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HOUSE BILL 3212

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State of Washington

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By Representatives Pearson, Shabro, Sump, Jarrett, Orcutt, Serben, Ericksen, McDonald, Bailey, Nixon, Ahern, Haler, Campbell, Condotta, Buck, Roach, Schindler, Kretz, Kristiansen, Strow, Alexander, McCune, Priest, Newhouse, Buri and Clements

Read first time 01/25/2006. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to protecting children, vulnerable adults, and  
2 communities from sex offenders and kidnapping offenders by imposing  
3 minimum sentences for rape in the first and second degrees, indecent  
4 liberties, rape of a child in the first and second degrees, child  
5 molestation in the first degree, and kidnapping in the first degree  
6 with sexual motivation, by increasing the penalty for communication  
7 with a minor for immoral purposes under certain circumstances, by  
8 creating the new crimes of failure to report an unregistered sex  
9 offender or kidnapping offender and tampering with an electronic  
10 monitoring device, by designating as a sex offense the crime of  
11 possession of depictions of a minor engaged in sexually explicit  
12 conduct, by increasing the penalty for failure to register as a sex  
13 offender or kidnapping offender, by requiring electronic monitoring for  
14 certain sex offenders, by adding to the aggravating circumstances for  
15 purposes of imposing the death penalty, by requiring sex offenders to  
16 receive treatment and admit guilt before being released, by prohibiting  
17 sex offenders with life sentences from receiving treatment, by  
18 narrowing the eligibility criteria for the special sex offender  
19 sentencing alternative, by tightening the sex offender and kidnapping  
20 offender registration requirements, and by providing an appropriation  
21 to the attorney general for purposes of public education and awareness;

1 amending RCW 9.94A.712, 9.94A.712, 9.94A.030, 9.94A.030, 10.95.020,  
2 9.95.420, 72.09.335, and 9A.44.130; reenacting and amending RCW  
3 9.94A.505, 9.94A.670, 9A.44.130, 9.68A.090, and 9.94A.515; adding new  
4 sections to chapter 9.94A RCW; adding a new section to chapter 72.09  
5 RCW; adding new sections to chapter 9A.44 RCW; adding a new section to  
6 chapter 9A.76 RCW; creating a new section; prescribing penalties;  
7 making an appropriation; providing effective dates; and providing  
8 expiration dates.

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

10 NEW SECTION. **Sec. 1.** Sexual abuse, including the rape and  
11 molestation of helpless children and vulnerable persons, is one of the  
12 most terrifying and demeaning criminal acts an individual can  
13 perpetrate against another person. The personal pain and fear suffered  
14 by the innocent victims of sexual abuse, and by their families, create  
15 devastating difficulties that often take years, if not a lifetime, to  
16 overcome. The grief and loss caused by the sexual abuse of young  
17 children and vulnerable persons are severe and the severity of  
18 punishment for those who commit such sexual abuse should be  
19 commensurate with the terror and trauma they have forced upon their  
20 victims, and the victim's family and loved ones. Justice is concerned  
21 with enforcing consequences for one's own actions to ensure personal  
22 responsibility for such actions. The severity of punishment for those  
23 who commit sexual abuse, such as the rape and molestation of a child or  
24 a vulnerable person, should be consistent and commensurate with the  
25 horrible crimes such perpetrators have imposed upon their victims.  
26 Strict penalties for such cruel and humiliating violations of a  
27 person's dignity, honor, and well-being are both appropriate and just,  
28 will act as a deterrent to others who are inclined to commit such  
29 immoral and inhumane crimes, and reflect the will of the majority of  
30 the people of this state. The legislature intends to ensure that the  
31 sanctions imposed for sexual abuse of a child or a vulnerable person  
32 are proportionate to the crime and that the victims of sexual abuse  
33 will be better able to lead lives free of fear knowing that the  
34 perpetrators of such crimes against them will not be around to harm  
35 them, or others, for a long time.

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

3        (1) In a prosecution for rape in the first degree, the prosecuting  
4 attorney shall file a special allegation that the victim of the offense  
5 was under twelve years of age at the time of the offense whenever  
6 sufficient admissible evidence exists, which, when considered with the  
7 most plausible, reasonably foreseeable defense that could be raised  
8 under the evidence, would justify a finding by a reasonable and  
9 objective fact-finder that the victim was under twelve years of age at  
10 the time of the offense.

11        (2) Once a special allegation has been made under this section, the  
12 state has the burden to prove beyond a reasonable doubt that the victim  
13 was under twelve years of age at the time of the offense. If a jury is  
14 had, the jury shall, if it finds the defendant guilty, also find a  
15 special verdict as to whether the victim was under the age of twelve at  
16 the time of the offense. If no jury is had, the court shall make a  
17 finding of fact as to whether the victim was under the age of twelve at  
18 the time of the offense.

19        (3) The prosecuting attorney shall not withdraw a special  
20 allegation filed under this section without the approval of the court  
21 through an order of dismissal of the allegation. The court may not  
22 dismiss the special allegation unless it finds that the order is  
23 necessary to correct an error in the initial charging decision or that  
24 there are evidentiary problems that make proving the special allegation  
25 doubtful.

26        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 9.94A RCW  
27 to read as follows:

28        (1) In a prosecution for rape of a child in the first degree, rape  
29 of a child in the second degree, or child molestation in the first  
30 degree, the prosecuting attorney shall file a special allegation that  
31 the offense was predatory whenever sufficient admissible evidence  
32 exists, which, when considered with the most plausible, reasonably  
33 foreseeable defense that could be raised under the evidence, would  
34 justify a finding by a reasonable and objective fact-finder that the  
35 offense was predatory.

36        (2) Once a special allegation has been made under this section, the  
37 state has the burden to prove beyond a reasonable doubt that the

1 offense was predatory. If a jury is had, the jury shall, if it finds  
2 the defendant guilty, also find a special verdict as to whether the  
3 offense was predatory. If no jury is had, the court shall make a  
4 finding of fact as to whether the offense was predatory.

5 (3) The prosecuting attorney shall not withdraw a special  
6 allegation filed under this section without the approval of the court  
7 through an order of dismissal of the allegation. The court may not  
8 dismiss the special allegation unless it finds that the order is  
9 necessary to correct an error in the initial charging decision or that  
10 there are evidentiary problems that make proving the special allegation  
11 doubtful.

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

14 (1) In a prosecution for rape in the first degree, the prosecuting  
15 attorney shall file a special allegation that the victim of the offense  
16 was at least twelve but less than sixteen years of age at the time of  
17 the offense whenever sufficient admissible evidence exists, which, when  
18 considered with the most plausible, reasonably foreseeable defense that  
19 could be raised under the evidence, would justify a finding by a  
20 reasonable and objective fact-finder that the victim was at least  
21 twelve but less than sixteen years of age at the time of the offense.

22 (2) Once a special allegation has been made under this section, the  
23 state has the burden to prove beyond a reasonable doubt that the victim  
24 was at least twelve but less than sixteen years of age at the time of  
25 the offense. If a jury is had, the jury shall, if it finds the  
26 defendant guilty, also find a special verdict as to whether the victim  
27 was at least twelve but less than sixteen years of age at the time of  
28 the offense. If no jury is had, the court shall make a finding of fact  
29 as to whether the victim was at least twelve but less than sixteen  
30 years of age at the time of the offense.

31 (3) The prosecuting attorney shall not withdraw a special  
32 allegation filed under this section without the approval of the court  
33 through an order of dismissal of the allegation. The court may not  
34 dismiss the special allegation unless it finds that the order is  
35 necessary to correct an error in the initial charging decision or that  
36 there are evidentiary problems that make proving the special allegation  
37 doubtful.

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 9.94A RCW  
2 to read as follows:

3        (1) In a prosecution for rape in the first degree, rape in the  
4 second degree with forcible compulsion, indecent liberties with  
5 forcible compulsion, or kidnapping in the first degree with sexual  
6 motivation, the prosecuting attorney shall file a special allegation  
7 that the victim of the offense was, at the time of the offense,  
8 developmentally disabled, mentally disordered, or a frail elder or  
9 vulnerable adult, whenever sufficient admissible evidence exists,  
10 which, when considered with the most plausible, reasonably foreseeable  
11 defense that could be raised under the evidence, would justify a  
12 finding by a reasonable and objective fact-finder that the victim was,  
13 at the time of the offense, developmentally disabled, mentally  
14 disordered, or a frail elder or vulnerable adult.

15        (2) Once a special allegation has been made under this section, the  
16 state has the burden to prove beyond a reasonable doubt that the victim  
17 was, at the time of the offense, developmentally disabled, mentally  
18 disordered, or a frail elder or vulnerable adult. If a jury is had,  
19 the jury shall, if it finds the defendant guilty, also find a special  
20 verdict as to whether the victim was, at the time of the offense,  
21 developmentally disabled, mentally disordered, or a frail elder or  
22 vulnerable adult. If no jury is had, the court shall make a finding of  
23 fact as to whether the victim was, at the time of the offense,  
24 developmentally disabled, mentally disordered, or a frail elder or  
25 vulnerable adult.

26        (3) The prosecuting attorney shall not withdraw a special  
27 allegation filed under this section without the approval of the court  
28 through an order of dismissal of the allegation. The court may not  
29 dismiss the special allegation unless it finds that the order is  
30 necessary to correct an error in the initial charging decision or that  
31 there are evidentiary problems that make proving the special allegation  
32 doubtful.

33        (4) For purposes of this section, "developmentally disabled,"  
34 "mentally disordered," and "frail elder or vulnerable adult" have the  
35 same meaning as in RCW 9A.44.010.

36        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 9.94A RCW  
37 to read as follows:

1 (1) In a prosecution for rape in the second degree, indecent  
2 liberties with forcible compulsion, or kidnapping in the first degree  
3 with sexual motivation, the prosecuting attorney shall file a special  
4 allegation that the victim of the offense was under sixteen years of  
5 age at the time of the offense whenever sufficient admissible evidence  
6 exists, which, when considered with the most plausible, reasonably  
7 foreseeable defense that could be raised under the evidence, would  
8 justify a finding by a reasonable and objective fact-finder that the  
9 victim was under sixteen years of age at the time of the offense.

10 (2) Once a special allegation has been made under this section, the  
11 state has the burden to prove beyond a reasonable doubt that the victim  
12 was under sixteen years of age at the time of the offense. If a jury  
13 is had, the jury shall, if it finds the defendant guilty, also find a  
14 special verdict as to whether the victim was under the age of sixteen  
15 at the time of the offense. If no jury is had, the court shall make a  
16 finding of fact as to whether the victim was under the age of sixteen  
17 at the time of the offense.

18 (3) The prosecuting attorney shall not withdraw a special  
19 allegation filed under this section without the approval of the court  
20 through an order of dismissal of the allegation. The court may not  
21 dismiss the special allegation unless it finds that the order is  
22 necessary to correct an error in the initial charging decision or that  
23 there are evidentiary problems that make proving the special allegation  
24 doubtful.

25 **Sec. 7.** RCW 9.94A.712 and 2005 c 436 s 2 are each amended to read  
26 as follows:

27 (1) An offender who is not a persistent offender shall be sentenced  
28 under this section if the offender:

29 (a) Is convicted of:

30 (i) Rape in the first degree, rape in the second degree, rape of a  
31 child in the first degree, child molestation in the first degree, rape  
32 of a child in the second degree, communication with a minor for immoral  
33 purposes (class A felony violation), or indecent liberties by forcible  
34 compulsion;

35 (ii) Any of the following offenses with a finding of sexual  
36 motivation: Murder in the first degree, murder in the second degree,  
37 homicide by abuse, kidnapping in the first degree, kidnapping in the

1 second degree, assault in the first degree, assault in the second  
2 degree, assault of a child in the first degree, or burglary in the  
3 first degree; or

4 (iii) An attempt to commit any crime listed in this subsection  
5 (1)(a);

6 committed on or after September 1, 2001; or

7 (b) Has a prior conviction for an offense listed in RCW  
8 9.94A.030(33)(b), and is convicted of any sex offense which was  
9 committed after September 1, 2001.

10 For purposes of this subsection (1)(b), failure to register is not  
11 a sex offense.

12 (2) An offender convicted of rape of a child in the first or second  
13 degree or child molestation in the first degree who was seventeen years  
14 of age or younger at the time of the offense shall not be sentenced  
15 under this section.

16 (3)(a) Upon a finding that the offender is subject to sentencing  
17 under this section, the court shall impose a sentence to a maximum term  
18 (~~consisting of the statutory maximum sentence for the offense~~) and a  
19 minimum term (~~either within the standard sentence range for the  
20 offense, or outside the standard sentence range pursuant to RCW  
21 9.94A.535, if the offender is otherwise eligible for such a sentence~~).

22 (b) The maximum term shall be the statutory maximum sentence for  
23 the offense.

24 (c)(i) Except as provided in (c)(ii) of this subsection, the  
25 minimum term shall be either within the standard sentence range for the  
26 offense, or outside the standard sentence range pursuant to RCW  
27 9.94A.535, if the offender is otherwise eligible for such a sentence.

28 (ii)(A) If the offense that caused the offender to be sentenced  
29 under this section is rape in the first degree, and there has been a  
30 finding under section 2 of this act that the victim was under twelve  
31 years of age at the time of the offense, the minimum sentence shall be  
32 life.

33 (B) If the offense that caused the offender to be sentenced under  
34 this section is rape of a child in the first degree, and there has been  
35 a finding under section 3 of this act that the offense was predatory,  
36 the minimum sentence shall be either the maximum of the standard range  
37 for the offense or thirty years, whichever is greater.

1       (C) If the offense that caused the offender to be sentenced under  
2 this section is rape of a child in the second degree or child  
3 molestation in the first degree, and there has been a finding under  
4 section 3 of this act that the offense was predatory, the minimum  
5 sentence shall be either the maximum of the standard range for the  
6 offense or twenty-five years, whichever is greater.

7       (D) If the offense that caused the offender to be sentenced under  
8 this section is rape in the first degree, and there has been a finding  
9 under section 4 of this act that the victim was at least twelve but  
10 less than sixteen years of age at the time of the offense, the minimum  
11 sentence shall be either the maximum of the standard range for the  
12 offense or twenty-five years, whichever is greater.

13       (E) If the offense that caused the offender to be sentenced under  
14 this section is rape in the first degree, rape in the second degree  
15 with forcible compulsion, indecent liberties with forcible compulsion,  
16 or kidnapping in the first degree with sexual motivation, and there has  
17 been a finding under section 5 of this act that the victim was, at the  
18 time of the offense, developmentally disabled, mentally disordered, or  
19 a frail elder or vulnerable adult, the minimum sentence shall be either  
20 the maximum of the standard range for the offense or twenty-five years,  
21 whichever is greater.

22       (F) If the offense that caused the offender to be sentenced under  
23 this section is rape in the second degree, indecent liberties with  
24 forcible compulsion, or kidnapping in the first degree with sexual  
25 motivation, and there has been a finding under section 6 of this act  
26 that the victim was less than sixteen years of age at the time of the  
27 offense, the minimum sentence shall be either the maximum of the  
28 standard range for the offense or twenty-five years, whichever is  
29 greater.

30       (G) If the offense that caused the offender to be sentenced under  
31 this section is rape in the second degree or indecent liberties, where  
32 the victim was incapable of consent by reason of being physically  
33 helpless or mentally incapacitated, the minimum sentence shall be  
34 either the maximum of the standard range for the offense or twenty-five  
35 years, whichever is greater.

36       (d) The minimum terms in (c)(ii) of this subsection do not apply to  
37 a juvenile tried as an adult pursuant to RCW 13.04.030(1)(e)(i). The

1 minimum term for such a juvenile shall be imposed under (c)(i) of this  
2 subsection.

3 (4) A person sentenced under subsection (3) of this section shall  
4 serve the sentence in a facility or institution operated, or utilized  
5 under contract, by the state.

6 (5) When a court sentences a person to the custody of the  
7 department under this section, the court shall, in addition to the  
8 other terms of the sentence, sentence the offender to community custody  
9 under the supervision of the department and the authority of the board  
10 for any period of time the person is released from total confinement  
11 before the expiration of the maximum sentence.

12 (6)(a)(i) Unless a condition is waived by the court, the conditions  
13 of community custody shall include those provided for in RCW  
14 9.94A.700(4). The conditions may also include those provided for in  
15 RCW 9.94A.700(5). The court may also order the offender to participate  
16 in rehabilitative programs or otherwise perform affirmative conduct  
17 reasonably related to the circumstances of the offense, the offender's  
18 risk of reoffending, or the safety of the community, and the department  
19 and the board shall enforce such conditions pursuant to RCW 9.94A.713,  
20 9.95.425, and 9.95.430.

21 (ii) If the offense that caused the offender to be sentenced under  
22 this section was an offense listed in subsection (1)(a) of this section  
23 and the victim of the offense was under eighteen years of age at the  
24 time of the offense, the court shall, as a condition of community  
25 custody, prohibit the offender from residing in a community protection  
26 zone.

27 (b) As part of any sentence under this section, the court shall  
28 also require the offender to comply with any conditions imposed by the  
29 board under RCW 9.94A.713 and 9.95.420 through 9.95.435.

30 **Sec. 8.** RCW 9.94A.712 and 2004 c 176 s 3 are each amended to read  
31 as follows:

32 (1) An offender who is not a persistent offender shall be sentenced  
33 under this section if the offender:

34 (a) Is convicted of:

35 (i) Rape in the first degree, rape in the second degree, rape of a  
36 child in the first degree, child molestation in the first degree, rape

1 of a child in the second degree, communication with a minor for immoral  
2 purposes (class A felony violation), or indecent liberties by forcible  
3 compulsion;

4 (ii) Any of the following offenses with a finding of sexual  
5 motivation: Murder in the first degree, murder in the second degree,  
6 homicide by abuse, kidnapping in the first degree, kidnapping in the  
7 second degree, assault in the first degree, assault in the second  
8 degree, assault of a child in the first degree, or burglary in the  
9 first degree; or

10 (iii) An attempt to commit any crime listed in this subsection  
11 (1)(a);

12 committed on or after September 1, 2001; or

13 (b) Has a prior conviction for an offense listed in RCW  
14 9.94A.030(32)(b), and is convicted of any sex offense which was  
15 committed after September 1, 2001.

16 For purposes of this subsection (1)(b), failure to register is not  
17 a sex offense.

18 (2) An offender convicted of rape of a child in the first or second  
19 degree or child molestation in the first degree who was seventeen years  
20 of age or younger at the time of the offense shall not be sentenced  
21 under this section.

22 (3)(a) Upon a finding that the offender is subject to sentencing  
23 under this section, the court shall impose a sentence to a maximum term  
24 (~~consisting of the statutory maximum sentence for the offense~~) and a  
25 minimum term (~~either within the standard sentence range for the~~  
26 ~~offense, or outside the standard sentence range pursuant to RCW~~  
27 ~~9.94A.535, if the offender is otherwise eligible for such a sentence~~).

28 (b) The maximum term shall be the statutory maximum sentence for  
29 the offense.

30 (c)(i) Except as provided in (c)(ii) of this subsection, the  
31 minimum term shall be either within the standard sentence range for the  
32 offense, or outside the standard sentence range pursuant to RCW  
33 9.94A.535, if the offender is otherwise eligible for such a sentence.

34 (ii)(A) If the offense that caused the offender to be sentenced  
35 under this section is rape in the first degree, and there has been a  
36 finding under section 2 of this act that the victim was under twelve  
37 years of age at the time of the offense, the minimum sentence shall be  
38 life.

1       (B) If the offense that caused the offender to be sentenced under  
2 this section is rape of a child in the first degree, and there has been  
3 a finding under section 3 of this act that the offense was predatory,  
4 the minimum sentence shall be either the maximum of the standard range  
5 for the offense or thirty years, whichever is greater.

6       (C) If the offense that caused the offender to be sentenced under  
7 this section is rape of a child in the second degree or child  
8 molestation in the first degree, and there has been a finding under  
9 section 3 of this act that the offense was predatory, the minimum  
10 sentence shall be either the maximum of the standard range for the  
11 offense or twenty-five years, whichever is greater.

12       (D) If the offense that caused the offender to be sentenced under  
13 this section is rape in the first degree, and there has been a finding  
14 under section 4 of this act that the victim was at least twelve but  
15 less than sixteen years of age at the time of the offense, the minimum  
16 sentence shall be either the maximum of the standard range for the  
17 offense or twenty-five years, whichever is greater.

18       (E) If the offense that caused the offender to be sentenced under  
19 this section is rape in the first degree, rape in the second degree  
20 with forcible compulsion, indecent liberties with forcible compulsion,  
21 or kidnapping in the first degree with sexual motivation, and there has  
22 been a finding under section 5 of this act that the victim was, at the  
23 time of the offense, developmentally disabled, mentally disordered, or  
24 a frail elder or vulnerable adult, the minimum sentence shall be either  
25 the maximum of the standard range for the offense or twenty-five years,  
26 whichever is greater.

27       (F) If the offense that caused the offender to be sentenced under  
28 this section is rape in the second degree, indecent liberties with  
29 forcible compulsion, or kidnapping in the first degree with sexual  
30 motivation, and there has been a finding under section 6 of this act  
31 that the victim was less than sixteen years of age at the time of the  
32 offense, the minimum sentence shall be either the maximum of the  
33 standard range for the offense or twenty-five years, whichever is  
34 greater.

35       (G) If the offense that caused the offender to be sentenced under  
36 this section is rape in the second degree or indecent liberties, where  
37 the victim was incapable of consent by reason of being physically

1 helpless or mentally incapacitated, the minimum sentence shall be  
2 either the maximum of the standard range for the offense or twenty-five  
3 years, whichever is greater.

4 (d) The minimum terms in (c)(ii) of this subsection do not apply to  
5 a juvenile tried as an adult pursuant to RCW 13.04.030(1)(e)(i). The  
6 minimum term for such a juvenile shall be imposed under (c)(i) of this  
7 subsection.

8 (4) A person sentenced under subsection (3) of this section shall  
9 serve the sentence in a facility or institution operated, or utilized  
10 under contract, by the state.

11 (5) When a court sentences a person to the custody of the  
12 department under this section, the court shall, in addition to the  
13 other terms of the sentence, sentence the offender to community custody  
14 under the supervision of the department and the authority of the board  
15 for any period of time the person is released from total confinement  
16 before the expiration of the maximum sentence.

17 (6)(a) Unless a condition is waived by the court, the conditions of  
18 community custody shall include those provided for in RCW 9.94A.700(4).  
19 The conditions may also include those provided for in RCW 9.94A.700(5).  
20 The court may also order the offender to participate in rehabilitative  
21 programs or otherwise perform affirmative conduct reasonably related to  
22 the circumstances of the offense, the offender's risk of reoffending,  
23 or the safety of the community, and the department and the board shall  
24 enforce such conditions pursuant to RCW 9.94A.713, 9.95.425, and  
25 9.95.430.

26 (b) As part of any sentence under this section, the court shall  
27 also require the offender to comply with any conditions imposed by the  
28 board under RCW 9.94A.713 and 9.95.420 through 9.95.435.

29 **Sec. 9.** RCW 9.94A.030 and 2005 c 436 s 1 are each amended to read  
30 as follows:

31 Unless the context clearly requires otherwise, the definitions in  
32 this section apply throughout this chapter.

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

35 (2) "Collect," or any derivative thereof, "collect and remit," or  
36 "collect and deliver," when used with reference to the department,  
37 means that the department, either directly or through a collection

1 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
2 and enforcing the offender's sentence with regard to the legal  
3 financial obligation, receiving payment thereof from the offender, and,  
4 consistent with current law, delivering daily the entire payment to the  
5 superior court clerk without depositing it in a departmental account.

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

7 (4) "Community corrections officer" means an employee of the  
8 department who is responsible for carrying out specific duties in  
9 supervision of sentenced offenders and monitoring of sentence  
10 conditions.

11 (5) "Community custody" means that portion of an offender's  
12 sentence of confinement in lieu of earned release time or imposed  
13 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,  
14 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the  
15 community subject to controls placed on the offender's movement and  
16 activities by the department. For offenders placed on community  
17 custody for crimes committed on or after July 1, 2000, the department  
18 shall assess the offender's risk of reoffense and may establish and  
19 modify conditions of community custody, in addition to those imposed by  
20 the court, based upon the risk to community safety.

21 (6) "Community custody range" means the minimum and maximum period  
22 of community custody included as part of a sentence under RCW  
23 9.94A.715, as established by the commission or the legislature under  
24 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

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

32 (8) "Community protection zone" means the area within eight hundred  
33 eighty feet of the facilities and grounds of a public or private  
34 school.

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

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

11 (11) "Confinement" means total or partial confinement.

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

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

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

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

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

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

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

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

10 (17) "Department" means the department of corrections.

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

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

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

35 (21) "Drug offense" means:

36 (a) Any felony violation of chapter 69.50 RCW except possession of  
37 a controlled substance (RCW 69.50.4013) or forged prescription for a  
38 controlled substance (RCW 69.50.403);

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

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

7 (22) "Earned release" means earned release from confinement as  
8 provided in RCW 9.94A.728.

9 (23) "Escape" means:

10 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
11 first degree (RCW 9A.76.110), escape in the second degree (RCW  
12 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
13 willful failure to return from work release (RCW 72.65.070), or willful  
14 failure to be available for supervision by the department while in  
15 community custody (RCW 72.09.310); or

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

19 (24) "Felony traffic offense" means:

20 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
21 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
22 and-run injury-accident (RCW 46.52.020(4)); or

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

26 (25) "Fine" means a specific sum of money ordered by the sentencing  
27 court to be paid by the offender to the court over a specific period of  
28 time.

29 (26) "First-time offender" means any person who has no prior  
30 convictions for a felony and is eligible for the first-time offender  
31 waiver under RCW 9.94A.650.

32 (27) "Home detention" means a program of partial confinement  
33 available to offenders wherein the offender is confined in a private  
34 residence subject to electronic surveillance.

35 (28) "Legal financial obligation" means a sum of money that is  
36 ordered by a superior court of the state of Washington for legal  
37 financial obligations which may include restitution to the victim,  
38 statutorily imposed crime victims' compensation fees as assessed

1 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,  
2 court-appointed attorneys' fees, and costs of defense, fines, and any  
3 other financial obligation that is assessed to the offender as a result  
4 of a felony conviction. Upon conviction for vehicular assault while  
5 under the influence of intoxicating liquor or any drug, RCW  
6 46.61.522(1)(b), or vehicular homicide while under the influence of  
7 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial  
8 obligations may also include payment to a public agency of the expense  
9 of an emergency response to the incident resulting in the conviction,  
10 subject to RCW 38.52.430.

11 (29) "Most serious offense" means any of the following felonies or  
12 a felony attempt to commit any of the following felonies:

13 (a) Any felony defined under any law as a class A felony or  
14 criminal solicitation of or criminal conspiracy to commit a class A  
15 felony;

16 (b) Assault in the second degree;

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

18 (d) Child molestation in the second degree;

19 (e) Controlled substance homicide;

20 (f) Extortion in the first degree;

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

22 (h) Indecent liberties;

23 (i) Kidnapping in the second degree;

24 (j) Leading organized crime;

25 (k) Manslaughter in the first degree;

26 (l) Manslaughter in the second degree;

27 (m) Promoting prostitution in the first degree;

28 (n) Rape in the third degree;

29 (o) Robbery in the second degree;

30 (p) Sexual exploitation;

31 (q) Vehicular assault, when caused by the operation or driving of  
32 a vehicle by a person while under the influence of intoxicating liquor  
33 or any drug or by the operation or driving of a vehicle in a reckless  
34 manner;

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

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

3 (t) Any other felony with a deadly weapon verdict under RCW  
4 9.94A.602;

5 (u) Any felony offense in effect at any time prior to December 2,  
6 1993, that is comparable to a most serious offense under this  
7 subsection, or any federal or out-of-state conviction for an offense  
8 that under the laws of this state would be a felony classified as a  
9 most serious offense under this subsection;

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

15 (ii) A prior conviction for indecent liberties under RCW  
16 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
17 if: (A) The crime was committed against a child under the age of  
18 fourteen; or (B) the relationship between the victim and perpetrator is  
19 included in the definition of indecent liberties under RCW  
20 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
21 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
22 through July 27, 1997.

23 (30) "Nonviolent offense" means an offense which is not a violent  
24 offense.

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

32 (32) "Partial confinement" means confinement for no more than one  
33 year in a facility or institution operated or utilized under contract  
34 by the state or any other unit of government, or, if home detention or  
35 work crew has been ordered by the court, in an approved residence, for  
36 a substantial portion of each day with the balance of the day spent in  
37 the community. Partial confinement includes work release, home

1 detention, work crew, and a combination of work crew and home  
2 detention.

3 (33) "Persistent offender" is an offender who:

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

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

14 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
15 of a child in the first degree, child molestation in the first degree,  
16 rape in the second degree, rape of a child in the second degree,  
17 communication with a minor for immoral purposes (class A felony  
18 violation), or indecent liberties by forcible compulsion; (B) any of  
19 the following offenses with a finding of sexual motivation: Murder in  
20 the first degree, murder in the second degree, homicide by abuse,  
21 kidnapping in the first degree, kidnapping in the second degree,  
22 assault in the first degree, assault in the second degree, assault of  
23 a child in the first degree, or burglary in the first degree; or (C) an  
24 attempt to commit any crime listed in this subsection (33)(b)(i); and

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

37 (34) "Postrelease supervision" is that portion of an offender's  
38 community placement that is not community custody.

1       (35) "Predatory" means: (a) The perpetrator of the crime was a  
2 stranger to the victim, as defined in this section; (b) the perpetrator  
3 established or promoted a relationship with the victim prior to the  
4 offense and the victimization of the victim was a significant reason  
5 the perpetrator established or promoted the relationship; or (c) the  
6 perpetrator was: (i) A teacher, counselor, volunteer, or other person  
7 in authority in any public or private school and the victim was a  
8 student of the school under his or her authority or supervision. For  
9 purposes of this subsection, "school" does not include home-based  
10 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,  
11 volunteer, or other person in authority in any recreational activity  
12 and the victim was a participant in the activity under his or her  
13 authority or supervision; or (iii) a pastor, elder, volunteer, or other  
14 person in authority in any church or religious organization, and the  
15 victim was a member or participant of the organization under his or her  
16 authority.

17       (36) "Private school" means a school regulated under chapter  
18 28A.195 or 28A.205 RCW.

19       ~~((+36+))~~ (37) "Public school" has the same meaning as in RCW  
20 28A.150.010.

21       ~~((+37+))~~ (38) "Restitution" means a specific sum of money ordered  
22 by the sentencing court to be paid by the offender to the court over a  
23 specified period of time as payment of damages. The sum may include  
24 both public and private costs.

25       ~~((+38+))~~ (39) "Risk assessment" means the application of an  
26 objective instrument supported by research and adopted by the  
27 department for the purpose of assessing an offender's risk of  
28 reoffense, taking into consideration the nature of the harm done by the  
29 offender, place and circumstances of the offender related to risk, the  
30 offender's relationship to any victim, and any information provided to  
31 the department by victims. The results of a risk assessment shall not  
32 be based on unconfirmed or unconfirmable allegations.

33       ~~((+39+))~~ (40) "Serious traffic offense" means:

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

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

4 ((~~40~~)) (41) "Serious violent offense" is a subcategory of violent  
5 offense and means:

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

7 (ii) Homicide by abuse;

8 (iii) Murder in the second degree;

9 (iv) Manslaughter in the first degree;

10 (v) Assault in the first degree;

11 (vi) Kidnapping in the first degree;

12 (vii) Rape in the first degree;

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

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

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

19 ((~~41~~)) (42) "Sex offense" means:

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

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

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

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

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

30 (c) A felony with a finding of sexual motivation under RCW  
31 9.94A.835 or 13.40.135; or

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

35 ((~~42~~)) (43) "Sexual motivation" means that one of the purposes  
36 for which the defendant committed the crime was for the purpose of his  
37 or her sexual gratification.

1        ~~((43))~~ (44) "Standard sentence range" means the sentencing  
2 court's discretionary range in imposing a nonappealable sentence.

3        ~~((44))~~ (45) "Statutory maximum sentence" means the maximum length  
4 of time for which an offender may be confined as punishment for a crime  
5 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining  
6 the crime, or other statute defining the maximum penalty for a crime.

7        ~~((45))~~ (46) "Stranger" means that the victim did not know the  
8 offender twenty-four hours before the offense.

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

13        ~~((46))~~ (48) "Transition training" means written and verbal  
14 instructions and assistance provided by the department to the offender  
15 during the two weeks prior to the offender's successful completion of  
16 the work ethic camp program. The transition training shall include  
17 instructions in the offender's requirements and obligations during the  
18 offender's period of community custody.

19        ~~((47))~~ (49) "Victim" means any person who has sustained  
20 emotional, psychological, physical, or financial injury to person or  
21 property as a direct result of the crime charged.

22        ~~((48))~~ (50) "Violent offense" means:

23        (a) Any of the following felonies:

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

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

28        (iii) Manslaughter in the first degree;

29        (iv) Manslaughter in the second degree;

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

31        (vi) Kidnapping in the second degree;

32        (vii) Arson in the second degree;

33        (viii) Assault in the second degree;

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

35        (x) Extortion in the first degree;

36        (xi) Robbery in the second degree;

37        (xii) Drive-by shooting;

1 (xiii) Vehicular assault, when caused by the operation or driving  
2 of a vehicle by a person while under the influence of intoxicating  
3 liquor or any drug or by the operation or driving of a vehicle in a  
4 reckless manner; and

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

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

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

15 ~~((49))~~ (51) "Work crew" means a program of partial confinement  
16 consisting of civic improvement tasks for the benefit of the community  
17 that complies with RCW 9.94A.725.

18 ~~((50))~~ (52) "Work ethic camp" means an alternative incarceration  
19 program as provided in RCW 9.94A.690 designed to reduce recidivism and  
20 lower the cost of corrections by requiring offenders to complete a  
21 comprehensive array of real-world job and vocational experiences,  
22 character-building work ethics training, life management skills  
23 development, substance abuse rehabilitation, counseling, literacy  
24 training, and basic adult education.

25 ~~((51))~~ (53) "Work release" means a program of partial confinement  
26 available to offenders who are employed or engaged as a student in a  
27 regular course of study at school.

28 **Sec. 10.** RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read  
29 as follows:

30 Unless the context clearly requires otherwise, the definitions in  
31 this section apply throughout this chapter.

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

34 (2) "Collect," or any derivative thereof, "collect and remit," or  
35 "collect and deliver," when used with reference to the department,  
36 means that the department, either directly or through a collection  
37 agreement authorized by RCW 9.94A.760, is responsible for monitoring

1 and enforcing the offender's sentence with regard to the legal  
2 financial obligation, receiving payment thereof from the offender, and,  
3 consistent with current law, delivering daily the entire payment to the  
4 superior court clerk without depositing it in a departmental account.

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

6 (4) "Community corrections officer" means an employee of the  
7 department who is responsible for carrying out specific duties in  
8 supervision of sentenced offenders and monitoring of sentence  
9 conditions.

10 (5) "Community custody" means that portion of an offender's  
11 sentence of confinement in lieu of earned release time or imposed  
12 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,  
13 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the  
14 community subject to controls placed on the offender's movement and  
15 activities by the department. For offenders placed on community  
16 custody for crimes committed on or after July 1, 2000, the department  
17 shall assess the offender's risk of reoffense and may establish and  
18 modify conditions of community custody, in addition to those imposed by  
19 the court, based upon the risk to community safety.

20 (6) "Community custody range" means the minimum and maximum period  
21 of community custody included as part of a sentence under RCW  
22 9.94A.715, as established by the commission or the legislature under  
23 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

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

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

34 (9) "Community supervision" means a period of time during which a  
35 convicted offender is subject to crime-related prohibitions and other  
36 sentence conditions imposed by a court pursuant to this chapter or RCW  
37 16.52.200(6) or 46.61.524. Where the court finds that any offender has  
38 a chemical dependency that has contributed to his or her offense, the

1 conditions of supervision may, subject to available resources, include  
2 treatment. For purposes of the interstate compact for out-of-state  
3 supervision of parolees and probationers, RCW 9.95.270, community  
4 supervision is the functional equivalent of probation and should be  
5 considered the same as probation by other states.

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

7 (11) "Conviction" means an adjudication of guilt pursuant to Titles  
8 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
9 acceptance of a plea of guilty.

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

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

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

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

28 (c) The determination of a defendant's criminal history is distinct  
29 from the determination of an offender score. A prior conviction that  
30 was not included in an offender score calculated pursuant to a former  
31 version of the sentencing reform act remains part of the defendant's  
32 criminal history.

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

37 (15) "Day reporting" means a program of enhanced supervision  
38 designed to monitor the offender's daily activities and compliance with

1 sentence conditions, and in which the offender is required to report  
2 daily to a specific location designated by the department or the  
3 sentencing court.

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

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

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

25 (19) "Drug offender sentencing alternative" is a sentencing option  
26 available to persons convicted of a felony offense other than a violent  
27 offense or a sex offense and who are eligible for the option under RCW  
28 9.94A.660.

29 (20) "Drug offense" means:

30 (a) Any felony violation of chapter 69.50 RCW except possession of  
31 a controlled substance (RCW 69.50.4013) or forged prescription for a  
32 controlled substance (RCW 69.50.403);

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

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

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

3 (22) "Escape" means:

4 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
5 first degree (RCW 9A.76.110), escape in the second degree (RCW  
6 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
7 willful failure to return from work release (RCW 72.65.070), or willful  
8 failure to be available for supervision by the department while in  
9 community custody (RCW 72.09.310); or

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

13 (23) "Felony traffic offense" means:

14 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
15 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
16 and-run injury-accident (RCW 46.52.020(4)); or

17 (b) 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 felony  
19 traffic offense under (a) of this subsection.

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

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

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

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

1 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial  
2 obligations may also include payment to a public agency of the expense  
3 of an emergency response to the incident resulting in the conviction,  
4 subject to RCW 38.52.430.

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

7 (a) Any felony defined under any law as a class A felony or  
8 criminal solicitation of or criminal conspiracy to commit a class A  
9 felony;

10 (b) Assault in the second degree;

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

12 (d) Child molestation in the second degree;

13 (e) Controlled substance homicide;

14 (f) Extortion in the first degree;

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

16 (h) Indecent liberties;

17 (i) Kidnapping in the second degree;

18 (j) Leading organized crime;

19 (k) Manslaughter in the first degree;

20 (l) Manslaughter in the second degree;

21 (m) Promoting prostitution in the first degree;

22 (n) Rape in the third degree;

23 (o) Robbery in the second degree;

24 (p) Sexual exploitation;

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

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

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

35 (t) Any other felony with a deadly weapon verdict under RCW  
36 9.94A.602;

37 (u) Any felony offense in effect at any time prior to December 2,  
38 1993, that is comparable to a most serious offense under this

1 subsection, or any federal or out-of-state conviction for an offense  
2 that under the laws of this state would be a felony classified as a  
3 most serious offense under this subsection;

4 (v)(i) A prior conviction for indecent liberties under RCW  
5 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
6 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
7 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
8 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

9 (ii) A prior conviction for indecent liberties under RCW  
10 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
11 if: (A) The crime was committed against a child under the age of  
12 fourteen; or (B) the relationship between the victim and perpetrator is  
13 included in the definition of indecent liberties under RCW  
14 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
15 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
16 through July 27, 1997.

17 (29) "Nonviolent offense" means an offense which is not a violent  
18 offense.

19 (30) "Offender" means a person who has committed a felony  
20 established by state law and is eighteen years of age or older or is  
21 less than eighteen years of age but whose case is under superior court  
22 jurisdiction under RCW 13.04.030 or has been transferred by the  
23 appropriate juvenile court to a criminal court pursuant to RCW  
24 13.40.110. Throughout this chapter, the terms "offender" and  
25 "defendant" are used interchangeably.

26 (31) "Partial confinement" means confinement for no more than one  
27 year in a facility or institution operated or utilized under contract  
28 by the state or any other unit of government, or, if home detention or  
29 work crew has been ordered by the court, in an approved residence, for  
30 a substantial portion of each day with the balance of the day spent in  
31 the community. Partial confinement includes work release, home  
32 detention, work crew, and a combination of work crew and home  
33 detention.

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

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

37 (ii) Has, before the commission of the offense under (a) of this  
38 subsection, been convicted as an offender on at least two separate

1 occasions, whether in this state or elsewhere, of felonies that under  
2 the laws of this state would be considered most serious offenses and  
3 would be included in the offender score under RCW 9.94A.525; provided  
4 that of the two or more previous convictions, at least one conviction  
5 must have occurred before the commission of any of the other most  
6 serious offenses for which the offender was previously convicted; or

7 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
8 of a child in the first degree, child molestation in the first degree,  
9 rape in the second degree, rape of a child in the second degree,  
10 communication with a minor for immoral purposes (class A felony  
11 violation), or indecent liberties by forcible compulsion; (B) any of  
12 the following offenses with a finding of sexual motivation: Murder in  
13 the first degree, murder in the second degree, homicide by abuse,  
14 kidnapping in the first degree, kidnapping in the second degree,  
15 assault in the first degree, assault in the second degree, assault of  
16 a child in the first degree, or burglary in the first degree; or (C) an  
17 attempt to commit any crime listed in this subsection (32)(b)(i); and

18 (ii) Has, before the commission of the offense under (b)(i) of this  
19 subsection, been convicted as an offender on at least one occasion,  
20 whether in this state or elsewhere, of an offense listed in (b)(i) of  
21 this subsection or any federal or out-of-state offense or offense under  
22 prior Washington law that is comparable to the offenses listed in  
23 (b)(i) of this subsection. A conviction for rape of a child in the  
24 first degree constitutes a conviction under (b)(i) of this subsection  
25 only when the offender was sixteen years of age or older when the  
26 offender committed the offense. A conviction for rape of a child in  
27 the second degree constitutes a conviction under (b)(i) of this  
28 subsection only when the offender was eighteen years of age or older  
29 when the offender committed the offense.

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

32 (34) "Predatory" means: (a) The perpetrator of the crime was a  
33 stranger to the victim, as defined in this section; (b) the perpetrator  
34 established or promoted a relationship with the victim prior to the  
35 offense and the victimization of the victim was a significant reason  
36 the perpetrator established or promoted the relationship; or (c) the  
37 perpetrator was: (i) A teacher, counselor, volunteer, or other person  
38 in authority in any public or private school and the victim was a

1 student of the school under his or her authority or supervision. For  
2 purposes of this subsection, "school" does not include home-based  
3 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,  
4 volunteer, or other person in authority in any recreational activity  
5 and the victim was a participant in the activity under his or her  
6 authority or supervision; or (iii) a pastor, elder, volunteer, or other  
7 person in authority in any church or religious organization, and the  
8 victim was a member or participant of the organization under his or her  
9 authority.

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

14 ((+35+)) (36) "Risk assessment" means the application of an  
15 objective instrument supported by research and adopted by the  
16 department for the purpose of assessing an offender's risk of  
17 reoffense, taking into consideration the nature of the harm done by the  
18 offender, place and circumstances of the offender related to risk, the  
19 offender's relationship to any victim, and any information provided to  
20 the department by victims. The results of a risk assessment shall not  
21 be based on unconfirmed or unconfirmable allegations.

22 ((+36+)) (37) "Serious traffic offense" means:

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

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

31 ((+37+)) (38) "Serious violent offense" is a subcategory of violent  
32 offense and means:

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

34 (ii) Homicide by abuse;

35 (iii) Murder in the second degree;

36 (iv) Manslaughter in the first degree;

37 (v) Assault in the first degree;

38 (vi) Kidnapping in the first degree;

1 (vii) Rape in the first degree;  
2 (viii) Assault of a child in the first degree; or  
3 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
4 commit one of these felonies; or  
5 (b) Any federal or out-of-state conviction for an offense that  
6 under the laws of this state would be a felony classified as a serious  
7 violent offense under (a) of this subsection.  
8 ~~((38))~~ (39) "Sex offense" means:  
9 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than  
10 RCW 9A.44.130(11);  
11 (ii) A violation of RCW 9A.64.020;  
12 (iii) A felony that is a violation of chapter 9.68A RCW other than  
13 RCW ~~((9.68A.070 or))~~ 9.68A.080; or  
14 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,  
15 criminal solicitation, or criminal conspiracy to commit such crimes;  
16 (b) Any conviction for a felony offense in effect at any time prior  
17 to July 1, 1976, that is comparable to a felony classified as a sex  
18 offense in (a) of this subsection;  
19 (c) A felony with a finding of sexual motivation under RCW  
20 9.94A.835 or 13.40.135; or  
21 (d) Any federal or out-of-state conviction for an offense that  
22 under the laws of this state would be a felony classified as a sex  
23 offense under (a) of this subsection.  
24 ~~((39))~~ (40) "Sexual motivation" means that one of the purposes  
25 for which the defendant committed the crime was for the purpose of his  
26 or her sexual gratification.  
27 ~~((40))~~ (41) "Standard sentence range" means the sentencing  
28 court's discretionary range in imposing a nonappealable sentence.  
29 ~~((41))~~ (42) "Statutory maximum sentence" means the maximum length  
30 of time for which an offender may be confined as punishment for a crime  
31 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining  
32 the crime, or other statute defining the maximum penalty for a crime.  
33 ~~((42))~~ (43) "Stranger" means that the victim did not know the  
34 offender twenty-four hours before the offense.  
35 (44) "Total confinement" means confinement inside the physical  
36 boundaries of a facility or institution operated or utilized under  
37 contract by the state or any other unit of government for twenty-four  
38 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

1       (~~(43)~~) (45) "Transition training" means written and verbal  
2 instructions and assistance provided by the department to the offender  
3 during the two weeks prior to the offender's successful completion of  
4 the work ethic camp program. The transition training shall include  
5 instructions in the offender's requirements and obligations during the  
6 offender's period of community custody.

7       (~~(44)~~) (46) "Victim" means any person who has sustained  
8 emotional, psychological, physical, or financial injury to person or  
9 property as a direct result of the crime charged.

10       (~~(45)~~) (47) "Violent offense" means:

11       (a) Any of the following felonies:

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

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

16       (iii) Manslaughter in the first degree;

17       (iv) Manslaughter in the second degree;

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

19       (vi) Kidnapping in the second degree;

20       (vii) Arson in the second degree;

21       (viii) Assault in the second degree;

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

23       (x) Extortion in the first degree;

24       (xi) Robbery in the second degree;

25       (xii) Drive-by shooting;

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

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

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

37       (c) Any federal or out-of-state conviction for an offense that

1 under the laws of this state would be a felony classified as a violent  
2 offense under (a) or (b) of this subsection.

3 ~~((46))~~ (48) "Work crew" means a program of partial confinement  
4 consisting of civic improvement tasks for the benefit of the community  
5 that complies with RCW 9.94A.725.

6 ~~((47))~~ (49) "Work ethic camp" means an alternative incarceration  
7 program as provided in RCW 9.94A.690 designed to reduce recidivism and  
8 lower the cost of corrections by requiring offenders to complete a  
9 comprehensive array of real-world job and vocational experiences,  
10 character-building work ethics training, life management skills  
11 development, substance abuse rehabilitation, counseling, literacy  
12 training, and basic adult education.

13 ~~((48))~~ (50) "Work release" means a program of partial confinement  
14 available to offenders who are employed or engaged as a student in a  
15 regular course of study at school.

16 NEW SECTION. **Sec. 11.** A new section is added to chapter 72.09 RCW  
17 to read as follows:

18 (1) The department shall electronically monitor an offender serving  
19 a term of community custody on or after the effective date of this  
20 section if the offender has a current or prior conviction sentenced  
21 under RCW 9.94A.712. Except as provided in subsection (2) of this  
22 section, the department shall monitor such an offender using the most  
23 appropriate technology given the individual circumstances of the  
24 offender.

25 (2) The department shall electronically monitor, using an active  
26 global positioning system, an offender serving a term of community  
27 custody on or after the effective date of this section who has been  
28 designated as risk level III or who has registered as lacking a fixed  
29 residence.

30 NEW SECTION. **Sec. 12.** A new section is added to chapter 9A.44 RCW  
31 to read as follows:

32 (1) The Washington association of sheriffs and police chiefs shall  
33 electronically monitor an offender required to register under RCW  
34 9A.44.130 if the person has a current or prior conviction for an  
35 offense sentenced under RCW 9.94A.712 and is not being electronically  
36 monitored under section 11 of this act. Except as provided in

1 subsection (2) of this section, the association shall monitor such an  
2 offender using the most appropriate technology given the individual  
3 circumstances of the offender.

4 (2) The association shall electronically monitor, using an active  
5 global positioning system, an offender who: (a) Is required to  
6 register under RCW 9A.44.130, (b) has been designated as risk level III  
7 or has registered as lacking a fixed residence, and (c) is not being  
8 electronically monitored under section 11 of this act.

9 NEW SECTION. **Sec. 13.** A new section is added to chapter 9A.44 RCW  
10 to read as follows:

11 (1) A person is guilty of tampering with an electronic monitoring  
12 device if, under circumstances not constituting sexually violent  
13 predator escape, he or she:

14 (a) Is required to be electronically monitored under section 11 or  
15 12 of this act; and

16 (b) Intentionally alters, tampers with, damages, or destroys any  
17 electronic monitoring equipment used to enforce the electronic  
18 monitoring requirement.

19 (2) Tampering with an electronic monitoring device is a class C  
20 felony.

21 **Sec. 14.** RCW 10.95.020 and 2003 c 53 s 96 are each amended to read  
22 as follows:

23 A person is guilty of aggravated first degree murder, a class A  
24 felony, if he or she commits first degree murder as defined by RCW  
25 9A.32.030(1)(a), as now or hereafter amended, and one or more of the  
26 following aggravating circumstances exist:

27 (1) The victim was a law enforcement officer, corrections officer,  
28 or fire fighter who was performing his or her official duties at the  
29 time of the act resulting in death and the victim was known or  
30 reasonably should have been known by the person to be such at the time  
31 of the killing;

32 (2) At the time of the act resulting in the death, the person was  
33 serving a term of imprisonment, had escaped, or was on authorized or  
34 unauthorized leave in or from a state facility or program for the  
35 incarceration or treatment of persons adjudicated guilty of crimes;

1 (3) At the time of the act resulting in death, the person was in  
2 custody in a county or county-city jail as a consequence of having been  
3 adjudicated guilty of a felony;

4 (4) The person committed the murder pursuant to an agreement that  
5 he or she would receive money or any other thing of value for  
6 committing the murder;

7 (5) The person solicited another person to commit the murder and  
8 had paid or had agreed to pay money or any other thing of value for  
9 committing the murder;

10 (6) The person committed the murder to obtain or maintain his or  
11 her membership or to advance his or her position in the hierarchy of an  
12 organization, association, or identifiable group;

13 (7) The murder was committed during the course of or as a result of  
14 a shooting where the discharge of the firearm, as defined in RCW  
15 9.41.010, is either from a motor vehicle or from the immediate area of  
16 a motor vehicle that was used to transport the shooter or the firearm,  
17 or both, to the scene of the discharge;

18 (8) The victim was:

19 (a) A judge; juror or former juror; prospective, current, or former  
20 witness in an adjudicative proceeding; prosecuting attorney; deputy  
21 prosecuting attorney; defense attorney; a member of the indeterminate  
22 sentence review board; or a probation or parole officer; and

23 (b) The murder was related to the exercise of official duties  
24 performed or to be performed by the victim;

25 (9) The person committed the murder to conceal the commission of a  
26 crime or to protect or conceal the identity of any person committing a  
27 crime, including, but specifically not limited to, any attempt to avoid  
28 prosecution as a persistent offender as defined in RCW 9.94A.030;

29 (10) There was more than one victim and the murders were part of a  
30 common scheme or plan or the result of a single act of the person;

31 (11) The murder was committed in the course of, in furtherance of,  
32 or in immediate flight from one of the following crimes:

33 (a) Robbery in the first or second degree;

34 (b) Rape in the first or second degree;

35 (c) Burglary in the first or second degree or residential burglary;

36 (d) Kidnapping in the first degree; or

37 (e) Arson in the first degree;

1 (12) The victim was regularly employed or self-employed as a  
2 newsreporter and the murder was committed to obstruct or hinder the  
3 investigative, research, or reporting activities of the victim;

4 (13) At the time the person committed the murder, there existed a  
5 court order, issued in this or any other state, which prohibited the  
6 person from either contacting the victim, molesting the victim, or  
7 disturbing the peace of the victim, and the person had knowledge of the  
8 existence of that order;

9 (14) At the time the person committed the murder, the person and  
10 the victim were "family or household members" as that term is defined  
11 in RCW 10.99.020(~~(+1)~~) (3), and the person had previously engaged in  
12 a pattern or practice of three or more of the following crimes  
13 committed upon the victim within a five-year period, regardless of  
14 whether a conviction resulted:

15 (a) Harassment as defined in RCW 9A.46.020; or

16 (b) Any criminal assault;

17 (15) The murder was committed with sexual motivation and the victim  
18 was under the age of sixteen;

19 (16) The murder was committed with sexual motivation and the victim  
20 was physically helpless or mentally incapacitated, or was a person with  
21 a developmental disability, a mentally disordered person, or a frail  
22 elder or vulnerable adult.

23 NEW SECTION. Sec. 15. A new section is added to chapter 9.94A RCW  
24 to read as follows:

25 (1) An offender shall be sentenced under this section if:

26 (a) He or she is not a persistent offender;

27 (b) He or she is convicted of a sex offense that is not sentenced  
28 under RCW 9.94A.712; and

29 (c) The standard range for the sex offense includes the possibility  
30 of confinement for more than one year.

31 (2) A court shall sentence an offender sentenced under this section  
32 to:

33 (a) A minimum term and a maximum term. The minimum term shall be  
34 either within the standard sentence range for the offense or outside  
35 the standard sentence range pursuant to RCW 9.94A.535. The maximum  
36 term shall be the statutory maximum sentence for the offense; and

1 (b) A term of community custody pursuant to RCW 9.94A.715 to be  
2 served upon the offender's release from total confinement.

3 (3) An offender sentenced under this section shall serve his or her  
4 sentence in a facility or institution operated, or utilized under  
5 contract, by the state.

6 (4) An offender sentenced under this section may not be released  
7 prior to the expiration of his or her minimum term, minus any earned  
8 release credits the offender may have earned under RCW 9.94A.728,  
9 unless the offender has:

10 (a) Completed all of the requirements of the department's sex  
11 offender treatment program and the program administrator has verified  
12 that the offender's risk of sexual recidivism has been reduced; and

13 (b) Acknowledged that he or she is guilty of his or her crime of  
14 conviction.

15 **Sec. 16.** RCW 9.95.420 and 2002 c 174 s 1 are each amended to read  
16 as follows:

17 (1)(a) Except as provided in (c) of this subsection, before the  
18 expiration of the minimum term, as part of the end of sentence review  
19 process under RCW 72.09.340, 72.09.345, and where appropriate,  
20 72.09.370, the department shall conduct, and the offender shall  
21 participate in, an examination of the offender, incorporating  
22 methodologies that are recognized by experts in the prediction of  
23 sexual dangerousness, and including a prediction of the probability  
24 that the offender will engage in sex offenses if released.

25 (b) The board may contract for an additional, independent  
26 examination, subject to the standards in this section.

27 (c) If at the time the sentence is imposed by the superior court  
28 the offender's minimum term has expired or will expire within one  
29 hundred twenty days of the sentencing hearing, the department shall  
30 conduct, within ninety days of the offender's arrival at a department  
31 of corrections facility, and the offender shall participate in, an  
32 examination of the offender, incorporating methodologies that are  
33 recognized by experts in the prediction of sexual dangerousness, and  
34 including a prediction of the probability that the offender will engage  
35 in sex offenses if released.

36 (2) The board shall impose the conditions and instructions provided  
37 for in RCW 9.94A.720. The board shall consider the department's

1 recommendations and may impose conditions in addition to those  
2 recommended by the department. The board may impose or modify  
3 conditions of community custody following notice to the offender.

4 (3)(a) Except as provided in (b) of this subsection, no later than  
5 ninety days before expiration of the minimum term, but after the board  
6 receives the results from the end of sentence review process and the  
7 recommendations for additional or modified conditions of community  
8 custody from the department, the board shall conduct a hearing to  
9 determine whether it is more likely than not that the offender will  
10 engage in sex offenses if released on conditions to be set by the  
11 board. The board may consider an offender's failure to participate in  
12 an evaluation under subsection (1) of this section in determining  
13 whether to release the offender. The board shall order the offender  
14 released, under such affirmative and other conditions as the board  
15 determines appropriate, unless the board determines by a preponderance  
16 of the evidence that, despite such conditions, it is more likely than  
17 not that the offender will commit sex offenses if released, that the  
18 offender has not completed all of the requirements of the department's  
19 sex offender treatment program, that the sex offender treatment program  
20 administrator has not verified that the offender's risk of sexual  
21 recidivism has been reduced, or that the offender has not acknowledged  
22 that he or she is guilty of his or her crime of conviction. If the  
23 board does not order the offender released, the board shall establish  
24 a new minimum term, not to exceed an additional two years.

25 (b) If at the time the offender's minimum term has expired or will  
26 expire within one hundred twenty days of the offender's arrival at a  
27 department of correction's facility, then no later than one hundred  
28 twenty days after the offender's arrival at a department of corrections  
29 facility, but after the board receives the results from the end of  
30 sentence review process and the recommendations for additional or  
31 modified conditions of community custody from the department, the board  
32 shall conduct a hearing to determine whether it is more likely than not  
33 that the offender will engage in sex offenses if released on conditions  
34 to be set by the board. The board may consider an offender's failure  
35 to participate in an evaluation under subsection (1) of this section in  
36 determining whether to release the offender. The board shall order the  
37 offender released, under such affirmative and other conditions as the  
38 board determines appropriate, unless the board determines by a

1 preponderance of the evidence that, despite such conditions, it is more  
2 likely than not that the offender will commit sex offenses if released,  
3 that the offender has not completed all of the requirements of the  
4 department's sex offender treatment program, that the sex offender  
5 treatment program administrator has not verified that the offender's  
6 risk of sexual recidivism has been reduced, or that the offender has  
7 not acknowledged that he or she is guilty of his or her crime of  
8 conviction. If the board does not order the offender released, the  
9 board shall establish a new minimum term, not to exceed an additional  
10 two years.

11 **Sec. 17.** RCW 72.09.335 and 2001 2nd sp.s. c 12 s 305 are each  
12 amended to read as follows:

13 (1) The department shall provide offenders sentenced under RCW  
14 9.94A.712 or section 15 of this act with the opportunity for sex  
15 offender treatment during incarceration.

16 (2) The department may not provide sex offender treatment to an  
17 offender who is sentenced to life without the possibility of release.

18 **Sec. 18.** RCW 9.94A.505 and 2002 c 290 s 17, 2002 c 289 s 6, and  
19 2002 c 175 s 6 are each reenacted and amended to read as follows:

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

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

24 (i) Unless another term of confinement applies, the court shall  
25 impose a sentence within the standard sentence range established in RCW  
26 9.94A.510 or 9.94A.517;

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

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

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

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

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

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

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

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

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

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

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

7 (xiii) Section 15 of this act, relating to certain sex offenses.

8 (b) If a standard sentence range has not been established for the  
9 offender's crime, the court shall impose a determinate sentence which  
10 may include not more than one year of confinement; community  
11 restitution work; until July 1, 2000, a term of community supervision  
12 not to exceed one year and on and after July 1, 2000, a term of  
13 community custody not to exceed one year, subject to conditions and  
14 sanctions as authorized in RCW 9.94A.710 (2) and (3); and/or other  
15 legal financial obligations. The court may impose a sentence which  
16 provides more than one year of confinement if the court finds reasons  
17 justifying an exceptional sentence as provided in RCW 9.94A.535.

18 (3) If the court imposes a sentence requiring confinement of thirty  
19 days or less, the court may, in its discretion, specify that the  
20 sentence be served on consecutive or intermittent days. A sentence  
21 requiring more than thirty days of confinement shall be served on  
22 consecutive days. Local jail administrators may schedule court-ordered  
23 intermittent sentences as space permits.

24 (4) If a sentence imposed includes payment of a legal financial  
25 obligation, it shall be imposed as provided in RCW 9.94A.750,  
26 9.94A.753, 9.94A.760, and 43.43.7541.

27 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a  
28 court may not impose a sentence providing for a term of confinement or  
29 community supervision, community placement, or community custody which  
30 exceeds the statutory maximum for the crime as provided in chapter  
31 9A.20 RCW.

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

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

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

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

15 (10) In any sentence of partial confinement, the court may require  
16 the offender to serve the partial confinement in work release, in a  
17 program of home detention, on work crew, or in a combined program of  
18 work crew and home detention.

19 (11) In sentencing an offender convicted of a crime of domestic  
20 violence, as defined in RCW 10.99.020, if the offender has a minor  
21 child, or if the victim of the offense for which the offender was  
22 convicted has a minor child, the court may, as part of any term of  
23 community supervision, community placement, or community custody, order  
24 the offender to participate in a domestic violence perpetrator program  
25 approved under RCW 26.50.150.

26 **Sec. 19.** RCW 9.94A.670 and 2004 c 176 s 4 and 2004 c 38 s 9 are  
27 each reenacted and amended to read as follows:

28 (1) Unless the context clearly requires otherwise, the definitions  
29 in this subsection apply to this section only.

30 (a) "Family member" means a relative by blood, marriage, or  
31 adoption, or a foster parent.

32 (b) "Sex offender treatment provider" or "treatment provider" means  
33 a certified sex offender treatment provider or a certified affiliate  
34 sex offender treatment provider as defined in RCW 18.155.020.

35 ((+b)) (c) "Substantial bodily harm" means bodily injury that  
36 involves a temporary but substantial disfigurement, or that causes a

1 temporary but substantial loss or impairment of the function of any  
2 body part or organ, or that causes a fracture of any body part or  
3 organ.

4 ~~((e))~~ (d) "Victim" means any person who has sustained emotional,  
5 psychological, physical, or financial injury to person or property as  
6 a result of the crime charged. "Victim" also means a parent or  
7 guardian of a victim who is a minor child unless the parent or guardian  
8 is the perpetrator of the offense.

9 (2) An offender is eligible for the special sex offender sentencing  
10 alternative if:

11 (a) The offender has been convicted of a sex offense other than a  
12 violation of RCW 9A.44.050 or a sex offense that is also a serious  
13 violent offense;

14 (b) The offender has no prior convictions for a sex offense as  
15 defined in RCW 9.94A.030 or any other felony sex offenses in this or  
16 any other state;

17 (c) The offender has no prior adult convictions for a violent  
18 offense that was committed within five years of the date the current  
19 offense was committed;

20 (d) The offense did not result in substantial bodily harm to the  
21 victim;

22 (e) The offender ~~((had an established relationship with, or  
23 connection to, the victim such that the sole connection with the victim  
24 was not the commission of the crime))~~ was not, at the time of the  
25 offense, a person who undertakes the responsibility, professionally or  
26 voluntarily, to provide education, health, welfare, or organized  
27 recreational activities principally for minors; ((and))

28 (f) The offender was not, at the time of the offense, a person who,  
29 in the course of his or her employment, supervised minors;

30 (g) The testimony of the immediate victim of the crime is material  
31 to the case or necessary to the prosecution of the offender;

32 (h) The victim refuses to cooperate in the investigation, or is  
33 unwilling, unable, or unavailable to testify;

34 (i) The offender has not committed multiple acts constituting sex  
35 offenses against the same victim, regardless of whether the offender  
36 was subject to criminal charges for the acts;

37 (j) The immediate victim or immediate victim's family agrees to the  
38 sentence imposed under this section;

1       (k) The offender's standard sentence range for the offense includes  
2 the possibility of confinement for less than eleven years; and  
3 (l) The offender was the immediate victim's family member.

4       (3) If the court finds the offender is eligible for this  
5 alternative, the court, on its own motion or the motion of the state or  
6 the offender, may order an examination to determine whether the  
7 offender is amenable to treatment.

8       (a) The report of the examination shall include at a minimum the  
9 following:

10       (i) The offender's version of the facts and the official version of  
11 the facts;

12       (ii) The offender's offense history;

13       (iii) An assessment of problems in addition to alleged deviant  
14 behaviors;

15       (iv) The offender's social and employment situation; and

16       (v) Other evaluation measures used.

17       The report shall set forth the sources of the examiner's  
18 information.

19       (b) The examiner shall assess and report regarding the offender's  
20 amenability to treatment and relative risk to the community. A  
21 proposed treatment plan shall be provided and shall include, at a  
22 minimum:

23       (i) Frequency and type of contact between offender and therapist;

24       (ii) Specific issues to be addressed in the treatment and  
25 description of planned treatment modalities;

26       (iii) Monitoring plans, including any requirements regarding living  
27 conditions, lifestyle requirements, and monitoring by family members  
28 and others;

29       (iv) Anticipated length of treatment; and

30       (v) Recommended crime-related prohibitions and affirmative  
31 conditions, which must include, to the extent known, an identification  
32 of specific activities or behaviors that are precursors to the  
33 offender's offense cycle, including, but not limited to, activities or  
34 behaviors such as viewing or listening to pornography or use of alcohol  
35 or controlled substances.

36       (c) The court on its own motion may order, or on a motion by the  
37 state shall order, a second examination regarding the offender's  
38 amenability to treatment. The examiner shall be selected by the party

1 making the motion. The offender shall pay the cost of any second  
2 examination ordered unless the court finds the defendant to be indigent  
3 in which case the state shall pay the cost.

4 (4) After receipt of the reports, the court shall consider whether  
5 the offender and the community will benefit from use of this  
6 alternative, consider whether the alternative is too lenient in light  
7 of the extent and circumstances of the offense, consider whether the  
8 offender has victims in addition to the victim of the offense, consider  
9 whether the offender is amenable to treatment, consider the risk the  
10 offender would present to the community, to the victim, or to persons  
11 of similar age and circumstances as the victim, and consider the  
12 victim's opinion whether the offender should receive a treatment  
13 disposition under this section. The court shall give great weight to  
14 the victim's opinion whether the offender should receive a treatment  
15 disposition under this section. If the sentence imposed is contrary to  
16 the victim's opinion, the court shall enter written findings stating  
17 its reasons for imposing the treatment disposition. The fact that the  
18 offender admits to his or her offense does not, by itself, constitute  
19 amenability to treatment. If the court determines that this  
20 alternative is appropriate, the court shall then impose a sentence or,  
21 pursuant to RCW 9.94A.712, a minimum term of sentence, within the  
22 standard sentence range. If the sentence imposed is less than eleven  
23 years of confinement, the court may suspend the execution of the  
24 sentence and impose the following conditions of suspension:

25 (a) The court shall order the offender to serve a term of  
26 confinement of up to twelve months or the maximum term within the  
27 standard range, whichever is less. The court may order the offender to  
28 serve a term of confinement greater than twelve months or the maximum  
29 term within the standard range based on the presence of an aggravating  
30 circumstance listed in RCW 9.94A.535(~~(+2)~~) (3). In no case shall the  
31 term of confinement exceed the statutory maximum sentence for the  
32 offense. The court may order the offender to serve all or part of his  
33 or her term of confinement in partial confinement. An offender  
34 sentenced to a term of confinement under this subsection is not  
35 eligible for earned release under RCW 9.92.151 or 9.94A.728.

36 (b) The court shall place the offender on community custody for the  
37 length of the suspended sentence, the length of the maximum term

1 imposed pursuant to RCW 9.94A.712, or three years, whichever is  
2 greater, and require the offender to comply with any conditions imposed  
3 by the department under RCW 9.94A.720.

4 (c) The court shall order treatment for any period up to five years  
5 in duration. The court, in its discretion, shall order outpatient sex  
6 offender treatment or inpatient sex offender treatment, if available.  
7 A community mental health center may not be used for such treatment  
8 unless it has an appropriate program designed for sex offender  
9 treatment. The offender shall not change sex offender treatment  
10 providers or treatment conditions without first notifying the  
11 prosecutor, the community corrections officer, and the court. If any  
12 party or the court objects to a proposed change, the offender shall not  
13 change providers or conditions without court approval after a hearing.

14 (d) As conditions of the suspended sentence, the court shall impose  
15 specific prohibitions and affirmative conditions relating to the known  
16 precursor activities or behaviors identified in the proposed treatment  
17 plan under subsection (3)(b)(v) of this section or identified in an  
18 annual review under subsection (7)(b) of this section.

19 (5) As conditions of the suspended sentence, the court may impose  
20 one or more of the following:

21 (a) Crime-related prohibitions;

22 (b) Require the offender to devote time to a specific employment or  
23 occupation;

24 (c) Require the offender to remain within prescribed geographical  
25 boundaries and notify the court or the community corrections officer  
26 prior to any change in the offender's address or employment;

27 (d) Require the offender to report as directed to the court and a  
28 community corrections officer;

29 (e) Require the offender to pay all court-ordered legal financial  
30 obligations as provided in RCW 9.94A.030;

31 (f) Require the offender to perform community restitution work; or

32 (g) Require the offender to reimburse the victim for the cost of  
33 any counseling required as a result of the offender's crime.

34 (6) At the time of sentencing, the court shall set a treatment  
35 termination hearing for three months prior to the anticipated date for  
36 completion of treatment.

37 (7)(a) The sex offender treatment provider shall submit quarterly  
38 reports on the offender's progress in treatment to the court and the

1 parties. The report shall reference the treatment plan and include at  
2 a minimum the following: Dates of attendance, offender's compliance  
3 with requirements, treatment activities, the offender's relative  
4 progress in treatment, and any other material specified by the court at  
5 sentencing.

6 (b) The court shall conduct a hearing on the offender's progress in  
7 treatment at least once a year. At least fourteen days prior to the  
8 hearing, notice of the hearing shall be given to the victim. The  
9 victim shall be given the opportunity to make statements to the court  
10 regarding the offender's supervision and treatment. At the hearing,  
11 the court may modify conditions of community custody including, but not  
12 limited to, crime-related prohibitions and affirmative conditions  
13 relating to activities and behaviors identified as part of, or relating  
14 to precursor activities and behaviors in, the offender's offense cycle  
15 or revoke the suspended sentence.

16 (8) At least fourteen days prior to the treatment termination  
17 hearing, notice of the hearing shall be given to the victim. The  
18 victim shall be given the opportunity to make statements to the court  
19 regarding the offender's supervision and treatment. Prior to the  
20 treatment termination hearing, the treatment provider and community  
21 corrections officer shall submit written reports to the court and  
22 parties regarding the offender's compliance with treatment and  
23 monitoring requirements, and recommendations regarding termination from  
24 treatment, including proposed community custody conditions. The court  
25 may order an evaluation regarding the advisability of termination from  
26 treatment by a sex offender treatment provider who may not be the same  
27 person who treated the offender under subsection (4) of this section or  
28 any person who employs, is employed by, or shares profits with the  
29 person who treated the offender under subsection (4) of this section  
30 unless the court has entered written findings that such evaluation is  
31 in the best interest of the victim and that a successful evaluation of  
32 the offender would otherwise be impractical. The offender shall pay  
33 the cost of the evaluation. At the treatment termination hearing the  
34 court may: (a) Modify conditions of community custody, and either (b)  
35 terminate treatment, or (c) extend treatment in two-year increments for  
36 up to the remaining period of community custody.

37 (9)(a) If a violation of conditions other than a second violation  
38 of the prohibitions or affirmative conditions relating to precursor

1 behaviors or activities imposed under subsection (4)(d) or (7)(b) of  
2 this section occurs during community custody, the department shall  
3 either impose sanctions as provided for in RCW 9.94A.737(2)(a) or refer  
4 the violation to the court and recommend revocation of the suspended  
5 sentence as provided for in subsections (6) and (8) of this section.

6 (b) If a second violation of the prohibitions or affirmative  
7 conditions relating to precursor behaviors or activities imposed under  
8 subsection (4)(d) or (7)(b) of this section occurs during community  
9 custody, the department shall refer the violation to the court and  
10 recommend revocation of the suspended sentence as provided in  
11 subsection (10) of this section.

12 (10) The court may revoke the suspended sentence at any time during  
13 the period of community custody and order execution of the sentence if:  
14 (a) The offender violates the conditions of the suspended sentence, or  
15 (b) the court finds that the offender is failing to make satisfactory  
16 progress in treatment. All confinement time served during the period  
17 of community custody shall be credited to the offender if the suspended  
18 sentence is revoked.

19 (11) The offender's sex offender treatment provider may not be the  
20 same person who examined the offender under subsection (3) of this  
21 section or any person who employs, is employed by, or shares profits  
22 with the person who examined the offender under subsection (3) of this  
23 section, unless the court has entered written findings that such  
24 treatment is in the best interests of the victim and that successful  
25 treatment of the offender would otherwise be impractical. Examinations  
26 and treatment ordered pursuant to this subsection shall only be  
27 conducted by certified sex offender treatment providers or certified  
28 affiliate sex offender treatment providers under chapter 18.155 RCW  
29 unless the court finds that:

30 (a) The offender has already moved to another state or plans to  
31 move to another state for reasons other than circumventing the  
32 certification requirements; or

33 (b)(i) No certified sex offender treatment providers or certified  
34 affiliate sex offender treatment providers are available for treatment  
35 within a reasonable geographical distance of the offender's home; and

36 (ii) The evaluation and treatment plan comply with this section and  
37 the rules adopted by the department of health.

1 (12) If the offender is less than eighteen years of age when the  
2 charge is filed, the state shall pay for the cost of initial evaluation  
3 and treatment.

4 **Sec. 20.** RCW 9A.44.130 and 2003 c 215 s 1 and 2003 c 53 s 68 are  
5 each reenacted and amended to read as follows:

6 (1) Any adult or juvenile residing whether or not the person has a  
7 fixed residence, or who is a student, is employed, or carries on a  
8 vocation in this state who has been found to have committed or has been  
9 convicted of any sex offense or kidnapping offense, or who has been  
10 found not guilty by reason of insanity under chapter 10.77 RCW of  
11 committing any sex offense or kidnapping offense, shall register with  
12 the county sheriff for the county of the person's residence, or if the  
13 person is not a resident of Washington, the county of the person's  
14 school, or place of employment or vocation, or as otherwise specified  
15 in this section. Where a person required to register under this  
16 section is in custody of the state department of corrections, the state  
17 department of social and health services, a local division of youth  
18 services, or a local jail or juvenile detention facility as a result of  
19 a sex offense or kidnapping offense, the person shall also register at  
20 the time of release from custody with an official designated by the  
21 agency that has jurisdiction over the person. In addition, any such  
22 adult or juvenile: (a) Who is admitted to a public or private  
23 institution of higher education shall, within ten days of enrolling or  
24 by the first business day after arriving at the institution, whichever  
25 is earlier, notify the sheriff for the county of the person's residence  
26 of the person's intent to attend the institution; (b) who gains  
27 employment at a public or private institution of higher education  
28 shall, within ten days of accepting employment or by the first business  
29 day after commencing work at the institution, whichever is earlier,  
30 notify the sheriff for the county of the person's residence of the  
31 person's employment by the institution; or (c) whose enrollment or  
32 employment at a public or private institution of higher education is  
33 terminated shall, within ten days of such termination, notify the  
34 sheriff for the county of the person's residence of the person's  
35 termination of enrollment or employment at the institution. Persons  
36 required to register under this section who are enrolled in a public or  
37 private institution of higher education on June 11, 1998, must notify

1 the county sheriff immediately. The sheriff shall notify the  
2 institution's department of public safety and shall provide that  
3 department with the same information provided to a county sheriff under  
4 subsection (3) of this section.

5 (2) This section may not be construed to confer any powers pursuant  
6 to RCW ((~~4.24.500~~)) 4.24.550 upon the public safety department of any  
7 public or private institution of higher education.

8 (3)(a) The person shall provide the following information when  
9 registering: (i) Name; (ii) complete residential address; (iii) date  
10 and place of birth; (iv) place of employment; (v) crime for which  
11 convicted; (vi) date and place of conviction; (vii) aliases used;  
12 (viii) social security number; (ix) photograph; and (x) fingerprints.

13 (b) Any person who lacks a fixed residence shall provide the  
14 following information when registering: (i) Name; (ii) date and place  
15 of birth; (iii) place of employment; (iv) crime for which convicted;  
16 (v) date and place of conviction; (vi) aliases used; (vii) social  
17 security number; (viii) photograph; (ix) fingerprints; and (x) where he  
18 or she plans to stay.

19 (4)(a) Offenders shall register with the county sheriff within the  
20 following deadlines. For purposes of this section the term  
21 "conviction" refers to adult convictions and juvenile adjudications for  
22 sex offenses or kidnapping offenses:

23 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
24 offense on, before, or after February 28, 1990, and who, on or after  
25 July 28, 1991, are in custody, as a result of that offense, of the  
26 state department of corrections, the state department of social and  
27 health services, a local division of youth services, or a local jail or  
28 juvenile detention facility, and (B) kidnapping offenders who on or  
29 after July 27, 1997, are in custody of the state department of  
30 corrections, the state department of social and health services, a  
31 local division of youth services, or a local jail or juvenile detention  
32 facility, must register at the time of release from custody with an  
33 official designated by the agency that has jurisdiction over the  
34 offender. The agency shall within three days forward the registration  
35 information to the county sheriff for the county of the offender's  
36 anticipated residence. The offender must also register within twenty-  
37 four hours from the time of release with the county sheriff for the  
38 county of the person's residence, or if the person is not a resident of

1 Washington, the county of the person's school, or place of employment  
2 or vocation. The agency that has jurisdiction over the offender shall  
3 provide notice to the offender of the duty to register. Failure to  
4 register at the time of release and within twenty-four hours of release  
5 constitutes a violation of this section and is punishable as provided  
6 in subsection (10) of this section.

7 When the agency with jurisdiction intends to release an offender  
8 with a duty to register under this section, and the agency has  
9 knowledge that the offender is eligible for developmental disability  
10 services from the department of social and health services, the agency  
11 shall notify the division of developmental disabilities of the release.  
12 Notice shall occur not more than thirty days before the offender is to  
13 be released. The agency and the division shall assist the offender in  
14 meeting the initial registration requirement under this section.  
15 Failure to provide such assistance shall not constitute a defense for  
16 any violation of this section.

17 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
18 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody  
19 but are under the jurisdiction of the indeterminate sentence review  
20 board or under the department of correction's active supervision, as  
21 defined by the department of corrections, the state department of  
22 social and health services, or a local division of youth services, for  
23 sex offenses committed before, on, or after February 28, 1990, must  
24 register within ten days of July 28, 1991. Kidnapping offenders who,  
25 on July 27, 1997, are not in custody but are under the jurisdiction of  
26 the indeterminate sentence review board or under the department of  
27 correction's active supervision, as defined by the department of  
28 corrections, the state department of social and health services, or a  
29 local division of youth services, for kidnapping offenses committed  
30 before, on, or after July 27, 1997, must register within ten days of  
31 July 27, 1997. A change in supervision status of a sex offender who  
32 was required to register under this subsection (4)(a)(ii) as of July  
33 28, 1991, or a kidnapping offender required to register as of July 27,  
34 1997, shall not relieve the offender of the duty to register or to  
35 reregister following a change in residence. The obligation to register  
36 shall only cease pursuant to RCW 9A.44.140.

37 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on  
38 or after July 23, 1995, and kidnapping offenders who, on or after July

1 27, 1997, as a result of that offense are in the custody of the United  
2 States bureau of prisons or other federal or military correctional  
3 agency for sex offenses committed before, on, or after February 28,  
4 1990, or kidnapping offenses committed on, before, or after July 27,  
5 1997, must register within twenty-four hours from the time of release  
6 with the county sheriff for the county of the person's residence, or if  
7 the person is not a resident of Washington, the county of the person's  
8 school, or place of employment or vocation. Sex offenders who, on July  
9 23, 1995, are not in custody but are under the jurisdiction of the  
10 United States bureau of prisons, United States courts, United States  
11 parole commission, or military parole board for sex offenses committed  
12 before, on, or after February 28, 1990, must register within ten days  
13 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not  
14 in custody but are under the jurisdiction of the United States bureau  
15 of prisons, United States courts, United States parole commission, or  
16 military parole board for kidnapping offenses committed before, on, or  
17 after July 27, 1997, must register within ten days of July 27, 1997.  
18 A change in supervision status of a sex offender who was required to  
19 register under this subsection (4)(a)(iii) as of July 23, 1995, or a  
20 kidnapping offender required to register as of July 27, 1997 shall not  
21 relieve the offender of the duty to register or to reregister following  
22 a change in residence, or if the person is not a resident of  
23 Washington, the county of the person's school, or place of employment  
24 or vocation. The obligation to register shall only cease pursuant to  
25 RCW 9A.44.140.

26 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
27 who are convicted of a sex offense on or after July 28, 1991, for a sex  
28 offense that was committed on or after February 28, 1990, and  
29 kidnapping offenders who are convicted on or after July 27, 1997, for  
30 a kidnapping offense that was committed on or after July 27, 1997, but  
31 who are not sentenced to serve a term of confinement immediately upon  
32 sentencing, shall report to the county sheriff to register immediately  
33 upon completion of being sentenced.

34 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON  
35 RESIDENTS. Sex offenders and kidnapping offenders who move to  
36 Washington state from another state or a foreign country that are not  
37 under the jurisdiction of the state department of corrections, the  
38 indeterminate sentence review board, or the state department of social

1 and health services at the time of moving to Washington, must register  
2 within (~~(thirty days)~~) seventy-two hours of establishing residence or  
3 reestablishing residence if the person is a former Washington resident.  
4 The duty to register under this subsection applies to sex offenders  
5 convicted under the laws of another state or a foreign country, federal  
6 or military statutes, or Washington state for offenses committed on or  
7 after February 28, 1990, and to kidnapping offenders convicted under  
8 the laws of another state or a foreign country, federal or military  
9 statutes, or Washington state for offenses committed on or after July  
10 27, 1997. Sex offenders and kidnapping offenders from other states or  
11 a foreign country who, when they move to Washington, are under the  
12 jurisdiction of the department of corrections, the indeterminate  
13 sentence review board, or the department of social and health services  
14 must register within twenty-four hours of moving to Washington. The  
15 agency that has jurisdiction over the offender shall notify the  
16 offender of the registration requirements before the offender moves to  
17 Washington.

18 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
19 or juvenile who has been found not guilty by reason of insanity under  
20 chapter 10.77 RCW of (A) committing a sex offense on, before, or after  
21 February 28, 1990, and who, on or after July 23, 1995, is in custody,  
22 as a result of that finding, of the state department of social and  
23 health services, or (B) committing a kidnapping offense on, before, or  
24 after July 27, 1997, and who on or after July 27, 1997, is in custody,  
25 as a result of that finding, of the state department of social and  
26 health services, must register within twenty-four hours from the time  
27 of release with the county sheriff for the county of the person's  
28 residence. The state department of social and health services shall  
29 provide notice to the adult or juvenile in its custody of the duty to  
30 register. Any adult or juvenile who has been found not guilty by  
31 reason of insanity of committing a sex offense on, before, or after  
32 February 28, 1990, but who was released before July 23, 1995, or any  
33 adult or juvenile who has been found not guilty by reason of insanity  
34 of committing a kidnapping offense but who was released before July 27,  
35 1997, shall be required to register within twenty-four hours of  
36 receiving notice of this registration requirement. The state  
37 department of social and health services shall make reasonable attempts  
38 within available resources to notify sex offenders who were released

1 before July 23, 1995, and kidnapping offenders who were released before  
2 July 27, 1997. Failure to register within twenty-four hours of  
3 release, or of receiving notice, constitutes a violation of this  
4 section and is punishable as provided in subsection (10) of this  
5 section.

6 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks  
7 a fixed residence and leaves the county in which he or she is  
8 registered and enters and remains within a new county for twenty-four  
9 hours is required to register with the county sheriff not more than  
10 twenty-four hours after entering the county and provide the information  
11 required in subsection (3)(b) of this section.

12 (viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER  
13 SUPERVISION. Offenders who lack a fixed residence and who are under  
14 the supervision of the department shall register in the county of their  
15 supervision.

16 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND  
17 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,  
18 who move to another state, or who work, carry on a vocation, or attend  
19 school in another state shall register a new address, fingerprints, and  
20 photograph with the new state within ten days after establishing  
21 residence, or after beginning to work, carry on a vocation, or attend  
22 school in the new state. The person must also send written notice  
23 within ten days of moving to the new state or to a foreign country to  
24 the county sheriff with whom the person last registered in Washington  
25 state. The county sheriff shall promptly forward this information to  
26 the Washington state patrol.

27 (b) Failure to register within the time required under this section  
28 constitutes a per se violation of this section and is punishable as  
29 provided in subsection (10) of this section. The county sheriff shall  
30 not be required to determine whether the person is living within the  
31 county.

32 (c) An arrest on charges of failure to register, service of an  
33 information, or a complaint for a violation of this section, or  
34 arraignment on charges for a violation of this section, constitutes  
35 actual notice of the duty to register. Any person charged with the  
36 crime of failure to register under this section who asserts as a  
37 defense the lack of notice of the duty to register shall register  
38 immediately following actual notice of the duty through arrest,

1 service, or arraignment. Failure to register as required under this  
2 subsection (4)(c) constitutes grounds for filing another charge of  
3 failing to register. Registering following arrest, service, or  
4 arraignment on charges shall not relieve the offender from criminal  
5 liability for failure to register prior to the filing of the original  
6 charge.

7 (d) The deadlines for the duty to register under this section do  
8 not relieve any sex offender of the duty to register under this section  
9 as it existed prior to July 28, 1991.

10 (5)(a) If any person required to register pursuant to this section  
11 changes his or her residence address within the same county, the person  
12 must send signed written notice of the change of address to the county  
13 sheriff within seventy-two hours of moving. If any person required to  
14 register pursuant to this section moves to a new county, the person  
15 must send signed written notice of the change of address at least  
16 fourteen days before moving to the county sheriff in the new county of  
17 residence and must register with that county sheriff within twenty-four  
18 hours of moving. The person must also send signed written notice  
19 within ten days of the change of address in the new county to the  
20 county sheriff with whom the person last registered. The county  
21 sheriff with whom the person last registered shall promptly forward the  
22 information concerning the change of address to the county sheriff for  
23 the county of the person's new residence. Upon receipt of notice of  
24 change of address to a new state, the county sheriff shall promptly  
25 forward the information regarding the change of address to the agency  
26 designated by the new state as the state's offender registration  
27 agency.

28 (b) It is an affirmative defense to a charge that the person failed  
29 to send a notice at least fourteen days in advance of moving as  
30 required under (a) of this subsection that the person did not know the  
31 location of his or her new residence at least fourteen days before  
32 moving. The defendant must establish the defense by a preponderance of  
33 the evidence and, to prevail on the defense, must also prove by a  
34 preponderance that the defendant sent the required notice within  
35 twenty-four hours of determining the new address.

36 (6)(a)(i) Any person required to register under this section who  
37 lacks a fixed residence shall provide signed written notice to the  
38 sheriff of the county where he or she last registered within forty-

1 eight hours excluding weekends and holidays after ceasing to have a  
2 fixed residence. The notice shall include the information required by  
3 subsection (3)(b) of this section, except the photograph and  
4 fingerprints. The county sheriff may, for reasonable cause, require  
5 the offender to provide a photograph and fingerprints. The sheriff  
6 shall forward this information to the sheriff of the county in which  
7 the person intends to reside, if the person intends to reside in  
8 another county.

9 ~~((b))~~ (ii) A person who lacks a fixed residence must report  
10 weekly, in person, to the sheriff of the county where he or she is  
11 registered. The weekly report shall be on a day specified by the  
12 county sheriff's office, and shall occur during normal business hours.  
13 The county sheriff's office ~~((may))~~ shall require the person to list  
14 the locations and, when applicable, the complete addresses, where the  
15 person has stayed during the last seven days and where the person plans  
16 to stay during the forthcoming week. The lack of a fixed residence is  
17 a factor that may be considered in determining an offender's risk level  
18 and shall make the offender subject to disclosure of information to the  
19 public at large pursuant to RCW 4.24.550.

20 ~~((e))~~ (iii) If any person required to register pursuant to this  
21 section does not have a fixed residence, it is an affirmative defense  
22 to the charge of failure to register, that he or she provided written  
23 notice to the sheriff of the county where he or she last registered  
24 within forty-eight hours excluding weekends and holidays after ceasing  
25 to have a fixed residence and has subsequently complied with the  
26 requirements of subsections (4)(a)(vii) or (viii) and (6) of this  
27 section. To prevail, the person must prove the defense by a  
28 preponderance of the evidence.

29 (b) A person with a fixed residence who is required to register  
30 under this section shall report to the sheriff of the county of the  
31 person's residence to update and confirm his or her registration  
32 information once a month for offenders designated as risk level III,  
33 once every four months for offenders designated as risk level II, and  
34 once a year for offenders designated as risk level I. The requirements  
35 of this subsection shall not affect the offender's duty under this  
36 section to notify the sheriff when his or her registration information  
37 changes.

1 (7) A sex offender subject to registration requirements under this  
2 section who applies to change his or her name under RCW 4.24.130 or any  
3 other law shall submit a copy of the application to the county sheriff  
4 of the county of the person's residence and to the state patrol not  
5 fewer than five days before the entry of an order granting the name  
6 change. No sex offender under the requirement to register under this  
7 section at the time of application shall be granted an order changing  
8 his or her name if the court finds that doing so will interfere with  
9 legitimate law enforcement interests, except that no order shall be  
10 denied when the name change is requested for religious or legitimate  
11 cultural reasons or in recognition of marriage or dissolution of  
12 marriage. A sex offender under the requirement to register under this  
13 section who receives an order changing his or her name shall submit a  
14 copy of the order to the county sheriff of the county of the person's  
15 residence and to the state patrol within five days of the entry of the  
16 order.

17 (8) The county sheriff shall obtain a photograph of the individual  
18 and shall obtain a copy of the individual's fingerprints.

19 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,  
20 70.48.470, and 72.09.330:

21 (a) "Sex offense" means:

22 (i) Any offense defined as a sex offense by RCW 9.94A.030;

23 (ii) Any violation under RCW 9A.44.096 (sexual misconduct with a  
24 minor in the second degree);

25 (iii) Any violation under RCW 9.68A.090 (communication with a minor  
26 for immoral purposes);

27 (iv) Any federal or out-of-state conviction for an offense that  
28 under the laws of this state would be classified as a sex offense under  
29 this subsection; and

30 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a  
31 criminal attempt, criminal solicitation, or criminal conspiracy to  
32 commit an offense that is classified as a sex offense under RCW  
33 9.94A.030 or this subsection.

34 (b) "Kidnapping offense" means: (i) The crimes of kidnapping in  
35 the first degree, kidnapping in the second degree, and unlawful  
36 imprisonment, as defined in chapter 9A.40 RCW, where the victim is a  
37 minor and the offender is not the minor's parent; (ii) any offense that  
38 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,

1 or criminal conspiracy to commit an offense that is classified as a  
2 kidnapping offense under this subsection (9)(b); and (iii) any federal  
3 or out-of-state conviction for an offense that under the laws of this  
4 state would be classified as a kidnapping offense under this subsection  
5 (9)(b).

6 (c) "Employed" or "carries on a vocation" means employment that is  
7 full-time or part-time for a period of time exceeding fourteen days, or  
8 for an aggregate period of time exceeding thirty days during any  
9 calendar year. A person is employed or carries on a vocation whether  
10 the person's employment is financially compensated, volunteered, or for  
11 the purpose of government or educational benefit.

12 (d) "Student" means a person who is enrolled, on a full-time or  
13 part-time basis, in any public or private educational institution. An  
14 educational institution includes any secondary school, trade or  
15 professional institution, or institution of higher education.

16 (10)(a) A person who knowingly fails to (~~register with the county~~  
17 ~~sheriff or notify the county sheriff, or who changes his or her name~~  
18 ~~without notifying the county sheriff and the state patrol, as required~~  
19 ~~by~~) comply with any of the requirements of this section is guilty of  
20 a class C felony if the crime for which the individual was convicted  
21 was a felony sex offense as defined in subsection (9)(a) of this  
22 section or a federal or out-of-state conviction for an offense that  
23 under the laws of this state would be a felony sex offense as defined  
24 in subsection (9)(a) of this section.

25 (b) If the crime for which the individual was convicted was other  
26 than a felony or a federal or out-of-state conviction for an offense  
27 that under the laws of this state would be other than a felony,  
28 violation of this section is a gross misdemeanor.

29 (11)(a) A person who knowingly fails to (~~register or who moves~~  
30 ~~within the state without notifying the county sheriff as required by~~)  
31 comply with any of the requirements of this section is guilty of a  
32 class C felony if the crime for which the individual was convicted was  
33 a felony kidnapping offense as defined in subsection (9)(b) of this  
34 section or a federal or out-of-state conviction for an offense that  
35 under the laws of this state would be a felony kidnapping offense as  
36 defined in subsection (9)(b) of this section.

37 (b) If the crime for which the individual was convicted was other

1 than a felony or a federal or out-of-state conviction for an offense  
2 that under the laws of this state would be other than a felony,  
3 violation of this section is a gross misdemeanor.

4 **Sec. 21.** RCW 9A.44.130 and 2005 c 380 s 1 are each amended to read  
5 as follows:

6 (1)(a) Any adult or juvenile residing whether or not the person has  
7 a fixed residence, or who is a student, is employed, or carries on a  
8 vocation in this state who has been found to have committed or has been  
9 convicted of any sex offense or kidnapping offense, or who has been  
10 found not guilty by reason of insanity under chapter 10.77 RCW of  
11 committing any sex offense or kidnapping offense, shall register with  
12 the county sheriff for the county of the person's residence, or if the  
13 person is not a resident of Washington, the county of the person's  
14 school, or place of employment or vocation, or as otherwise specified  
15 in this section. Where a person required to register under this  
16 section is in custody of the state department of corrections, the state  
17 department of social and health services, a local division of youth  
18 services, or a local jail or juvenile detention facility as a result of  
19 a sex offense or kidnapping offense, the person shall also register at  
20 the time of release from custody with an official designated by the  
21 agency that has jurisdiction over the person.

22 (b) Any adult or juvenile who is required to register under (a) of  
23 this subsection:

24 (i) Who is attending, or planning to attend, a public or private  
25 school regulated under Title 28A RCW or chapter 72.40 RCW shall, within  
26 ten days of enrolling or prior to arriving at the school to attend  
27 classes, whichever is earlier, notify the sheriff for the county of the  
28 person's residence of the person's intent to attend the school, and the  
29 sheriff shall promptly notify the principal of the school;

30 (ii) Who is admitted to a public or private institution of higher  
31 education shall, within ten days of enrolling or by the first business  
32 day after arriving at the institution, whichever is earlier, notify the  
33 sheriff for the county of the person's residence of the person's intent  
34 to attend the institution;

35 (iii) Who gains employment at a public or private institution of  
36 higher education shall, within ten days of accepting employment or by

1 the first business day after commencing work at the institution,  
2 whichever is earlier, notify the sheriff for the county of the person's  
3 residence of the person's employment by the institution; or

4 (iv) Whose enrollment or employment at a public or private  
5 institution of higher education is terminated shall, within ten days of  
6 such termination, notify the sheriff for the county of the person's  
7 residence of the person's termination of enrollment or employment at  
8 the institution.

9 (c) Persons required to register under this section who are  
10 enrolled in a public or private institution of higher education on June  
11 11, 1998, or a public or private school regulated under Title 28A RCW  
12 or chapter 72.40 RCW on September 1, 2006, must notify the county  
13 sheriff immediately.

14 (d) The sheriff shall notify the school's principal or  
15 institution's department of public safety and shall provide that  
16 department with the same information provided to a county sheriff under  
17 subsection (3) of this section.

18 (e)(i) A principal receiving notice under this subsection must  
19 disclose the information received from the sheriff under (b) of this  
20 subsection as follows:

21 (A) If the student who is required to register as a sex offender is  
22 classified as a risk level II or III, the principal shall provide the  
23 information received to every teacher of any student required to  
24 register under (a) of this subsection and to any other personnel who,  
25 in the judgment of the principal, supervises the student or for  
26 security purposes should be aware of the student's record;

27 (B) If the student who is required to register as a sex offender is  
28 classified as a risk level I, the principal shall provide the  
29 information received only to personnel who, in the judgment of the  
30 principal, for security purposes should be aware of the student's  
31 record.

32 (ii) Any information received by a principal or school personnel  
33 under this subsection is confidential and may not be further  
34 disseminated except as provided in RCW 28A.225.330, other statutes or  
35 case law, and the family and educational and privacy rights act of  
36 1994, 20 U.S.C. Sec. 1232g et seq.

37 (2) This section may not be construed to confer any powers pursuant

1 to RCW (~~4.24.500~~) 4.24.550 upon the public safety department of any  
2 public or private school or institution of higher education.

3 (3)(a) The person shall provide the following information when  
4 registering: (i) Name; (ii) complete residential address; (iii) date  
5 and place of birth; (iv) place of employment; (v) crime for which  
6 convicted; (vi) date and place of conviction; (vii) aliases used;  
7 (viii) social security number; (ix) photograph; and (x) fingerprints.

8 (b) Any person who lacks a fixed residence shall provide the  
9 following information when registering: (i) Name; (ii) date and place  
10 of birth; (iii) place of employment; (iv) crime for which convicted;  
11 (v) date and place of conviction; (vi) aliases used; (vii) social  
12 security number; (viii) photograph; (ix) fingerprints; and (x) where he  
13 or she plans to stay.

14 (4)(a) Offenders shall register with the county sheriff within the  
15 following deadlines. For purposes of this section the term  
16 "conviction" refers to adult convictions and juvenile adjudications for  
17 sex offenses or kidnapping offenses:

18 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex  
19 offense on, before, or after February 28, 1990, and who, on or after  
20 July 28, 1991, are in custody, as a result of that offense, of the  
21 state department of corrections, the state department of social and  
22 health services, a local division of youth services, or a local jail or  
23 juvenile detention facility, and (B) kidnapping offenders who on or  
24 after July 27, 1997, are in custody of the state department of  
25 corrections, the state department of social and health services, a  
26 local division of youth services, or a local jail or juvenile detention  
27 facility, must register at the time of release from custody with an  
28 official designated by the agency that has jurisdiction over the  
29 offender. The agency shall within three days forward the registration  
30 information to the county sheriff for the county of the offender's  
31 anticipated residence. The offender must also register within twenty-  
32 four hours from the time of release with the county sheriff for the  
33 county of the person's residence, or if the person is not a resident of  
34 Washington, the county of the person's school, or place of employment  
35 or vocation. The agency that has jurisdiction over the offender shall  
36 provide notice to the offender of the duty to register. Failure to  
37 register at the time of release and within twenty-four hours of release

1 constitutes a violation of this section and is punishable as provided  
2 in subsection (10) of this section.

3 When the agency with jurisdiction intends to release an offender  
4 with a duty to register under this section, and the agency has  
5 knowledge that the offender is eligible for developmental disability  
6 services from the department of social and health services, the agency  
7 shall notify the division of developmental disabilities of the release.  
8 Notice shall occur not more than thirty days before the offender is to  
9 be released. The agency and the division shall assist the offender in  
10 meeting the initial registration requirement under this section.  
11 Failure to provide such assistance shall not constitute a defense for  
12 any violation of this section.

13 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL  
14 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody  
15 but are under the jurisdiction of the indeterminate sentence review  
16 board or under the department of corrections' active supervision, as  
17 defined by the department of corrections, the state department of  
18 social and health services, or a local division of youth services, for  
19 sex offenses committed before, on, or after February 28, 1990, must  
20 register within ten days of July 28, 1991. Kidnapping offenders who,  
21 on July 27, 1997, are not in custody but are under the jurisdiction of  
22 the indeterminate sentence review board or under the department of  
23 corrections' active supervision, as defined by the department of  
24 corrections, the state department of social and health services, or a  
25 local division of youth services, for kidnapping offenses committed  
26 before, on, or after July 27, 1997, must register within ten days of  
27 July 27, 1997. A change in supervision status of a sex offender who  
28 was required to register under this subsection (4)(a)(ii) as of July  
29 28, 1991, or a kidnapping offender required to register as of July 27,  
30 1997, shall not relieve the offender of the duty to register or to  
31 reregister following a change in residence. The obligation to register  
32 shall only cease pursuant to RCW 9A.44.140.

33 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on  
34 or after July 23, 1995, and kidnapping offenders who, on or after July  
35 27, 1997, as a result of that offense are in the custody of the United  
36 States bureau of prisons or other federal or military correctional  
37 agency for sex offenses committed before, on, or after February 28,  
38 1990, or kidnapping offenses committed on, before, or after July 27,

1 1997, must register within twenty-four hours from the time of release  
2 with the county sheriff for the county of the person's residence, or if  
3 the person is not a resident of Washington, the county of the person's  
4 school, or place of employment or vocation. Sex offenders who, on July  
5 23, 1995, are not in custody but are under the jurisdiction of the  
6 United States bureau of prisons, United States courts, United States  
7 parole commission, or military parole board for sex offenses committed  
8 before, on, or after February 28, 1990, must register within ten days  
9 of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not  
10 in custody but are under the jurisdiction of the United States bureau  
11 of prisons, United States courts, United States parole commission, or  
12 military parole board for kidnapping offenses committed before, on, or  
13 after July 27, 1997, must register within ten days of July 27, 1997.  
14 A change in supervision status of a sex offender who was required to  
15 register under this subsection (4)(a)(iii) as of July 23, 1995, or a  
16 kidnapping offender required to register as of July 27, 1997 shall not  
17 relieve the offender of the duty to register or to reregister following  
18 a change in residence, or if the person is not a resident of  
19 Washington, the county of the person's school, or place of employment  
20 or vocation. The obligation to register shall only cease pursuant to  
21 RCW 9A.44.140.

22 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders  
23 who are convicted of a sex offense on or after July 28, 1991, for a sex  
24 offense that was committed on or after February 28, 1990, and  
25 kidnapping offenders who are convicted on or after July 27, 1997, for  
26 a kidnapping offense that was committed on or after July 27, 1997, but  
27 who are not sentenced to serve a term of confinement immediately upon  
28 sentencing, shall report to the county sheriff to register immediately  
29 upon completion of being sentenced.

30 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON  
31 RESIDENTS. Sex offenders and kidnapping offenders who move to  
32 Washington state from another state or a foreign country that are not  
33 under the jurisdiction of the state department of corrections, the  
34 indeterminate sentence review board, or the state department of social  
35 and health services at the time of moving to Washington, must register  
36 within (~~thirty days~~) seventy-two hours of establishing residence or  
37 reestablishing residence if the person is a former Washington resident.  
38 The duty to register under this subsection applies to sex offenders

1 convicted under the laws of another state or a foreign country, federal  
2 or military statutes, or Washington state for offenses committed on or  
3 after February 28, 1990, and to kidnapping offenders convicted under  
4 the laws of another state or a foreign country, federal or military  
5 statutes, or Washington state for offenses committed on or after July  
6 27, 1997. Sex offenders and kidnapping offenders from other states or  
7 a foreign country who, when they move to Washington, are under the  
8 jurisdiction of the department of corrections, the indeterminate  
9 sentence review board, or the department of social and health services  
10 must register within twenty-four hours of moving to Washington. The  
11 agency that has jurisdiction over the offender shall notify the  
12 offender of the registration requirements before the offender moves to  
13 Washington.

14 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult  
15 or juvenile who has been found not guilty by reason of insanity under  
16 chapter 10.77 RCW of (A) committing a sex offense on, before, or after  
17 February 28, 1990, and who, on or after July 23, 1995, is in custody,  
18 as a result of that finding, of the state department of social and  
19 health services, or (B) committing a kidnapping offense on, before, or  
20 after July 27, 1997, and who on or after July 27, 1997, is in custody,  
21 as a result of that finding, of the state department of social and  
22 health services, must register within twenty-four hours from the time  
23 of release with the county sheriff for the county of the person's  
24 residence. The state department of social and health services shall  
25 provide notice to the adult or juvenile in its custody of the duty to  
26 register. Any adult or juvenile who has been found not guilty by  
27 reason of insanity of committing a sex offense on, before, or after  
28 February 28, 1990, but who was released before July 23, 1995, or any  
29 adult or juvenile who has been found not guilty by reason of insanity  
30 of committing a kidnapping offense but who was released before July 27,  
31 1997, shall be required to register within twenty-four hours of  
32 receiving notice of this registration requirement. The state  
33 department of social and health services shall make reasonable attempts  
34 within available resources to notify sex offenders who were released  
35 before July 23, 1995, and kidnapping offenders who were released before  
36 July 27, 1997. Failure to register within twenty-four hours of  
37 release, or of receiving notice, constitutes a violation of this

1 section and is punishable as provided in subsection (10) of this  
2 section.

3 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks  
4 a fixed residence and leaves the county in which he or she is  
5 registered and enters and remains within a new county for twenty-four  
6 hours is required to register with the county sheriff not more than  
7 twenty-four hours after entering the county and provide the information  
8 required in subsection (3)(b) of this section.

9 (viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER  
10 SUPERVISION. Offenders who lack a fixed residence and who are under  
11 the supervision of the department shall register in the county of their  
12 supervision.

13 (ix) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND  
14 SCHOOL IN ANOTHER STATE. Offenders required to register in Washington,  
15 who move to another state, or who work, carry on a vocation, or attend  
16 school in another state shall register a new address, fingerprints, and  
17 photograph with the new state within ten days after establishing  
18 residence, or after beginning to work, carry on a vocation, or attend  
19 school in the new state. The person must also send written notice  
20 within ten days of moving to the new state or to a foreign country to  
21 the county sheriff with whom the person last registered in Washington  
22 state. The county sheriff shall promptly forward this information to  
23 the Washington state patrol.

24 (b) Failure to register within the time required under this section  
25 constitutes a per se violation of this section and is punishable as  
26 provided in subsection (10) of this section. The county sheriff shall  
27 not be required to determine whether the person is living within the  
28 county.

29 (c) An arrest on charges of failure to register, service of an  
30 information, or a complaint for a violation of this section, or  
31 arraignment on charges for a violation of this section, constitutes  
32 actual notice of the duty to register. Any person charged with the  
33 crime of failure to register under this section who asserts as a  
34 defense the lack of notice of the duty to register shall register  
35 immediately following actual notice of the duty through arrest,  
36 service, or arraignment. Failure to register as required under this  
37 subsection (4)(c) constitutes grounds for filing another charge of  
38 failing to register. Registering following arrest, service, or

1 arraignment on charges shall not relieve the offender from criminal  
2 liability for failure to register prior to the filing of the original  
3 charge.

4 (d) The deadlines for the duty to register under this section do  
5 not relieve any sex offender of the duty to register under this section  
6 as it existed prior to July 28, 1991.

7 (5)(a) If any person required to register pursuant to this section  
8 changes his or her residence address within the same county, the person  
9 must send signed written notice of the change of address to the county  
10 sheriff within seventy-two hours of moving. If any person required to  
11 register pursuant to this section moves to a new county, the person  
12 must send signed written notice of the change of address at least  
13 fourteen days before moving to the county sheriff in the new county of  
14 residence and must register with that county sheriff within twenty-four  
15 hours of moving. The person must also send signed written notice  
16 within ten days of the change of address in the new county to the  
17 county sheriff with whom the person last registered. The county  
18 sheriff with whom the person last registered shall promptly forward the  
19 information concerning the change of address to the county sheriff for  
20 the county of the person's new residence. Upon receipt of notice of  
21 change of address to a new state, the county sheriff shall promptly  
22 forward the information regarding the change of address to the agency  
23 designated by the new state as the state's offender registration  
24 agency.

25 (b) It is an affirmative defense to a charge that the person failed  
26 to send a notice at least fourteen days in advance of moving as  
27 required under (a) of this subsection that the person did not know the  
28 location of his or her new residence at least fourteen days before  
29 moving. The defendant must establish the defense by a preponderance of  
30 the evidence and, to prevail on the defense, must also prove by a  
31 preponderance that the defendant sent the required notice within  
32 twenty-four hours of determining the new address.

33 (6)(a)(i) Any person required to register under this section who  
34 lacks a fixed residence shall provide signed written notice to the  
35 sheriff of the county where he or she last registered within forty-  
36 eight hours excluding weekends and holidays after ceasing to have a  
37 fixed residence. The notice shall include the information required by  
38 subsection (3)(b) of this section, except the photograph and

1 fingerprints. The county sheriff may, for reasonable cause, require  
2 the offender to provide a photograph and fingerprints. The sheriff  
3 shall forward this information to the sheriff of the county in which  
4 the person intends to reside, if the person intends to reside in  
5 another county.

6 ~~((b))~~ (ii) A person who lacks a fixed residence must report  
7 weekly, in person, to the sheriff of the county where he or she is  
8 registered. The weekly report shall be on a day specified by the  
9 county sheriff's office, and shall occur during normal business hours.  
10 The county sheriff's office ~~((may))~~ shall require the person to list  
11 the locations and, when applicable, the complete addresses, where the  
12 person has stayed during the last seven days and where the person plans  
13 to stay during the forthcoming week. The lack of a fixed residence is  
14 a factor that may be considered in determining an offender's risk level  
15 and shall make the offender subject to disclosure of information to the  
16 public at large pursuant to RCW 4.24.550.

17 ~~((c))~~ (iii) If any person required to register pursuant to this  
18 section does not have a fixed residence, it is an affirmative defense  
19 to the charge of failure to register, that he or she provided written  
20 notice to the sheriff of the county where he or she last registered  
21 within forty-eight hours excluding weekends and holidays after ceasing  
22 to have a fixed residence and has subsequently complied with the  
23 requirements of subsections (4)(a)(vii) or (viii) and (6) of this  
24 section. To prevail, the person must prove the defense by a  
25 preponderance of the evidence.

26 (b) A person with a fixed residence who is required to register  
27 under this section shall report to the sheriff of the county of the  
28 person's residence to update and confirm his or her registration  
29 information once a month for offenders designated as risk level III,  
30 once every four months for offenders designated as risk level II, and  
31 once a year for offenders designated as risk level I. The requirements  
32 of this subsection shall not affect the offender's duty under this  
33 section to notify the sheriff when his or her registration information  
34 changes.

35 (7) A sex offender subject to registration requirements under this  
36 section who applies to change his or her name under RCW 4.24.130 or any  
37 other law shall submit a copy of the application to the county sheriff  
38 of the county of the person's residence and to the state patrol not

1 fewer than five days before the entry of an order granting the name  
2 change. No sex offender under the requirement to register under this  
3 section at the time of application shall be granted an order changing  
4 his or her name if the court finds that doing so will interfere with  
5 legitimate law enforcement interests, except that no order shall be  
6 denied when the name change is requested for religious or legitimate  
7 cultural reasons or in recognition of marriage or dissolution of  
8 marriage. A sex offender under the requirement to register under this  
9 section who receives an order changing his or her name shall submit a  
10 copy of the order to the county sheriff of the county of the person's  
11 residence and to the state patrol within five days of the entry of the  
12 order.

13 (8) The county sheriff shall obtain a photograph of the individual  
14 and shall obtain a copy of the individual's fingerprints.

15 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,  
16 70.48.470, and 72.09.330:

17 (a) "Sex offense" means:

18 (i) Any offense defined as a sex offense by RCW 9.94A.030;

19 (ii) Any violation under RCW 9A.44.096 (sexual misconduct with a  
20 minor in the second degree);

21 (iii) Any violation under RCW 9.68A.090 (communication with a minor  
22 for immoral purposes);

23 (iv) Any federal or out-of-state conviction for an offense that  
24 under the laws of this state would be classified as a sex offense under  
25 this subsection; and

26 (v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a  
27 criminal attempt, criminal solicitation, or criminal conspiracy to  
28 commit an offense that is classified as a sex offense under RCW  
29 9.94A.030 or this subsection.

30 (b) "Kidnapping offense" means: (i) The crimes of kidnapping in  
31 the first degree, kidnapping in the second degree, and unlawful  
32 imprisonment, as defined in chapter 9A.40 RCW, where the victim is a  
33 minor and the offender is not the minor's parent; (ii) any offense that  
34 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,  
35 or criminal conspiracy to commit an offense that is classified as a  
36 kidnapping offense under this subsection (9)(b); and (iii) any federal  
37 or out-of-state conviction for an offense that under the laws of this

1 state would be classified as a kidnapping offense under this subsection  
2 (9)(b).

3 (c) "Employed" or "carries on a vocation" means employment that is  
4 full-time or part-time for a period of time exceeding fourteen days, or  
5 for an aggregate period of time exceeding thirty days during any  
6 calendar year. A person is employed or carries on a vocation whether  
7 the person's employment is financially compensated, volunteered, or for  
8 the purpose of government or educational benefit.

9 (d) "Student" means a person who is enrolled, on a full-time or  
10 part-time basis, in any public or private educational institution. An  
11 educational institution includes any secondary school, trade or  
12 professional institution, or institution of higher education.

13 (10)(a) A person who knowingly fails to (~~register with the county~~  
14 ~~sheriff or notify the county sheriff, or who changes his or her name~~  
15 ~~without notifying the county sheriff and the state patrol, as required~~  
16 ~~by~~) comply with any of the requirements of this section is guilty of  
17 a class C felony if the crime for which the individual was convicted  
18 was a felony sex offense as defined in subsection (9)(a) of this  
19 section or a federal or out-of-state conviction for an offense that  
20 under the laws of this state would be a felony sex offense as defined  
21 in subsection (9)(a) of this section.

22 (b) If the crime for which the individual was convicted was other  
23 than a felony or a federal or out-of-state conviction for an offense  
24 that under the laws of this state would be other than a felony,  
25 violation of this section is a gross misdemeanor.

26 (11)(a) A person who knowingly fails to (~~register or who moves~~  
27 ~~within the state without notifying the county sheriff as required by~~)  
28 comply with any of the requirements of this section is guilty of a  
29 class C felony if the crime for which the individual was convicted was  
30 a felony kidnapping offense as defined in subsection (9)(b) of this  
31 section or a federal or out-of-state conviction for an offense that  
32 under the laws of this state would be a felony kidnapping offense as  
33 defined in subsection (9)(b) of this section.

34 (b) If the crime for which the individual was convicted was other  
35 than a felony or a federal or out-of-state conviction for an offense  
36 that under the laws of this state would be other than a felony,  
37 violation of this section is a gross misdemeanor.

1 (12) Except as may otherwise be provided by law, nothing in this  
2 section shall impose any liability upon a peace officer, including a  
3 county sheriff, or law enforcement agency, for failing to release  
4 information authorized under this section.

5 NEW SECTION. **Sec. 22.** A new section is added to chapter 9A.76 RCW  
6 to read as follows:

7 (1) A person is guilty of failure to report an unregistered sex  
8 offender or kidnapping offender if he or she:

9 (a) Knows that another person has not met the requirements of RCW  
10 9A.44.130; and

11 (b) With the intent to assist the other person in eluding a law  
12 enforcement agency, does not notify, or withholds information from, a  
13 law enforcement agency regarding the person's noncompliance with RCW  
14 9A.44.130 and, if known, the location of the person.

15 (2) Failure to report an unregistered sex offender or kidnapping  
16 offender is a class C felony.

17 **Sec. 23.** RCW 9.68A.090 and 2003 c 53 s 42 and 2003 c 26 s 1 are  
18 each reenacted and amended to read as follows:

19 (1) Except as provided in subsection (2) of this section, a person  
20 who communicates with a minor for immoral purposes, or a person who  
21 communicates with someone the person believes to be a minor for immoral  
22 purposes, is guilty of a gross misdemeanor.

23 (2)(a) Except as provided in (b) of this subsection, a person who  
24 communicates with a minor for immoral purposes is guilty of a class C  
25 felony punishable according to chapter 9A.20 RCW if the person has  
26 previously been convicted under this section or of a felony sexual  
27 offense under chapter 9.68A, 9A.44, or 9A.64 RCW or of any other felony  
28 sexual offense in this or any other state.

29 (b) A person who communicates with a minor for immoral purposes  
30 over the internet, when the communication involved the display of the  
31 person's genitalia to the minor, is guilty of a class A felony.

32 **Sec. 24.** RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are  
33 each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN  
EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073) Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083) <u>Communication with a Minor for Immoral Purposes (class A felony violation) (RCW 9.68A.090(2)(b))</u> Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) Kidnapping 1 (RCW 9A.40.020) Leading Organized Crime (RCW 9A.82.060(1)(a))

1 Malicious explosion 3 (RCW  
2 70.74.280(3))  
3 Sexually Violent Predator Escape  
4 (RCW 9A.76.115)  
5 IX Assault of a Child 2 (RCW 9A.36.130)  
6 Explosive devices prohibited (RCW  
7 70.74.180)  
8 Hit and Run--Death (RCW  
9 46.52.020(4)(a))  
10 Homicide by Watercraft, by being  
11 under the influence of intoxicating  
12 liquor or any drug (RCW  
13 79A.60.050)  
14 Inciting Criminal Profiteering (RCW  
15 9A.82.060(1)(b))  
16 Malicious placement of an explosive 2  
17 (RCW 70.74.270(2))  
18 Robbery 1 (RCW 9A.56.200)  
19 Sexual Exploitation (RCW 9.68A.040)  
20 Vehicular Homicide, by being under  
21 the influence of intoxicating liquor  
22 or any drug (RCW 46.61.520)  
23 VIII Arson 1 (RCW 9A.48.020)  
24 Homicide by Watercraft, by the  
25 operation of any vessel in a  
26 reckless manner (RCW  
27 79A.60.050)  
28 Manslaughter 2 (RCW 9A.32.070)  
29 Promoting Prostitution 1 (RCW  
30 9A.88.070)  
31 Theft of Ammonia (RCW 69.55.010)  
32 Vehicular Homicide, by the operation  
33 of any vehicle in a reckless  
34 manner (RCW 46.61.520)  
35 VII Burglary 1 (RCW 9A.52.020)  
36 Child Molestation 2 (RCW 9A.44.086)

1 Civil Disorder Training (RCW  
2 9A.48.120)  
3 Dealing in depictions of minor  
4 engaged in sexually explicit  
5 conduct (RCW 9.68A.050)  
6 Drive-by Shooting (RCW 9A.36.045)  
7 Homicide by Watercraft, by disregard  
8 for the safety of others (RCW  
9 79A.60.050)  
10 Indecent Liberties (without forcible  
11 compulsion) (RCW 9A.44.100(1)  
12 (b) and (c))  
13 Introducing Contraband 1 (RCW  
14 9A.76.140)  
15 Malicious placement of an explosive 3  
16 (RCW 70.74.270(3))  
17 Negligently Causing Death By Use of  
18 a Signal Preemption Device  
19 (RCW 46.37.675)  
20 Sending, bringing into state depictions  
21 of minor engaged in sexually  
22 explicit conduct (RCW  
23 9.68A.060)  
24 Unlawful Possession of a Firearm in  
25 the first degree (RCW  
26 9.41.040(1))  
27 Use of a Machine Gun in Commission  
28 of a Felony (RCW 9.41.225)  
29 Vehicular Homicide, by disregard for  
30 the safety of others (RCW  
31 46.61.520)  
32 VI Bail Jumping with Murder 1 (RCW  
33 9A.76.170(3)(a))  
34 Bribery (RCW 9A.68.010)  
35 Failure to Report an Unregistered Sex  
36 Offender or Kidnapping Offender  
37 (section 22 of this act)

1 Incest 1 (RCW 9A.64.020(1))  
2 Intimidating a Judge (RCW  
3 9A.72.160)  
4 Intimidating a Juror/Witness (RCW  
5 9A.72.110, 9A.72.130)  
6 Malicious placement of an imitation  
7 device 2 (RCW 70.74.272(1)(b))  
8 Rape of a Child 3 (RCW 9A.44.079)  
9 Theft of a Firearm (RCW 9A.56.300)  
10 Unlawful Storage of Ammonia (RCW  
11 69.55.020)  
12 V Abandonment of dependent person 1  
13 (RCW 9A.42.060)  
14 Advancing money or property for  
15 extortionate extension of credit  
16 (RCW 9A.82.030)  
17 Bail Jumping with class A Felony  
18 (RCW 9A.76.170(3)(b))  
19 Child Molestation 3 (RCW 9A.44.089)  
20 Criminal Mistreatment 1 (RCW  
21 9A.42.020)  
22 Custodial Sexual Misconduct 1 (RCW  
23 9A.44.160)  
24 Domestic Violence Court Order  
25 Violation (RCW 10.99.040,  
26 10.99.050, 26.09.300, 26.10.220,  
27 26.26.138, 26.50.110, 26.52.070,  
28 or 74.34.145)  
29 Extortion 1 (RCW 9A.56.120)  
30 Extortionate Extension of Credit  
31 (RCW 9A.82.020)  
32 Extortionate Means to Collect  
33 Extensions of Credit (RCW  
34 9A.82.040)  
35 Incest 2 (RCW 9A.64.020(2))  
36 Kidnapping 2 (RCW 9A.40.030)  
37 Perjury 1 (RCW 9A.72.020)

1 Persistent prison misbehavior (RCW  
2 9.94.070)  
3 Possession of a Stolen Firearm (RCW  
4 9A.56.310)  
5 Rape 3 (RCW 9A.44.060)  
6 Rendering Criminal Assistance 1  
7 (RCW 9A.76.070)  
8 Sexual Misconduct with a Minor 1  
9 (RCW 9A.44.093)  
10 Sexually Violating Human Remains  
11 (RCW 9A.44.105)  
12 Stalking (RCW 9A.46.110)  
13 Taking Motor Vehicle Without  
14 Permission 1 (RCW 9A.56.070)  
15 IV Arson 2 (RCW 9A.48.030)  
16 Assault 2 (RCW 9A.36.021)  
17 Assault 3 (of a Peace Officer with a  
18 Projectile Stun Gun) (RCW  
19 9A.36.031(1)(h))  
20 Assault by Watercraft (RCW  
21 79A.60.060)  
22 Bribing a Witness/Bribe Received by  
23 Witness (RCW 9A.72.090,  
24 9A.72.100)  
25 Cheating 1 (RCW 9.46.1961)  
26 Commercial Bribery (RCW  
27 9A.68.060)  
28 Counterfeiting (RCW 9.16.035(4))  
29 Endangerment with a Controlled  
30 Substance (RCW 9A.42.100)  
31 Escape 1 (RCW 9A.76.110)  
32 Failure to Register as a Kidnapping  
33 Offender (RCW 9A.44.130(11)(a))  
34 Failure to Register as a Sex Offender  
35 (RCW 9A.44.130(10)(a))  
36 Hit and Run--Injury (RCW  
37 46.52.020(4)(b))

1 Hit and Run with Vessel--Injury  
2 Accident (RCW 79A.60.200(3))  
3 Identity Theft 1 (RCW 9.35.020(2))  
4 Indecent Exposure to Person Under  
5 Age Fourteen (subsequent sex  
6 offense) (RCW 9A.88.010)  
7 Influencing Outcome of Sporting  
8 Event (RCW 9A.82.070)  
9 Malicious Harassment (RCW  
10 9A.36.080)  
11 Residential Burglary (RCW  
12 9A.52.025)  
13 Robbery 2 (RCW 9A.56.210)  
14 Tampering with an Electronic  
15 Monitoring Device (section 13 of  
16 this act)  
17 Theft of Livestock 1 (RCW 9A.56.080)  
18 Threats to Bomb (RCW 9.61.160)  
19 Trafficking in Stolen Property 1 (RCW  
20 9A.82.050)  
21 Unlawful factoring of a credit card or  
22 payment card transaction (RCW  
23 9A.56.290(4)(b))  
24 Unlawful transaction of health  
25 coverage as a health care service  
26 contractor (RCW 48.44.016(3))  
27 Unlawful transaction of health  
28 coverage as a health maintenance  
29 organization (RCW 48.46.033(3))  
30 Unlawful transaction of insurance  
31 business (RCW 48.15.023(3))  
32 Unlicensed practice as an insurance  
33 professional (RCW 48.17.063(3))  
34 Use of Proceeds of Criminal  
35 Profiteering (RCW 9A.82.080 (1)  
36 and (2))

1 Vehicular Assault, by being under the  
2 influence of intoxicating liquor or  
3 any drug, or by the operation or  
4 driving of a vehicle in a reckless  
5 manner (RCW 46.61.522)  
6 Willful Failure to Return from  
7 Furlough (RCW 72.66.060)  
8 III Abandonment of dependent person 2  
9 (RCW 9A.42.070)  
10 Assault 3 (Except Assault 3 of a Peace  
11 Officer With a Projectile Stun  
12 Gun) (RCW 9A.36.031 except  
13 subsection (1)(h))  
14 Assault of a Child 3 (RCW 9A.36.140)  
15 Bail Jumping with class B or C Felony  
16 (RCW 9A.76.170(3)(c))  
17 Burglary 2 (RCW 9A.52.030)  
18 Communication with a Minor for  
19 Immoral Purposes (class C felony  
20 violation) (RCW  
21 9.68A.090(2)(a))  
22 Criminal Gang Intimidation (RCW  
23 9A.46.120)  
24 Criminal Mistreatment 2 (RCW  
25 9A.42.030)  
26 Custodial Assault (RCW 9A.36.100)  
27 Cyberstalking (subsequent conviction  
28 or threat of death) (RCW  
29 9.61.260(3))  
30 Escape 2 (RCW 9A.76.120)  
31 Extortion 2 (RCW 9A.56.130)  
32 Harassment (RCW 9A.46.020)  
33 Intimidating a Public Servant (RCW  
34 9A.76.180)  
35 Introducing Contraband 2 (RCW  
36 9A.76.150)

1 Malicious Injury to Railroad Property  
2 (RCW 81.60.070)  
3 Negligently Causing Substantial Bodily  
4 Harm By Use of a Signal  
5 Preemption Device (RCW  
6 46.37.674)  
7 Patronizing a Juvenile Prostitute  
8 (RCW 9.68A.100)  
9 Perjury 2 (RCW 9A.72.030)  
10 Possession of Incendiary Device (RCW  
11 9.40.120)  
12 Possession of Machine Gun or Short-  
13 Barreled Shotgun or Rifle (RCW  
14 9.41.190)  
15 Promoting Prostitution 2 (RCW  
16 9A.88.080)  
17 Securities Act violation (RCW  
18 21.20.400)  
19 Tampering with a Witness (RCW  
20 9A.72.120)  
21 Telephone Harassment (subsequent  
22 conviction or threat of death)  
23 (RCW 9.61.230(2))  
24 Theft of Livestock 2 (RCW 9A.56.083)  
25 Trafficking in Stolen Property 2 (RCW  
26 9A.82.055)  
27 Unlawful Imprisonment (RCW  
28 9A.40.040)  
29 Unlawful possession of firearm in the  
30 second degree (RCW 9.41.040(2))  
31 Vehicular Assault, by the operation or  
32 driving of a vehicle with disregard  
33 for the safety of others (RCW  
34 46.61.522)  
35 Willful Failure to Return from Work  
36 Release (RCW 72.65.070)

1 II Computer Trespass 1 (RCW  
2 9A.52.110)  
3 Counterfeiting (RCW 9.16.035(3))  
4 Escape from Community Custody  
5 (RCW 72.09.310)  
6 Health Care False Claims (RCW  
7 48.80.030)  
8 Identity Theft 2 (RCW 9.35.020(3))  
9 Improperly Obtaining Financial  
10 Information (RCW 9.35.010)  
11 Malicious Mischief 1 (RCW  
12 9A.48.070)  
13 Possession of Stolen Property 1 (RCW  
14 9A.56.150)  
15 Theft 1 (RCW 9A.56.030)  
16 Theft of Rental, Leased, or Lease-  
17 purchased Property (valued at one  
18 thousand five hundred dollars or  
19 more) (RCW 9A.56.096(5)(a))  
20 Trafficking in Insurance Claims (RCW  
21 48.30A.015)  
22 Unlawful factoring of a credit card or  
23 payment card transaction (RCW  
24 9A.56.290(4)(a))  
25 Unlawful Practice of Law (RCW  
26 2.48.180)  
27 Unlicensed Practice of a Profession or  
28 Business (RCW 18.130.190(7))  
29 I Attempting to Elude a Pursuing Police  
30 Vehicle (RCW 46.61.024)  
31 False Verification for Welfare (RCW  
32 74.08.055)  
33 Forgery (RCW 9A.60.020)  
34 Fraudulent Creation or Revocation of a  
35 Mental Health Advance Directive  
36 (RCW 9A.60.060)

1 Malicious Mischief 2 (RCW  
2 9A.48.080)  
3 Mineral Trespass (RCW 78.44.330)  
4 Possession of Stolen Property 2 (RCW  
5 9A.56.160)  
6 Reckless Burning 1 (RCW 9A.48.040)  
7 Taking Motor Vehicle Without  
8 Permission 2 (RCW 9A.56.075)  
9 Theft 2 (RCW 9A.56.040)  
10 Theft of Rental, Leased, or Lease-  
11 purchased Property (valued at two  
12 hundred fifty dollars or more but  
13 less than one thousand five  
14 hundred dollars) (RCW  
15 9A.56.096(5)(b))  
16 Transaction of insurance business  
17 beyond the scope of licensure  
18 (RCW 48.17.063(4))  
19 Unlawful Issuance of Checks or Drafts  
20 (RCW 9A.56.060)  
21 Unlawful Possession of Fictitious  
22 Identification (RCW 9A.56.320)  
23 Unlawful Possession of Instruments of  
24 Financial Fraud (RCW  
25 9A.56.320)  
26 Unlawful Possession of Payment  
27 Instruments (RCW 9A.56.320)  
28 Unlawful Possession of a Personal  
29 Identification Device (RCW  
30 9A.56.320)  
31 Unlawful Production of Payment  
32 Instruments (RCW 9A.56.320)  
33 Unlawful Trafficking in Food Stamps  
34 (RCW 9.91.142)  
35 Unlawful Use of Food Stamps (RCW  
36 9.91.144)  
37 Vehicle Prowl 1 (RCW 9A.52.095)

1        NEW SECTION.    **Sec. 25.**    The sum of . . . . . dollars, or as much  
2        thereof as may be necessary, is appropriated from the general fund to  
3        the office of the attorney general for the fiscal year ending June 30,  
4        2007, to carry out a public education and awareness campaign regarding  
5        sex offenders and kidnapping offenders. The campaign must include, but  
6        not be limited to, public service announcements and educational  
7        materials to be distributed to public and private schools, preschools,  
8        day-care centers, public libraries, and any other place where children  
9        and vulnerable adults regularly congregate.

10       NEW SECTION.    **Sec. 26.**    (1) Sections 7 and 9 of this act expire  
11       July 1, 2006.

12              (2) Section 20 of this act expires September 1, 2006.

13       NEW SECTION.    **Sec. 27.**    (1) Sections 8 and 10 of this act take  
14       effect July 1, 2006.

15              (2) Section 21 of this act takes effect September 1, 2006.

--- END ---