinement in lieu of earned release time or imposed
26 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670, section
27 1 of this act, 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545,
28 served in the community subject to controls placed on the offender's
29 movement and activities by the department. For offenders placed on
30 community custody for crimes committed on or after July 1, 2000, the
31 department shall assess the offender's risk of reoffense and may
32 establish and modify conditions of community custody, in addition to
33 those imposed by the court, based upon the risk to community safety.

34 (6) "Community custody range" means the minimum and maximum period
35 of community custody included as part of a sentence under RCW
36 9.94A.715, as established by the commission or the legislature under
37 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

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

8 (8) "Community restitution" means compulsory service, without
9 compensation, performed for the benefit of the community by the
10 offender.

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

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

22 (11) "Conviction" means an adjudication of guilt pursuant to Titles
23 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
24 acceptance of a plea of guilty.

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

32 (13) "Criminal history" means the list of a defendant's prior
33 convictions and juvenile adjudications, whether in this state, in
34 federal court, or elsewhere.

35 (a) The history shall include, where known, for each conviction (i)
36 whether the defendant has been placed on probation and the length and
37 terms thereof; and (ii) whether the defendant has been incarcerated and
38 the length of incarceration.

1 (b) A conviction may be removed from a defendant's criminal history
2 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
3 a similar out-of-state statute, or if the conviction has been vacated
4 pursuant to a governor's pardon.

5 (c) The determination of a defendant's criminal history is distinct
6 from the determination of an offender score. A prior conviction that
7 was not included in an offender score calculated pursuant to a former
8 version of the sentencing reform act remains part of the defendant's
9 criminal history.

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

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

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

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

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

1 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
2 or Title 74 RCW.

3 (19) "Drug offender sentencing alternative" is a sentencing option
4 available to persons convicted of a felony offense other than a violent
5 offense or a sex offense and who are eligible for the option under RCW
6 9.94A.660.

7 (20) "Drug offense" means:

8 (a) Any felony violation of chapter 69.50 RCW except possession of
9 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
10 controlled substance (RCW 69.50.403);

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

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

17 (21) "Earned release" means earned release from confinement as
18 provided in RCW 9.94A.728.

19 (22) "Escape" means:

20 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
21 first degree (RCW 9A.76.110), escape in the second degree (RCW
22 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
23 willful failure to return from work release (RCW 72.65.070), or willful
24 failure to be available for supervision by the department while in
25 community custody (RCW 72.09.310); or

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

29 (23) "Felony traffic offense" means:

30 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
31 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
32 and-run injury-accident (RCW 46.52.020(4)); or

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

36 (24) "Fine" means a specific sum of money ordered by the sentencing
37 court to be paid by the offender to the court over a specific period of
38 time.

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

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

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

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

23 (a) Any felony defined under any law as a class A felony or
24 criminal solicitation of or criminal conspiracy to commit a class A
25 felony;

26 (b) Assault in the second degree;

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

28 (d) Child molestation in the second degree;

29 (e) Controlled substance homicide;

30 (f) Extortion in the first degree;

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

32 (h) Indecent liberties;

33 (i) Kidnapping in the second degree;

34 (j) Leading organized crime;

35 (k) Manslaughter in the first degree;

36 (l) Manslaughter in the second degree;

37 (m) Promoting prostitution in the first degree;

38 (n) Rape in the third degree;

- 1 (o) Robbery in the second degree;
- 2 (p) Sexual exploitation;
- 3 (q) Vehicular assault, when caused by the operation or driving of
4 a vehicle by a person while under the influence of intoxicating liquor
5 or any drug or by the operation or driving of a vehicle in a reckless
6 manner;
- 7 (r) Vehicular homicide, when proximately caused by the driving of
8 any vehicle by any person while under the influence of intoxicating
9 liquor or any drug as defined by RCW 46.61.502, or by the operation of
10 any vehicle in a reckless manner;
- 11 (s) Any other class B felony offense with a finding of sexual
12 motivation;
- 13 (t) Any other felony with a deadly weapon verdict under RCW
14 9.94A.602;
- 15 (u) Any felony offense in effect at any time prior to December 2,
16 1993, that is comparable to a most serious offense under this
17 subsection, or any federal or out-of-state conviction for an offense
18 that under the laws of this state would be a felony classified as a
19 most serious offense under this subsection;
- 20 (v)(i) A prior conviction for indecent liberties under RCW
21 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
22 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
23 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
24 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
- 25 (ii) A prior conviction for indecent liberties under RCW
26 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
27 if: (A) The crime was committed against a child under the age of
28 fourteen; or (B) the relationship between the victim and perpetrator is
29 included in the definition of indecent liberties under RCW
30 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
31 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
32 through July 27, 1997.
- 33 (29) "Nonviolent offense" means an offense which is not a violent
34 offense.
- 35 (30) "Offender" means a person who has committed a felony
36 established by state law and is eighteen years of age or older or is
37 less than eighteen years of age but whose case is under superior court
38 jurisdiction under RCW 13.04.030 or has been transferred by the

1 appropriate juvenile court to a criminal court pursuant to RCW
2 13.40.110. Throughout this chapter, the terms "offender" and
3 "defendant" are used interchangeably.

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

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

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

15 (ii) Has, before the commission of the offense under (a) of this
16 subsection, been convicted as an offender on at least two separate
17 occasions, whether in this state or elsewhere, of felonies that under
18 the laws of this state would be considered most serious offenses and
19 would be included in the offender score under RCW 9.94A.525; provided
20 that of the two or more previous convictions, at least one conviction
21 must have occurred before the commission of any of the other most
22 serious offenses for which the offender was previously convicted; or

23 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
24 of a child in the first degree, child molestation in the first degree,
25 rape in the second degree, rape of a child in the second degree, or
26 indecent liberties by forcible compulsion; (B) any of the following
27 offenses with a finding of sexual motivation: 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; or (C) an attempt to commit
32 any crime listed in this subsection (32)(b)(i); and

33 (ii) Has, before the commission of the offense under (b)(i) of this
34 subsection, been convicted as an offender on at least one occasion,
35 whether in this state or elsewhere, of an offense listed in (b)(i) of
36 this subsection or any federal or out-of-state offense or offense under
37 prior Washington law that is comparable to the offenses listed in
38 (b)(i) of this subsection. A conviction for rape of a child in the

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

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

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

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

21 (36) "Serious traffic offense" means:

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

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

30 (37) "Serious violent offense" is a subcategory of violent offense
31 and means:

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

33 (ii) Homicide by abuse;

34 (iii) Murder in the second degree;

35 (iv) Manslaughter in the first degree;

36 (v) Assault in the first degree;

37 (vi) Kidnapping in the first degree;

38 (vii) Rape in the first degree;

1 (viii) Assault of a child in the first degree; or
2 (ix) An attempt, criminal solicitation, or criminal conspiracy to
3 commit one of these felonies; or
4 (b) Any federal or out-of-state conviction for an offense that
5 under the laws of this state would be a felony classified as a serious
6 violent offense under (a) of this subsection.
7 (38) "Sex offense" means:
8 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
9 RCW 9A.44.130(11);
10 (ii) A violation of RCW 9A.64.020;
11 (iii) A felony that is a violation of chapter 9.68A RCW other than
12 RCW 9.68A.070 or 9.68A.080; or
13 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
14 criminal solicitation, or criminal conspiracy to commit such crimes;
15 (b) Any conviction for a felony offense in effect at any time prior
16 to July 1, 1976, that is comparable to a felony classified as a sex
17 offense in (a) of this subsection;
18 (c) A felony with a finding of sexual motivation under RCW
19 9.94A.835 or 13.40.135; or
20 (d) Any federal or out-of-state conviction for an offense that
21 under the laws of this state would be a felony classified as a sex
22 offense under (a) of this subsection.
23 (39) "Sexual motivation" means that one of the purposes for which
24 the defendant committed the crime was for the purpose of his or her
25 sexual gratification.
26 (40) "Standard sentence range" means the sentencing court's
27 discretionary range in imposing a nonappealable sentence.
28 (41) "Statutory maximum sentence" means the maximum length of time
29 for which an offender may be confined as punishment for a crime as
30 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
31 crime, or other statute defining the maximum penalty for a crime.
32 (42) "Total confinement" means confinement inside the physical
33 boundaries of a facility or institution operated or utilized under
34 contract by the state or any other unit of government for twenty-four
35 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.
36 (43) "Transition training" means written and verbal instructions
37 and assistance provided by the department to the offender during the
38 two weeks prior to the offender's successful completion of the work

1 ethic camp program. The transition training shall include instructions
2 in the offender's requirements and obligations during the offender's
3 period of community custody.

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

7 (45) "Violent offense" means:

8 (a) Any of the following felonies:

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

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

13 (iii) Manslaughter in the first degree;

14 (iv) Manslaughter in the second degree;

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

16 (vi) Kidnapping in the second degree;

17 (vii) Arson in the second degree;

18 (viii) Assault in the second degree;

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

20 (x) Extortion in the first degree;

21 (xi) Robbery in the second degree;

22 (xii) Drive-by shooting;

23 (xiii) Vehicular assault, when caused by the operation or driving
24 of a vehicle by a person while under the influence of intoxicating
25 liquor or any drug or by the operation or driving of a vehicle in a
26 reckless manner; and

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

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

34 (c) 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 violent
36 offense under (a) or (b) of this subsection.

37 (46) "Work crew" means a program of partial confinement consisting

1 of civic improvement tasks for the benefit of the community that
2 complies with RCW 9.94A.725.

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

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

13 **Sec. 5.** RCW 9.94A.585 and 2000 c 28 s 10 are each amended to read
14 as follows:

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

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

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

27 (4) To reverse a sentence which is outside the standard sentence
28 range, the reviewing court must find: (a) Either that the reasons
29 supplied by the sentencing court are not supported by the record which
30 was before the judge or that those reasons do not justify a sentence
31 outside the standard sentence range for that offense; or (b) that the
32 sentence imposed was clearly excessive or clearly too lenient.

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

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

7 (7) The department may petition for a review of a sentence
8 committing an offender to the custody or jurisdiction of the
9 department. The review shall be limited to errors of law. Such
10 petition shall be filed with the court of appeals no later than ninety
11 days after the department has actual knowledge of terms of the
12 sentence. The petition shall include a certification by the department
13 that all reasonable efforts to resolve the dispute at the superior
14 court level have been exhausted.

15 **Sec. 6.** RCW 9.94A.585 and 2002 c 290 s 19 are each amended to read
16 as follows:

17 (1) A sentence within the standard sentence range, under RCW
18 9.94A.510 or 9.94A.517, for an offense shall not be appealed. For
19 purposes of this section, a sentence imposed on a first-time offender
20 under RCW 9.94A.650 or on a youthful offender under section 1 of this
21 act shall also be deemed to be within the standard sentence range for
22 the offense and shall not be appealed.

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

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

30 (4) To reverse a sentence which is outside the standard sentence
31 range, the reviewing court must find: (a) Either that the reasons
32 supplied by the sentencing court are not supported by the record which
33 was before the judge or that those reasons do not justify a sentence
34 outside the standard sentence range for that offense; or (b) that the
35 sentence imposed was clearly excessive or clearly too lenient.

36 (5) A review under this section shall be made solely upon the

1 record that was before the sentencing court. Written briefs shall not
2 be required and the review and decision shall be made in an expedited
3 manner according to rules adopted by the supreme court.

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

10 (7) The department may petition for a review of a sentence
11 committing an offender to the custody or jurisdiction of the
12 department. The review shall be limited to errors of law. Such
13 petition shall be filed with the court of appeals no later than ninety
14 days after the department has actual knowledge of terms of the
15 sentence. The petition shall include a certification by the department
16 that all reasonable efforts to resolve the dispute at the superior
17 court level have been exhausted.

18 **Sec. 7.** RCW 13.40.300 and 2000 c 71 s 2 are each amended to read
19 as follows:

20 (1) In no case may a juvenile offender be committed by the juvenile
21 court to the department of social and health services for placement in
22 a juvenile correctional institution beyond the juvenile offender's
23 twenty-first birthday. A juvenile may be under the jurisdiction of the
24 juvenile court or the authority of the department of social and health
25 services beyond the juvenile's eighteenth birthday only if prior to the
26 juvenile's eighteenth birthday:

27 (a) Proceedings are pending seeking the adjudication of a juvenile
28 offense and the court by written order setting forth its reasons
29 extends jurisdiction of juvenile court over the juvenile beyond his or
30 her eighteenth birthday;

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

34 (c) Disposition has been held and an automatic extension is
35 necessary to allow for the execution and enforcement of the court's
36 order of disposition. If an order of disposition imposes commitment to

1 the department, then jurisdiction is automatically extended to include
2 a period of up to twelve months of parole, in no case extending beyond
3 the offender's twenty-first birthday; or

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

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

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

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

18 NEW SECTION. Sec. 8. Sections 2 and 5 of this act expire July 1,
19 2004.

20 NEW SECTION. Sec. 9. Sections 3 and 6 of this act take effect
21 July 1, 2004.

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