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HOUSE BILL 2306

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State of Washington                      59th Legislature                      2005 Regular Session

By Representative Sommers; by request of Office of Financial Management

Read first time 03/28/2005. Referred to Committee on Appropriations.

1            AN ACT Relating to sentencing and supervision of adult offenders;  
2 amending RCW 9.94A.501, 9.92.060, 9.95.210, 9.95.204, 9.95.214,  
3 35.20.255, 10.64.120, 9.94A.728, and 9.94A.030; adding a new section to  
4 chapter 9.94A RCW; adding a new section to chapter 3.66 RCW; adding a  
5 new section to chapter 3.50 RCW; providing an effective date; and  
6 declaring an emergency.

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

8            **Sec. 1.** RCW 9.94A.501 and 2003 c 379 s 3 are each amended to read  
9 as follows:

10            (1) When the department performs a risk assessment pursuant to RCW  
11 9.94A.500, or to determine a person's conditions of supervision, the  
12 risk assessment shall classify the offender or probationer into one of  
13 at least four risk categories.

14            (2) The department shall supervise every offender sentenced to a  
15 term of community custody, community placement, or community  
16 supervision and every misdemeanor and gross misdemeanor probationer  
17 ordered to probation under the supervision of the department pursuant  
18 to RCW 9.92.060, 9.95.204, or 9.95.210:

1 (a) Whose risk assessment places that offender or probationer in  
2 one of the two highest risk categories; or  
3 (b) Regardless of the offender's or probationer's risk category if:  
4 (i) The offender's or probationer's current conviction is for:  
5 (A) A sex offense;  
6 (B) A violent offense;  
7 (C) A crime against persons as defined in RCW 9.94A.411;  
8 (D) A felony that is domestic violence as defined in RCW 10.99.020;  
9 (E) A violation of RCW 9A.52.025 (residential burglary);  
10 (F) A violation of, or an attempt, solicitation, or conspiracy to  
11 violate, RCW 69.50.401 by manufacture or delivery or possession with  
12 intent to deliver methamphetamine; or  
13 (G) A violation of, or an attempt, solicitation, or conspiracy to  
14 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);  
15 (ii) The offender or probationer has a prior conviction for:  
16 (A) A sex offense;  
17 (B) A violent offense;  
18 (C) A crime against persons as defined in RCW 9.94A.411;  
19 (D) A felony that is domestic violence as defined in RCW 10.99.020;  
20 (E) A violation of RCW 9A.52.025 (residential burglary);  
21 (F) A violation of, or an attempt, solicitation, or conspiracy to  
22 violate, RCW 69.50.401 by manufacture or delivery or possession with  
23 intent to deliver methamphetamine; or  
24 (G) A violation of, or an attempt, solicitation, or conspiracy to  
25 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);  
26 (iii) The conditions of the offender's community custody, community  
27 placement, or community supervision or the probationer's supervision  
28 include chemical dependency treatment;  
29 (iv) The offender was sentenced under RCW 9.94A.650 or 9.94A.670;  
30 or  
31 (v) The offender or probationer is subject to supervision pursuant  
32 to RCW 9.94A.745.  
33 (3) The department is not authorized to, and may not, supervise any  
34 offender sentenced to a term of community custody, community placement,  
35 or community supervision, or any probationer, unless the offender or  
36 probationer is one for whom supervision is required under subsection  
37 (2) of this section.  
38 (4) This section expires July 1, 2010.

1       **Sec. 2.** RCW 9.92.060 and 1996 c 298 s 5 are each amended to read  
2 as follows:

3       (1) Whenever any person is convicted of any crime except murder,  
4 burglary in the first degree, arson in the first degree, robbery, rape  
5 of a child, or rape, the superior court may, in its discretion, at the  
6 time of imposing sentence upon such person, direct that such sentence  
7 be stayed and suspended until otherwise ordered by the superior court,  
8 and that the sentenced person be placed under the charge of a community  
9 corrections officer employed by the department of corrections, or if  
10 the county elects to assume responsibility for the supervision of all  
11 superior court misdemeanor probationers a probation officer employed  
12 or contracted for by the county, upon such terms as the superior court  
13 may determine.

14       (2) As a condition to suspension of sentence, the superior court  
15 shall require the payment of the penalty assessment required by RCW  
16 7.68.035. In addition, the superior court may require the convicted  
17 person to make such monetary payments, on such terms as the superior  
18 court deems appropriate under the circumstances, as are necessary: (a)  
19 To comply with any order of the court for the payment of family  
20 support; (b) to make restitution to any person or persons who may have  
21 suffered loss or damage by reason of the commission of the crime in  
22 question or when the offender pleads guilty to a lesser offense or  
23 fewer offenses and agrees with the prosecutor's recommendation that the  
24 offender be required to pay restitution to a victim of an offense or  
25 offenses which are not prosecuted pursuant to a plea agreement; (c) to  
26 pay any fine imposed and not suspended and the court or other costs  
27 incurred in the prosecution of the case, including reimbursement of the  
28 state for costs of extradition if return to this state by extradition  
29 was required; and (d) to contribute to a county or interlocal drug  
30 fund.

31       (3) As a condition of the suspended sentence, the superior court  
32 may order the probationer to report to the secretary of corrections or  
33 such officer as the secretary may designate and as a condition of the  
34 probation to follow the instructions of the secretary. If the county  
35 legislative authority has elected to assume responsibility for the  
36 supervision of superior court misdemeanor probationers within its  
37 jurisdiction, the superior court misdemeanor probationer shall report  
38 to a probation officer employed or contracted for by the county. In

1 cases where a superior court misdemeanor probationer is sentenced in  
2 one county, but resides within another county, there must be provisions  
3 for the probationer to report to the agency having supervision  
4 responsibility for the probationer's county of residence.

5 (4) If restitution to the victim has been ordered under subsection  
6 (2)(b) of this section and the superior court has ordered supervision,  
7 the officer supervising the probationer shall make a reasonable effort  
8 to ascertain whether restitution has been made as ordered. If the  
9 superior court has ordered supervision and restitution has not been  
10 made, the officer shall inform the prosecutor of that violation of the  
11 terms of the suspended sentence not less than three months prior to the  
12 termination of the suspended sentence.

13 (5) The provisions of RCW 9.94A.501 apply to sentences imposed  
14 under this section.

15 **Sec. 3.** RCW 9.95.210 and 1996 c 298 s 3 are each amended to read  
16 as follows:

17 (1) In granting probation, the superior court may suspend the  
18 imposition or the execution of the sentence and may direct that the  
19 suspension may continue upon such conditions and for such time as it  
20 shall designate, not exceeding the maximum term of sentence or two  
21 years, whichever is longer.

22 (2) In the order granting probation and as a condition thereof, the  
23 superior court may in its discretion imprison the defendant in the  
24 county jail for a period not exceeding one year and may fine the  
25 defendant any sum not exceeding the statutory limit for the offense  
26 committed, and court costs. As a condition of probation, the superior  
27 court shall require the payment of the penalty assessment required by  
28 RCW 7.68.035. The superior court may also require the defendant to  
29 make such monetary payments, on such terms as it deems appropriate  
30 under the circumstances, as are necessary: (a) To comply with any  
31 order of the court for the payment of family support; (b) to make  
32 restitution to any person or persons who may have suffered loss or  
33 damage by reason of the commission of the crime in question or when the  
34 offender pleads guilty to a lesser offense or fewer offenses and agrees  
35 with the prosecutor's recommendation that the offender be required to  
36 pay restitution to a victim of an offense or offenses which are not  
37 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be

1 imposed and court costs, including reimbursement of the state for costs  
2 of extradition if return to this state by extradition was required; (d)  
3 following consideration of the financial condition of the person  
4 subject to possible electronic monitoring, to pay for the costs of  
5 electronic monitoring if that monitoring was required by the court as  
6 a condition of release from custody or as a condition of probation; (e)  
7 to contribute to a county or interlocal drug fund; and (f) to make  
8 restitution to a public agency for the costs of an emergency response  
9 under RCW 38.52.430, and may require bonds for the faithful observance  
10 of any and all conditions imposed in the probation.

11 (3) The superior court shall order restitution in all cases where  
12 the victim is entitled to benefits under the crime victims'  
13 compensation act, chapter 7.68 RCW. If the superior court does not  
14 order restitution and the victim of the crime has been determined to be  
15 entitled to benefits under the crime victims' compensation act, the  
16 department of labor and industries, as administrator of the crime  
17 victims' compensation program, may petition the superior court within  
18 one year of imposition of the sentence for entry of a restitution  
19 order. Upon receipt of a petition from the department of labor and  
20 industries, the superior court shall hold a restitution hearing and  
21 shall enter a restitution order.

22 (4) In granting probation, the superior court may order the  
23 probationer to report to the secretary of corrections or such officer  
24 as the secretary may designate and as a condition of the probation to  
25 follow the instructions of the secretary. If the county legislative  
26 authority has elected to assume responsibility for the supervision of  
27 superior court misdemeanor probationers within its jurisdiction, the  
28 superior court misdemeanor probationer shall report to a probation  
29 officer employed or contracted for by the county. In cases where a  
30 superior court misdemeanor probationer is sentenced in one county, but  
31 resides within another county, there must be provisions for the  
32 probationer to report to the agency having supervision responsibility  
33 for the probationer's county of residence.

34 (5) If the probationer has been ordered to make restitution and the  
35 superior court has ordered supervision, the officer supervising the  
36 probationer shall make a reasonable effort to ascertain whether  
37 restitution has been made. If the superior court has ordered  
38 supervision and restitution has not been made as ordered, the officer

1 shall inform the prosecutor of that violation of the terms of probation  
2 not less than three months prior to the termination of the probation  
3 period. The secretary of corrections will promulgate rules and  
4 regulations for the conduct of the person during the term of probation.  
5 For defendants found guilty in district court, like functions as the  
6 secretary performs in regard to probation may be performed by probation  
7 officers employed for that purpose by the county legislative authority  
8 of the county wherein the court is located.

9 (6) The provisions of RCW 9.94A.501 apply to sentences imposed  
10 under this section.

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.94A RCW  
12 to read as follows:

13 (1) The department may supervise nonfelony offenders transferred to  
14 Washington pursuant to RCW 9.94A.745, the interstate compact for adult  
15 offender supervision, and shall supervise these offenders according to  
16 the provisions of this chapter.

17 (2) The department shall process applications for interstate  
18 transfer of felony and nonfelony offenders pursuant to RCW 9.94A.745,  
19 the interstate compact for adult offender supervision, and may charge  
20 offenders a reasonable fee for processing the application.

21 **Sec. 5.** RCW 9.95.204 and 1996 c 298 s 1 are each amended to read  
22 as follows:

23 (1) When a superior court places a defendant convicted of a  
24 misdemeanor or gross misdemeanor on probation and orders supervision  
25 under RCW 9.92.060 or 9.95.210, the department of corrections has  
26 initial responsibility for supervision of that defendant.

27 (2) A county legislative authority may assume responsibility for  
28 the supervision of all defendants within its jurisdiction who have been  
29 convicted of a misdemeanor or gross misdemeanor and sentenced to  
30 probation by a superior court. The assumption of responsibility shall  
31 be made by contract with the department of corrections on a biennial  
32 basis.

33 (3) If a county assumes supervision responsibility, the county  
34 shall supervise all superior court misdemeanant probationers within  
35 that county for the duration of the biennium, as set forth in the  
36 contract with the department of corrections.

1 (4) A contract between a county legislative authority and the  
2 department of corrections for the transfer of supervision  
3 responsibility must include, at a minimum, the following provisions:

4 (a) The county's agreement to supervise all misdemeanor  
5 probationers who are sentenced by a superior court within that county  
6 and who reside within that county;

7 (b) A reciprocal agreement regarding the supervision of superior  
8 court misdemeanor probationers sentenced in one county but who reside  
9 in another county;

10 (c) The county's agreement to comply with the minimum standards for  
11 classification and supervision of offenders as required under RCW  
12 9.95.206;

13 (d) The amount of funds available from the department of  
14 corrections to the county for supervision of superior court  
15 misdemeanor probationers, calculated according to a formula  
16 established by the department of corrections;

17 (e) A method for the payment of funds by the department of  
18 corrections to the county;

19 (f) The county's agreement that any funds received by the county  
20 under the contract will be expended only to cover costs of supervision  
21 of superior court misdemeanor probationers;

22 (g) The county's agreement to account to the department of  
23 corrections for the expenditure of all funds received under the  
24 contract and to submit to audits for compliance with the supervision  
25 standards and financial requirements of this section;

26 (h) Provisions regarding rights and remedies in the event of a  
27 possible breach of contract or default by either party; and

28 (i) Provisions allowing for voluntary termination of the contract  
29 by either party, with good cause, after sixty days' written notice.

30 (5) If the contract between the county and the department of  
31 corrections is terminated for any reason, the department of corrections  
32 shall reassume responsibility for supervision of superior court  
33 misdemeanor probationers within that county. In such an event, the  
34 department of corrections retains any and all rights and remedies  
35 available by law and under the contract.

36 (6) The state of Washington, the department of corrections and its  
37 employees, community corrections officers, and volunteers who assist  
38 community corrections officers are not liable for any harm caused by

1 the actions of a superior court misdemeanor probationer who is under  
2 the supervision of a county. A county, its probation department and  
3 employees, probation officers, and volunteers who assist probation  
4 officers are not liable for any harm caused by the actions of a  
5 superior court misdemeanor probationer who is under the supervision of  
6 the department of corrections. This subsection applies regardless of  
7 whether the supervising entity is in compliance with the standards of  
8 supervision at the time of the misdemeanor probationer's actions.

9 (7) The state of Washington, the department of corrections and its  
10 employees, community corrections officers, any county under contract  
11 with the department of corrections pursuant to this section and its  
12 employees, probation officers, and volunteers who assist community  
13 corrections officers and probation officers in the superior court  
14 misdemeanor probation program are not liable for civil damages  
15 resulting from any act or omission in the rendering of superior court  
16 misdemeanor probation activities unless the act or omission  
17 constitutes gross negligence. For purposes of this section,  
18 "volunteers" is defined according to RCW 51.12.035.

19 (8)(a) If a misdemeanor probationer requests permission to travel  
20 or transfer to another state, the assigned probation officer employed  
21 or contracted for by the county shall determine whether such request is  
22 subject to RCW 9.94A.745, the interstate compact for adult offender  
23 supervision. If such request is subject to the compact, the probation  
24 officer shall:

25 (i) Notify the department of corrections of the probationer's  
26 request;

27 (ii) Provide the department of corrections with the supporting  
28 documentation it requests for processing an application for transfer;

29 (iii) Notify the probationer of the fee due to the department of  
30 corrections for processing an application under the compact;

31 (iv) Cease supervision of the probationer while another state  
32 supervises the probationer pursuant to the compact;

33 (v) Resume supervision if the probationer returns to this state  
34 before the term of probation expires.

35 (b) The probationer shall receive credit for time served while  
36 being supervised by another state.

37 (9) The provisions of RCW 9.94A.501 apply to sentences imposed  
38 under this section.

1       **Sec. 6.** RCW 9.95.214 and 1996 c 298 s 4 are each amended to read  
2 as follows:

3       Whenever a defendant convicted of a misdemeanor or gross  
4 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and  
5 the defendant is supervised by the department of corrections or a  
6 county probation department, the department or county probation  
7 department may assess and collect from the defendant for the duration  
8 of the term of supervision a monthly assessment not to exceed one  
9 hundred dollars per month. This assessment shall be paid to the agency  
10 supervising the defendant and shall be applied, along with funds  
11 appropriated by the legislature, toward the payment or part payment of  
12 the cost of supervising the defendant. The department or county  
13 probation department shall suspend such assessment while the defendant  
14 is being supervised by another state pursuant to RCW 9.94A.745, the  
15 interstate compact for adult offender supervision.

16       **NEW SECTION. Sec. 7.** A new section is added to chapter 3.66 RCW  
17 to read as follows:

18       (1) If a person placed on probation for a misdemeanor or gross  
19 misdemeanor by a district court requests permission to travel or  
20 transfer to another state, the assigned probation officer shall  
21 determine whether such request is subject to RCW 9.94A.745, the  
22 interstate compact for adult offender supervision. If such request is  
23 subject to the compact, the probation officer shall:

24       (a) Notify the department of corrections of the probationer's  
25 request;

26       (b) Provide the department of corrections with the supporting  
27 documentation it requests for processing an application for transfer;

28       (c) Notify the probationer of the fee due to the department of  
29 corrections for processing an application under the compact;

30       (d) Cease supervision of the probationer while another state  
31 supervises the probationer pursuant to the compact;

32       (e) Resume supervision if the probationer returns to this state  
33 before the term of probation expires.

34       (2) The probationer shall receive credit for time served while  
35 being supervised by another state.

36       (3) If the probationer is returned to the state at the request of

1 the receiving state under rules of the interstate compact, the  
2 department of corrections shall be responsible for the cost of  
3 returning the probationer.

4 **Sec. 8.** RCW 35.20.255 and 2001 c 94 s 3 are each amended to read  
5 as follows:

6 (1) Judges of the municipal court, in their discretion, shall have  
7 the power in all criminal proceedings within their jurisdiction  
8 including violations of city ordinances, to defer imposition of any  
9 sentence, suspend all or part of any sentence including installment  
10 payment of fines, fix the terms of any such deferral or suspension, and  
11 provide for such probation as in their opinion is reasonable and  
12 necessary under the circumstances of the case, but in no case shall it  
13 extend for more than five years from the date of conviction for a  
14 defendant to be sentenced under RCW 46.61.5055 and two years from the  
15 date of conviction for all other offenses. A defendant who has been  
16 sentenced, or whose sentence has been deferred, and who then fails to  
17 appear for any hearing to address the defendant's compliance with the  
18 terms of probation when ordered to do so by the court, shall have the  
19 term of probation tolled until such time as the defendant makes his or  
20 her presence known to the court on the record. However, the  
21 jurisdiction period in this section does not apply to the enforcement  
22 of orders issued under RCW 46.20.720. Any time before entering an  
23 order terminating probation, the court may modify or revoke its order  
24 suspending or deferring the imposition or execution of the sentence.

25 (2)(a) If a defendant whose sentence has been deferred requests  
26 permission to travel or transfer to another state, the director of  
27 probation services or a designee thereof shall determine whether such  
28 request is subject to RCW 9.94A.745, the interstate compact for adult  
29 offender supervision. If such request is subject to the compact, the  
30 director or designee shall:

31 (i) Notify the department of corrections of the defendant's  
32 request;

33 (ii) Provide the department of corrections with the supporting  
34 documentation it requests for processing an application for transfer;

35 (iii) Notify the defendant of the fee due to the department of  
36 corrections for processing an application under the compact;

1 (iv) Cease supervision of the defendant while another state  
2 supervises the defendant pursuant to the compact;

3 (v) Resume supervision if the defendant returns to this state  
4 before the period of deferral expires.

5 (b) The defendant shall receive credit for time served while being  
6 supervised by another state.

7 (c) If the probationer is returned to the state at the request of  
8 the receiving state under rules of the interstate compact, the  
9 department of corrections shall be responsible for the cost of  
10 returning the probationer.

11 **NEW SECTION. Sec. 9.** A new section is added to chapter 3.50 RCW  
12 to read as follows:

13 (1) If a person placed on probation for a misdemeanor or gross  
14 misdemeanor by a municipal court requests permission to travel or  
15 transfer to another state, the assigned probation officer shall  
16 determine whether such request is subject to RCW 9.94A.745, the  
17 interstate compact for adult offender supervision. If such request is  
18 subject to the compact, the probation officer shall:

19 (a) Notify the department of corrections of the probationer's  
20 request;

21 (b) Provide the department of corrections with the supporting  
22 documentation it requests for processing an application for transfer;

23 (c) Notify the probationer of the fee due to the department of  
24 corrections for processing an application under the compact;

25 (d) Cease supervision of the probationer while another state  
26 supervises the probationer pursuant to the compact;

27 (e) Resume supervision if the probationer returns to this state  
28 before the term of probation expires.

29 (2) The probationer shall receive credit for time served while  
30 being supervised by another state.

31 (3) If the probationer is returned to the state at the request of  
32 the receiving state under rules of the interstate compact, the  
33 department of corrections shall be responsible for the cost of  
34 returning the probationer.

35 **Sec. 10.** RCW 10.64.120 and 1996 c 298 s 6 are each amended to read  
36 as follows:

1 (1) Every judge of a court of limited jurisdiction shall have the  
2 authority to levy upon a person a monthly assessment not to exceed one  
3 hundred dollars for services provided whenever the person is referred  
4 by the court to the misdemeanor probation department for evaluation or  
5 supervision services. The assessment may also be made by a judge in  
6 superior court when such misdemeanor or gross misdemeanor cases are  
7 heard in the superior court.

8 (2) For the purposes of this section the office of the  
9 administrator for the courts shall define a probation department and  
10 adopt rules for the qualifications of probation officers based on  
11 occupational and educational requirements developed by an oversight  
12 committee. This oversight committee shall include a representative  
13 from the district and municipal court judges association, the  
14 misdemeanor corrections association, the office of the administrator  
15 for the courts, and associations of cities and counties. The oversight  
16 committee shall consider qualifications that provide the training and  
17 education necessary to (a) conduct presentencing and postsentencing  
18 background investigations, including sentencing recommendations to the  
19 court regarding jail terms, alternatives to incarceration, and  
20 conditions of release; and (b) provide ongoing supervision and  
21 assessment of offenders' needs and the risk they pose to the community.

22 (3) It shall be the responsibility of the probation services office  
23 to implement local procedures approved by the court of limited  
24 jurisdiction to ensure collection and payment of such fees into the  
25 general fund of the city or county treasury.

26 (4) Revenues raised under this section shall be used to fund  
27 programs for probation services and shall be in addition to those funds  
28 provided in RCW 3.62.050.

29 (5) Assessments and fees levied upon a probationer under this  
30 section shall be suspended while the probationer is being supervised by  
31 another state pursuant to RCW 9.94A.745, the interstate compact for  
32 adult offender supervision.

33 **Sec. 11.** RCW 9.94A.728 and 2004 c 176 s 6 are each amended to read  
34 as follows:

35 No person serving a sentence imposed pursuant to this chapter and  
36 committed to the custody of the department shall leave the confines of

1 the correctional facility or be released prior to the expiration of the  
2 sentence except as follows:

3 (1) Except as otherwise provided for in subsection (2) of this  
4 section, the term of the sentence of an offender committed to a  
5 correctional facility operated by the department may be reduced by  
6 earned release time in accordance with procedures that shall be  
7 developed and promulgated by the correctional agency having  
8 jurisdiction in which the offender is confined. The earned release  
9 time shall be for good behavior and good performance, as determined by  
10 the correctional agency having jurisdiction. The correctional agency  
11 shall not credit the offender with earned release credits in advance of  
12 the offender actually earning the credits. Any program established  
13 pursuant to this section shall allow an offender to earn early release  
14 credits for presentence incarceration. If an offender is transferred  
15 from a county jail to the department, the administrator of a county  
16 jail facility shall certify to the department the amount of time spent  
17 in custody at the facility and the amount of earned release time. An  
18 offender who has been convicted of a felony committed after July 23,  
19 1995, that involves any applicable deadly weapon enhancements under RCW  
20 9.94A.533 (3) or (4), or both, shall not receive any good time credits  
21 or earned release time for that portion of his or her sentence that  
22 results from any deadly weapon enhancements.

23 (a) In the case of an offender convicted of a serious violent  
24 offense, or a sex offense that is a class A felony, committed on or  
25 after July 1, 1990, and before July 1, 2003, the aggregate earned  
26 release time may not exceed fifteen percent of the sentence. In the  
27 case of an offender convicted of a serious violent offense, or a sex  
28 offense that is a class A felony, committed on or after July 1, 2003,  
29 the aggregate earned release time may not exceed ten percent of the  
30 sentence.

31 (b)(i) In the case of an offender who qualifies under (b)(ii) of  
32 this subsection, the aggregate earned release time may not exceed fifty  
33 percent of the sentence.

34 (ii) An offender is qualified to earn up to fifty percent of  
35 aggregate earned release time under this subsection (1)(b) if he or  
36 she:

37 (A) Is classified in one of the two lowest risk categories under  
38 (b)(iii) of this subsection;

1 (B) Is not confined pursuant to a sentence for:  
2 (I) A sex offense;  
3 (II) A violent offense;  
4 (III) A crime against persons as defined in RCW 9.94A.411;  
5 (IV) A felony that is domestic violence as defined in RCW  
6 10.99.020;  
7 (V) A violation of RCW 9A.52.025 (residential burglary);  
8 (VI) A violation of, or an attempt, solicitation, or conspiracy to  
9 violate, RCW 69.50.401 by manufacture or delivery or possession with  
10 intent to deliver methamphetamine; or  
11 (VII) A violation of, or an attempt, solicitation, or conspiracy to  
12 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);  
13 and  
14 (C) Has no prior conviction for:  
15 (I) A sex offense;  
16 (II) A violent offense;  
17 (III) A crime against persons as defined in RCW 9.94A.411;  
18 (IV) A felony that is domestic violence as defined in RCW  
19 10.99.020;  
20 (V) A violation of RCW 9A.52.025 (residential burglary);  
21 (VI) A violation of, or an attempt, solicitation, or conspiracy to  
22 violate, RCW 69.50.401 by manufacture or delivery or possession with  
23 intent to deliver methamphetamine; or  
24 (VII) A violation of, or an attempt, solicitation, or conspiracy to  
25 violate, RCW 69.50.406 (delivery of a controlled substance to a minor).  
26 (iii) For purposes of determining an offender's eligibility under  
27 this subsection (1)(b), the department shall perform a risk assessment  
28 of every offender committed to a correctional facility operated by the  
29 department who has no current or prior conviction for a sex offense, a  
30 violent offense, a crime against persons as defined in RCW 9.94A.411,  
31 a felony that is domestic violence as defined in RCW 10.99.020, a  
32 violation of RCW 9A.52.025 (residential burglary), a violation of, or  
33 an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by  
34 manufacture or delivery or possession with intent to deliver  
35 methamphetamine, or a violation of, or an attempt, solicitation, or  
36 conspiracy to violate, RCW 69.50.406 (delivery of a controlled  
37 substance to a minor). The department must classify each assessed

1 offender in one of four risk categories between highest and lowest  
2 risk.

3 (iv) The department shall recalculate the earned release time and  
4 reschedule the expected release dates for each qualified offender under  
5 this subsection (1)(b).

6 (v) This subsection (1)(b) applies retroactively to eligible  
7 offenders serving terms of total confinement in a state correctional  
8 facility as of July 1, 2003.

9 (vi) This subsection (1)(b) does not apply to offenders convicted  
10 after July 1, 2010.

11 (c) In no other case shall the aggregate earned release time exceed  
12 one-third of the total sentence;

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

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

29 (c) The department shall, as a part of its program for release to  
30 the community in lieu of earned release, require the offender to  
31 propose a release plan that includes an approved residence and living  
32 arrangement. All offenders with community placement or community  
33 custody terms eligible for release to community custody status in lieu  
34 of earned release shall provide an approved residence and living  
35 arrangement prior to release to the community;

36 (d) The department may deny transfer to community custody status in  
37 lieu of earned release time pursuant to subsection (1) of this section  
38 if the department determines an offender's release plan, including

1 proposed residence location and living arrangements, may violate the  
2 conditions of the sentence or conditions of supervision, place the  
3 offender at risk to violate the conditions of the sentence, place the  
4 offender at risk to reoffend, or present a risk to victim safety or  
5 community safety. The department's authority under this section is  
6 independent of any court-ordered condition of sentence or statutory  
7 provision regarding conditions for community custody or community  
8 placement;

9 (e) An offender serving a term of confinement imposed under RCW  
10 9.94A.670(4)(a) is not eligible for earned release credits under this  
11 section;

12 (3) An offender may leave a correctional facility pursuant to an  
13 authorized furlough or leave of absence. In addition, offenders may  
14 leave a correctional facility when in the custody of a corrections  
15 officer or officers;

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

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

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

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

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

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

35 (d) The secretary may revoke an extraordinary medical placement  
36 under this subsection at any time;

37 (5) The governor, upon recommendation from the clemency and pardons

1 board, may grant an extraordinary release for reasons of serious health  
2 problems, senility, advanced age, extraordinary meritorious acts, or  
3 other extraordinary circumstances;

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

7 (7) The governor may pardon any offender;

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

11 (9) An offender may leave a correctional facility prior to  
12 completion of his or her sentence if the sentence has been reduced as  
13 provided in RCW 9.94A.870; and

14 (10) The secretary may grant up to thirty days earned release  
15 credit, in addition to credit earned otherwise under this section, to  
16 any offender who:

17 (a) Is classified in one of the two lowest risk categories under  
18 subsection (1)(b)(iii) of this section;

19 (b) Is housed, immediately prior to release, in a minimum security  
20 correctional facility as defined by the department;

21 (c) Has less than twelve months of total confinement time remaining  
22 in the offender's sentence; and

23 (d) Has successfully completed all training, physical ability  
24 testing, and a minimum of six months' continuous employment in a work  
25 crew supervised by the department of natural resources.

26 Notwithstanding any other provisions of this section, an offender  
27 sentenced for a felony crime listed in RCW 9.94A.540 as subject to a  
28 mandatory minimum sentence of total confinement shall not be released  
29 from total confinement before the completion of the listed mandatory  
30 minimum sentence for that felony crime of conviction unless allowed  
31 under RCW 9.94A.540, however persistent offenders are not eligible for  
32 extraordinary medical placement.

33 **Sec. 12.** RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read  
34 as follows:

35 Unless the context clearly requires otherwise, the definitions in  
36 this section apply throughout this chapter.

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

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

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

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

16 (5) "Community custody" means that portion of an offender's  
17 sentence of confinement in lieu of earned release time or imposed  
18 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,  
19 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the  
20 community subject to controls placed on the offender's movement and  
21 activities by the department. For offenders placed on community  
22 custody for crimes committed on or after July 1, 2000, the department  
23 shall assess the offender's risk of reoffense and may establish and  
24 modify conditions of community custody, in addition to those imposed by  
25 the court, based upon the risk to community safety.

26 (6) "Community custody range" means the minimum and maximum period  
27 of community custody included as part of a sentence under RCW  
28 9.94A.715, as established by the commission or the legislature under  
29 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

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

37 (8) "Community restitution" means compulsory service, without

1 compensation, performed for the benefit of the community by the  
2 offender.

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

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

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

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

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

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

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

35 (c) The determination of a defendant's criminal history is distinct  
36 from the determination of an offender score. A prior conviction that  
37 was not included in an offender score calculated pursuant to a former

1 version of the sentencing reform act remains part of the defendant's  
2 criminal history.

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

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

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

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

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

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

37 (20) "Drug offense" means:

1 (a) Any felony violation of chapter 69.50 RCW except possession of  
2 a controlled substance (RCW 69.50.4013) or forged prescription for a  
3 controlled substance (RCW 69.50.403);

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

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

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

12 (22) "Escape" means:

13 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
14 first degree (RCW 9A.76.110), escape in the second degree (RCW  
15 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
16 willful failure to return from work release (RCW 72.65.070), or willful  
17 failure to be available for supervision by the department while in  
18 community custody (RCW 72.09.310); or

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

22 (23) "Felony traffic offense" means:

23 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
24 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
25 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

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

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

17 (a) Any felony defined under any law as a class A felony or  
18 criminal solicitation of or criminal conspiracy to commit a class A  
19 felony;

20 (b) Assault in the second degree;

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

22 (d) Child molestation in the second degree;

23 (e) Controlled substance homicide;

24 (f) Extortion in the first degree;

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

26 (h) Indecent liberties;

27 (i) Kidnapping in the second degree;

28 (j) Leading organized crime;

29 (k) Manslaughter in the first degree;

30 (l) Manslaughter in the second degree;

31 (m) Promoting prostitution in the first degree;

32 (n) Rape in the third degree;

33 (o) Robbery in the second degree;

34 (p) Sexual exploitation;

35 (q) Vehicular assault, when caused by the operation or driving of  
36 a vehicle by a person while under the influence of intoxicating liquor  
37 or any drug or by the operation or driving of a vehicle in a reckless  
38 manner;

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

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

7 (t) Any other felony with a deadly weapon verdict under RCW  
8 9.94A.602;

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

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

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

27 (29) "Nonviolent offense" means an offense which is not a violent  
28 offense.

29 (30) "Offender" means a person who has committed a felony  
30 established by state law and is eighteen years of age or older or is  
31 less than eighteen years of age but whose case is under superior court  
32 jurisdiction under RCW 13.04.030 or has been transferred by the  
33 appropriate juvenile court to a criminal court pursuant to RCW  
34 13.40.110. Throughout this chapter, the terms "offender" and  
35 "defendant" are used interchangeably.

36 (31) "Partial confinement" means confinement for no more than one  
37 year in a facility or institution operated or utilized under contract  
38 by the state or any other unit of government, or(~~(, if home detention~~

1 ~~or work crew has been ordered by the court,~~) in an approved residence,  
2 for a substantial portion of each day with the balance of the day spent  
3 in the community. Partial confinement includes residential chemical  
4 dependency treatment certified under chapter 70.96A RCW, day reporting,  
5 work release, home detention, work crew, and a combination of work crew  
6 and home detention.

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

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

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

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

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

1 subsection only when the offender was eighteen years of age or older  
2 when the offender committed the offense.

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

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

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

17 (36) "Serious traffic offense" means:

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

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

26 (37) "Serious violent offense" is a subcategory of violent offense  
27 and means:

- 28 (a)(i) Murder in the first degree;
- 29 (ii) Homicide by abuse;
- 30 (iii) Murder in the second degree;
- 31 (iv) Manslaughter in the first degree;
- 32 (v) Assault in the first degree;
- 33 (vi) Kidnapping in the first degree;
- 34 (vii) Rape in the first degree;
- 35 (viii) Assault of a child in the first degree; or
- 36 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
37 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 (38) "Sex offense" means:

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

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

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

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

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

15 (c) A felony with a finding of sexual motivation under RCW  
16 9.94A.835 or 13.40.135; or

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

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

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

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

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

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

1 (44) "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 (45) "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, when caused by the operation or driving  
21 of a vehicle by a person while under the influence of intoxicating  
22 liquor or any drug or by the operation or driving of a vehicle in a  
23 reckless manner; and

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

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

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

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

37 (47) "Work ethic camp" means an alternative incarceration program  
38 as provided in RCW 9.94A.690 designed to reduce recidivism and lower

1 the cost of corrections by requiring offenders to complete a  
2 comprehensive array of real-world job and vocational experiences,  
3 character-building work ethics training, life management skills  
4 development, substance abuse rehabilitation, counseling, literacy  
5 training, and basic adult education.

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

9 NEW SECTION. **Sec. 13.** If any provision of this act or its  
10 application to any person or circumstance is held invalid, the  
11 remainder of the act or the application of the provision to other  
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 14.** This act is necessary for the immediate  
14 preservation of the public peace, health, or safety, or support of the  
15 state government and its existing public institutions, and takes effect  
16 July 1, 2005, except for sections 1 through 3 and 5 of this act, which  
17 take effect immediately.

--- END ---