
SUBSTITUTE SENATE BILL 6172

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators McAuliffe, Hargrove, Thibaudeau, Shin, Weinstein, Rockefeller, Keiser, Regala, Eide, Rasmussen and Benton)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to increasing penalties for the crimes of
2 possession of depictions of a minor engaged in sexually explicit
3 conduct; sexual exploitation; voyeurism; and communication with a minor
4 for an immoral purpose; amending RCW 9A.44.130, 9.68A.070, 9.94A.030,
5 and 9.94A.030; reenacting and amending RCW 9.68A.090, 9.94A.515,
6 9A.44.130, and 9.94A.670; prescribing penalties; providing effective
7 dates; and providing expiration dates.

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

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

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

15 (2) A person who communicates with a minor for immoral purposes is
16 guilty of a class C felony punishable according to chapter 9A.20 RCW if
17 the person has previously been convicted under this section or of a
18 felony sexual offense under chapter 9.68A, 9A.44, or 9A.64 RCW or of
19 any other felony sexual offense in this or any other state or if the

1 person communicates with a minor or with someone the person believes to
2 be a minor for immoral purposes through the sending of an electronic
3 communication.

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

6 TABLE 2

7 CRIMES INCLUDED WITHIN
8 EACH SERIOUSNESS LEVEL

9	XVI	Aggravated Murder 1 (RCW
10		10.95.020)
11	XV	Homicide by abuse (RCW 9A.32.055)
12		Malicious explosion 1 (RCW
13		70.74.280(1))
14		Murder 1 (RCW 9A.32.030)
15	XIV	Murder 2 (RCW 9A.32.050)
16		Trafficking 1 (RCW 9A.40.100(1))
17	XIII	Malicious explosion 2 (RCW
18		70.74.280(2))
19		Malicious placement of an explosive 1
20		(RCW 70.74.270(1))
21	XII	Assault 1 (RCW 9A.36.011)
22		Assault of a Child 1 (RCW 9A.36.120)
23		Malicious placement of an imitation
24		device 1 (RCW 70.74.272(1)(a))
25		Rape 1 (RCW 9A.44.040)
26		Rape of a Child 1 (RCW 9A.44.073)
27		Trafficking 2 (RCW 9A.40.100(2))
28	XI	Manslaughter 1 (RCW 9A.32.060)
29		Rape 2 (RCW 9A.44.050)
30		Rape of a Child 2 (RCW 9A.44.076)
31	X	Child Molestation 1 (RCW 9A.44.083)
32		Indecent Liberties (with forcible
33		compulsion) (RCW
34		9A.44.100(1)(a))
35		Kidnapping 1 (RCW 9A.40.020)

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

1 Child Molestation 2 (RCW 9A.44.086)
2 Civil Disorder Training (RCW
3 9A.48.120)
4 Dealing in depictions of minor
5 engaged in sexually explicit
6 conduct (RCW 9.68A.050)
7 Drive-by Shooting (RCW 9A.36.045)
8 Homicide by Watercraft, by disregard
9 for the safety of others (RCW
10 79A.60.050)
11 Indecent Liberties (without forcible
12 compulsion) (RCW 9A.44.100(1)
13 (b) and (c))
14 Introducing Contraband 1 (RCW
15 9A.76.140)
16 Malicious placement of an explosive 3
17 (RCW 70.74.270(3))
18 Negligently Causing Death By Use of
19 a Signal Preemption Device
20 (RCW 46.37.675)
21 Possession of Depictions of a Minor
22 Engaged in Sexually Explicit
23 Conduct (RCW 9.68A.070)
24 Sending, bringing into state depictions
25 of minor engaged in sexually
26 explicit conduct (RCW
27 9.68A.060)
28 Unlawful Possession of a Firearm in
29 the first degree (RCW
30 9.41.040(1))
31 Use of a Machine Gun in Commission
32 of a Felony (RCW 9.41.225)
33 Vehicular Homicide, by disregard for
34 the safety of others (RCW
35 46.61.520)
36 VI Bail Jumping with Murder 1 (RCW
37 9A.76.170(3)(a))

1 Bribery (RCW 9A.68.010)
2 Incest 1 (RCW 9A.64.020(1))
3 Intimidating a Judge (RCW
4 9A.72.160)
5 Intimidating a Juror/Witness (RCW
6 9A.72.110, 9A.72.130)
7 Malicious placement of an imitation
8 device 2 (RCW 70.74.272(1)(b))
9 Rape of a Child 3 (RCW 9A.44.079)
10 Theft of a Firearm (RCW 9A.56.300)
11 Unlawful Storage of Ammonia (RCW
12 69.55.020)
13 V Abandonment of dependent person 1
14 (RCW 9A.42.060)
15 Advancing money or property for
16 extortionate extension of credit
17 (RCW 9A.82.030)
18 Bail Jumping with class A Felony
19 (RCW 9A.76.170(3)(b))
20 Child Molestation 3 (RCW 9A.44.089)
21 Criminal Mistreatment 1 (RCW
22 9A.42.020)
23 Custodial Sexual Misconduct 1 (RCW
24 9A.44.160)
25 Domestic Violence Court Order
26 Violation (RCW 10.99.040,
27 10.99.050, 26.09.300, 26.10.220,
28 26.26.138, 26.50.110, 26.52.070,
29 or 74.34.145)
30 Extortion 1 (RCW 9A.56.120)
31 Extortionate Extension of Credit
32 (RCW 9A.82.020)
33 Extortionate Means to Collect
34 Extensions of Credit (RCW
35 9A.82.040)
36 Incest 2 (RCW 9A.64.020(2))
37 Kidnapping 2 (RCW 9A.40.030)

1 Perjury 1 (RCW 9A.72.020)
2 Persistent prison misbehavior (RCW
3 9.94.070)
4 Possession of a Stolen Firearm (RCW
5 9A.56.310)
6 Rape 3 (RCW 9A.44.060)
7 Rendering Criminal Assistance 1
8 (RCW 9A.76.070)
9 Sexual Misconduct with a Minor 1
10 (RCW 9A.44.093)
11 Sexually Violating Human Remains
12 (RCW 9A.44.105)
13 Stalking (RCW 9A.46.110)
14 Taking Motor Vehicle Without
15 Permission 1 (RCW 9A.56.070)
16 IV Arson 2 (RCW 9A.48.030)
17 Assault 2 (RCW 9A.36.021)
18 Assault 3 (of a Peace Officer with a
19 Projectile Stun Gun) (RCW
20 9A.36.031(1)(h))
21 Assault by Watercraft (RCW
22 79A.60.060)
23 Bribing a Witness/Bribe Received by
24 Witness (RCW 9A.72.090,
25 9A.72.100)
26 Cheating 1 (RCW 9.46.1961)
27 Commercial Bribery (RCW
28 9A.68.060)
29 Counterfeiting (RCW 9.16.035(4))
30 Endangerment with a Controlled
31 Substance (RCW 9A.42.100)
32 Escape 1 (RCW 9A.76.110)
33 Hit and Run--Injury (RCW
34 46.52.020(4)(b))
35 Hit and Run with Vessel--Injury
36 Accident (RCW 79A.60.200(3))
37 Identity Theft 1 (RCW 9.35.020(2))

1 Indecent Exposure to Person Under
2 Age Fourteen (subsequent sex
3 offense) (RCW 9A.88.010)
4 Influencing Outcome of Sporting
5 Event (RCW 9A.82.070)
6 Malicious Harassment (RCW
7 9A.36.080)
8 Residential Burglary (RCW
9 9A.52.025)
10 Robbery 2 (RCW 9A.56.210)
11 Theft of Livestock 1 (RCW 9A.56.080)
12 Threats to Bomb (RCW 9.61.160)
13 Trafficking in Stolen Property 1 (RCW
14 9A.82.050)
15 Unlawful factoring of a credit card or
16 payment card transaction (RCW
17 9A.56.290(4)(b))
18 Unlawful transaction of health
19 coverage as a health care service
20 contractor (RCW 48.44.016(3))
21 Unlawful transaction of health
22 coverage as a health maintenance
23 organization (RCW 48.46.033(3))
24 Unlawful transaction of insurance
25 business (RCW 48.15.023(3))
26 Unlicensed practice as an insurance
27 professional (RCW 48.17.063(3))
28 Use of Proceeds of Criminal
29 Profiteering (RCW 9A.82.080 (1)
30 and (2))
31 Vehicular Assault, by being under the
32 influence of intoxicating liquor or
33 any drug, or by the operation or
34 driving of a vehicle in a reckless
35 manner (RCW 46.61.522)
36 Willful Failure to Return from
37 Furlough (RCW 72.66.060)

1 III Abandonment of dependent person 2
2 (RCW 9A.42.070)
3 Assault 3 (Except Assault 3 of a Peace
4 Officer With a Projectile Stun
5 Gun) (RCW 9A.36.031 except
6 subsection (1)(h))
7 Assault of a Child 3 (RCW 9A.36.140)
8 Bail Jumping with class B or C Felony
9 (RCW 9A.76.170(3)(c))
10 Burglary 2 (RCW 9A.52.030)
11 Communication with a Minor for
12 Immoral Purposes (RCW
13 9.68A.090)
14 Criminal Gang Intimidation (RCW
15 9A.46.120)
16 Criminal Mistreatment 2 (RCW
17 9A.42.030)
18 Custodial Assault (RCW 9A.36.100)
19 Cyberstalking (subsequent conviction
20 or threat of death) (RCW
21 9.61.260(3))
22 Escape 2 (RCW 9A.76.120)
23 Extortion 2 (RCW 9A.56.130)
24 Harassment (RCW 9A.46.020)
25 Intimidating a Public Servant (RCW
26 9A.76.180)
27 Introducing Contraband 2 (RCW
28 9A.76.150)
29 Malicious Injury to Railroad Property
30 (RCW 81.60.070)
31 Negligently Causing Substantial Bodily
32 Harm By Use of a Signal
33 Preemption Device (RCW
34 46.37.674)
35 Patronizing a Juvenile Prostitute
36 (RCW 9.68A.100)
37 Perjury 2 (RCW 9A.72.030)

1 Possession of Incendiary Device (RCW
2 9.40.120)
3 Possession of Machine Gun or Short-
4 Barreled Shotgun or Rifle (RCW
5 9.41.190)
6 Promoting Prostitution 2 (RCW
7 9A.88.080)
8 Securities Act violation (RCW
9 21.20.400)
10 Tampering with a Witness (RCW
11 9A.72.120)
12 Telephone Harassment (subsequent
13 conviction or threat of death)
14 (RCW 9.61.230(2))
15 Theft of Livestock 2 (RCW 9A.56.083)
16 Trafficking in Stolen Property 2 (RCW
17 9A.82.055)
18 Unlawful Imprisonment (RCW
19 9A.40.040)
20 Unlawful possession of firearm in the
21 second degree (RCW 9.41.040(2))
22 Vehicular Assault, by the operation or
23 driving of a vehicle with disregard
24 for the safety of others (RCW
25 46.61.522)
26 Willful Failure to Return from Work
27 Release (RCW 72.65.070)
28 II Computer Trespass 1 (RCW
29 9A.52.110)
30 Counterfeiting (RCW 9.16.035(3))
31 Escape from Community Custody
32 (RCW 72.09.310)
33 Health Care False Claims (RCW
34 48.80.030)
35 Identity Theft 2 (RCW 9.35.020(3))
36 Improperly Obtaining Financial
37 Information (RCW 9.35.010)

1 Malicious Mischief 1 (RCW
2 9A.48.070)
3 Possession of Stolen Property 1 (RCW
4 9A.56.150)
5 Theft 1 (RCW 9A.56.030)
6 Theft of Rental, Leased, or Lease-
7 purchased Property (valued at one
8 thousand five hundred dollars or
9 more) (RCW 9A.56.096(5)(a))
10 Trafficking in Insurance Claims (RCW
11 48.30A.015)
12 Unlawful factoring of a credit card or
13 payment card transaction (RCW
14 9A.56.290(4)(a))
15 Unlawful Practice of Law (RCW
16 2.48.180)
17 Unlicensed Practice of a Profession or
18 Business (RCW 18.130.190(7))
19 Voyeurism (RCW 9A.44.115)
20 I Attempting to Elude a Pursuing Police
21 Vehicle (RCW 46.61.024)
22 False Verification for Welfare (RCW
23 74.08.055)
24 Forgery (RCW 9A.60.020)
25 Fraudulent Creation or Revocation of a
26 Mental Health Advance Directive
27 (RCW 9A.60.060)
28 Malicious Mischief 2 (RCW
29 9A.48.080)
30 Mineral Trespass (RCW 78.44.330)
31 Possession of Stolen Property 2 (RCW
32 9A.56.160)
33 Reckless Burning 1 (RCW 9A.48.040)
34 Taking Motor Vehicle Without
35 Permission 2 (RCW 9A.56.075)
36 Theft 2 (RCW 9A.56.040)

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at two
3 hundred fifty dollars or more but
4 less than one thousand five
5 hundred dollars) (RCW
6 9A.56.096(5)(b))
7 Transaction of insurance business
8 beyond the scope of licensure
9 (RCW 48.17.063(4))
10 Unlawful Issuance of Checks or Drafts
11 (RCW 9A.56.060)
12 Unlawful Possession of Fictitious
13 Identification (RCW 9A.56.320)
14 Unlawful Possession of Instruments of
15 Financial Fraud (RCW
16 9A.56.320)
17 Unlawful Possession of Payment
18 Instruments (RCW 9A.56.320)
19 Unlawful Possession of a Personal
20 Identification Device (RCW
21 9A.56.320)
22 Unlawful Production of Payment
23 Instruments (RCW 9A.56.320)
24 Unlawful Trafficking in Food Stamps
25 (RCW 9.91.142)
26 Unlawful Use of Food Stamps (RCW
27 9.91.144)
28 Vehicle Prowl 1 (RCW 9A.52.095)

29 **Sec. 3.** RCW 9A.44.130 and 2003 c 215 s 1 and 2003 c 53 s 68 are
30 each reenacted and amended to read as follows:

31 (1) Any adult or juvenile residing whether or not the person has a
32 fixed residence, or who is a student, is employed, or carries on a
33 vocation in this state who has been found to have committed or has been
34 convicted of any sex offense or kidnapping offense or sexual
35 exploitation of a child under chapter 9.68A RCW, or who has been found
36 not guilty by reason of insanity under chapter 10.77 RCW of committing
37 any sex offense or kidnapping offense, shall register with the county

1 sheriff for the county of the person's residence, or if the person is
2 not a resident of Washington, the county of the person's school, or
3 place of employment or vocation, or as otherwise specified in this
4 section. Where a person required to register under this section is in
5 custody of the state department of corrections, the state department of
6 social and health services, a local division of youth services, or a
7 local jail or juvenile detention facility as a result of a sex offense
8 or kidnapping offense or sexual exploitation of a child under chapter
9 9.68A RCW, the person shall also register at the time of release from
10 custody with an official designated by the agency that has jurisdiction
11 over the person. In addition, any such adult or juvenile: (a) Who is
12 admitted to a public or private institution of higher education shall,
13 within ten days of enrolling or by the first business day after
14 arriving at the institution, whichever is earlier, notify the sheriff
15 for the county of the person's residence of the person's intent to
16 attend the institution; (b) who gains employment at a public or private
17 institution of higher education shall, within ten days of accepting
18 employment or by the first business day after commencing work at the
19 institution, whichever is earlier, notify the sheriff for the county of
20 the person's residence of the person's employment by the institution;
21 or (c) whose enrollment or employment at a public or private
22 institution of higher education is terminated shall, within ten days of
23 such termination, notify the sheriff for the county of the person's
24 residence of the person's termination of enrollment or employment at
25 the institution. Persons required to register under this section who
26 are enrolled in a public or private institution of higher education on
27 June 11, 1998, must notify the county sheriff immediately. The sheriff
28 shall notify the institution's department of public safety and shall
29 provide that department with the same information provided to a county
30 sheriff under subsection (3) of this section.

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

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

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

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

11 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
12 offense on, before, or after February 28, 1990, and who, on or after
13 July 28, 1991, are in custody, as a result of that offense, of the
14 state department of corrections, the state department of social and
15 health services, a local division of youth services, or a local jail or
16 juvenile detention facility, and (B) kidnapping offenders who on or
17 after July 27, 1997, are in custody of the state department of
18 corrections, the state department of social and health services, a
19 local division of youth services, or a local jail or juvenile detention
20 facility, must register at the time of release from custody with an
21 official designated by the agency that has jurisdiction over the
22 offender. The agency shall within three days forward the registration
23 information to the county sheriff for the county of the offender's
24 anticipated residence. The offender must also register within twenty-
25 four hours from the time of release with the county sheriff for the
26 county of the person's residence, or if the person is not a resident of
27 Washington, the county of the person's school, or place of employment
28 or vocation. The agency that has jurisdiction over the offender shall
29 provide notice to the offender of the duty to register. Failure to
30 register at the time of release and within twenty-four hours of release
31 constitutes a violation of this section and is punishable as provided
32 in subsection (10) of this section.

33 When the agency with jurisdiction intends to release an offender
34 with a duty to register under this section, and the agency has
35 knowledge that the offender is eligible for developmental disability
36 services from the department of social and health services, the agency
37 shall notify the division of developmental disabilities of the release.
38 Notice shall occur not more than thirty days before the offender is to

1 be released. The agency and the division shall assist the offender in
2 meeting the initial registration requirement under this section.
3 Failure to provide such assistance shall not constitute a defense for
4 any violation of this section.

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

25 (iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on
26 or after July 23, 1995, and kidnapping offenders who, on or after July
27 27, 1997, as a result of that offense are in the custody of the United
28 States bureau of prisons or other federal or military correctional
29 agency for sex offenses committed before, on, or after February 28,
30 1990, or kidnapping offenses committed on, before, or after July 27,
31 1997, must register within twenty-four hours from the time of release
32 with the county sheriff for the county of the person's residence, or if
33 the person is not a resident of Washington, the county of the person's
34 school, or place of employment or vocation. Sex offenders who, on July
35 23, 1995, are not in custody but are under the jurisdiction of the
36 United States bureau of prisons, United States courts, United States
37 parole commission, or military parole board for sex offenses committed
38 before, on, or after February 28, 1990, must register within ten days

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

14 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
15 who are convicted of a sex offense on or after July 28, 1991, for a sex
16 offense that was committed on or after February 28, 1990, and
17 kidnapping offenders who are convicted on or after July 27, 1997, for
18 a kidnapping offense that was committed on or after July 27, 1997, but
19 who are not sentenced to serve a term of confinement immediately upon
20 sentencing, shall report to the county sheriff to register immediately
21 upon completion of being sentenced.

22 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
23 RESIDENTS. Sex offenders and kidnapping offenders who move to
24 Washington state from another state or a foreign country that are not
25 under the jurisdiction of the state department of corrections, the
26 indeterminate sentence review board, or the state department of social
27 and health services at the time of moving to Washington, must register
28 within thirty days of establishing residence or reestablishing
29 residence if the person is a former Washington resident. The duty to
30 register under this subsection applies to sex offenders convicted under
31 the laws of another state or a foreign country, federal or military
32 statutes, or Washington state for offenses committed on or after
33 February 28, 1990, and to kidnapping offenders convicted under the laws
34 of another state or a foreign country, federal or military statutes, or
35 Washington state for offenses committed on or after July 27, 1997. Sex
36 offenders and kidnapping offenders from other states or a foreign
37 country who, when they move to Washington, are under the jurisdiction
38 of the department of corrections, the indeterminate sentence review

1 board, or the department of social and health services must register
2 within twenty-four hours of moving to Washington. The agency that has
3 jurisdiction over the offender shall notify the offender of the
4 registration requirements before the offender moves to Washington.

5 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
6 or juvenile who has been found not guilty by reason of insanity under
7 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
8 February 28, 1990, and who, on or after July 23, 1995, is in custody,
9 as a result of that finding, of the state department of social and
10 health services, or (B) committing a kidnapping offense on, before, or
11 after July 27, 1997, and who on or after July 27, 1997, is in custody,
12 as a result of that finding, of the state department of social and
13 health services, must register within twenty-four hours from the time
14 of release with the county sheriff for the county of the person's
15 residence. The state department of social and health services shall
16 provide notice to the adult or juvenile in its custody of the duty to
17 register. Any adult or juvenile who has been found not guilty by
18 reason of insanity of committing a sex offense on, before, or after
19 February 28, 1990, but who was released before July 23, 1995, or any
20 adult or juvenile who has been found not guilty by reason of insanity
21 of committing a kidnapping offense but who was released before July 27,
22 1997, shall be required to register within twenty-four hours of
23 receiving notice of this registration requirement. The state
24 department of social and health services shall make reasonable attempts
25 within available resources to notify sex offenders who were released
26 before July 23, 1995, and kidnapping offenders who were released before
27 July 27, 1997. Failure to register within twenty-four hours of
28 release, or of receiving notice, constitutes a violation of this
29 section and is punishable as provided in subsection (10) of this
30 section.

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

37 (viii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER

1 SUPERVISION. Offenders who lack a fixed residence and who are under
2 the supervision of the department shall register in the county of their
3 supervision.

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

15 (b) Failure to register within the time required under this section
16 constitutes a per se violation of this section and is punishable as
17 provided in subsection (10) of this section. The county sheriff shall
18 not be required to determine whether the person is living within the
19 county.

20 (c) An arrest on charges of failure to register, service of an
21 information, or a complaint for a violation of this section, or
22 arraignment on charges for a violation of this section, constitutes
23 actual notice of the duty to register. Any person charged with the
24 crime of failure to register under this section who asserts as a
25 defense the lack of notice of the duty to register shall register
26 immediately following actual notice of the duty through arrest,
27 service, or arraignment. Failure to register as required under this
28 subsection (4)(c) constitutes grounds for filing another charge of
29 failing to register. Registering following arrest, service, or
30 arraignment on charges shall not relieve the offender from criminal
31 liability for failure to register prior to the filing of the original
32 charge.

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

36 (5)(a) If any person required to register pursuant to this section
37 changes his or her residence address within the same county, the person
38 must send written notice of the change of address to the county sheriff

1 within seventy-two hours of moving. If any person required to register
2 pursuant to this section moves to a new county, the person must send
3 written notice of the change of address at least fourteen days before
4 moving to the county sheriff in the new county of residence and must
5 register with that county sheriff within twenty-four hours of moving.
6 The person must also send written notice within ten days of the change
7 of address in the new county to the county sheriff with whom the person
8 last registered. The county sheriff with whom the person last
9 registered shall promptly forward the information concerning the change
10 of address to the county sheriff for the county of the person's new
11 residence. Upon receipt of notice of change of address to a new state,
12 the county sheriff shall promptly forward the information regarding the
13 change of address to the agency designated by the new state as the
14 state's offender registration agency.

15 (b) It is an affirmative defense to a charge that the person failed
16 to send a notice at least fourteen days in advance of moving as
17 required under (a) of this subsection that the person did not know the
18 location of his or her new residence at least fourteen days before
19 moving. The defendant must establish the defense by a preponderance of
20 the evidence and, to prevail on the defense, must also prove by a
21 preponderance that the defendant sent the required notice within
22 twenty-four hours of determining the new address.

23 (6)(a) Any person required to register under this section who lacks
24 a fixed residence shall provide written notice to the sheriff of the
25 county where he or she last registered within forty-eight hours
26 excluding weekends and holidays after ceasing to have a fixed
27 residence. The notice shall include the information required by
28 subsection (3)(b) of this section, except the photograph and
29 fingerprints. The county sheriff may, for reasonable cause, require
30 the offender to provide a photograph and fingerprints. The sheriff
31 shall forward this information to the sheriff of the county in which
32 the person intends to reside, if the person intends to reside in
33 another county.

34 (b) A person who lacks a fixed residence must report weekly, in
35 person, to the sheriff of the county where he or she is registered.
36 The weekly report shall be on a day specified by the county sheriff's
37 office, and shall occur during normal business hours. The county
38 sheriff's office may require the person to list the locations where the

1 person has stayed during the last seven days. The lack of a fixed
2 residence is a factor that may be considered in determining an
3 offender's risk level and shall make the offender subject to disclosure
4 of information to the public at large pursuant to RCW 4.24.550.

5 (c) If any person required to register pursuant to this section
6 does not have a fixed residence, it is an affirmative defense to the
7 charge of failure to register, that he or she provided written notice
8 to the sheriff of the county where he or she last registered within
9 forty-eight hours excluding weekends and holidays after ceasing to have
10 a fixed residence and has subsequently complied with the requirements
11 of subsections (4)(a)(vii) or (viii) and (6) of this section. To
12 prevail, the person must prove the defense by a preponderance of the
13 evidence.

14 (7) A sex offender subject to registration requirements under this
15 section who applies to change his or her name under RCW 4.24.130 or any
16 other law shall submit a copy of the application to the county sheriff
17 of the county of the person's residence and to the state patrol not
18 fewer than five days before the entry of an order granting the name
19 change. No sex offender under the requirement to register under this
20 section at the time of application shall be granted an order changing
21 his or her name if the court finds that doing so will interfere with
22 legitimate law enforcement interests, except that no order shall be
23 denied when the name change is requested for religious or legitimate
24 cultural reasons or in recognition of marriage or dissolution of
25 marriage. A sex offender under the requirement to register under this
26 section who receives an order changing his or her name shall submit a
27 copy of the order to the county sheriff of the county of the person's
28 residence and to the state patrol within five days of the entry of the
29 order.

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

32 (9) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540,
33 70.48.470, and 72.09.330:

34 (a) "Sex offense" means:

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

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

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

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

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

10 (b) "Kidnapping offense" means: (i) The crimes of kidnapping in
11 the first degree, kidnapping in the second degree, and unlawful
12 imprisonment, as defined in chapter 9A.40 RCW, where the victim is a
13 minor and the offender is not the minor's parent; (ii) any offense that
14 is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation,
15 or criminal conspiracy to commit an offense that is classified as a
16 kidnapping offense under this subsection (9)(b); and (iii) any federal
17 or out-of-state conviction for an offense that under the laws of this
18 state would be classified as a kidnapping offense under this subsection
19 (9)(b).

20 (c) "Employed" or "carries on a vocation" means employment that is
21 full-time or part-time for a period of time exceeding fourteen days, or
22 for an aggregate period of time exceeding thirty days during any
23 calendar year. A person is employed or carries on a vocation whether
24 the person's employment is financially compensated, volunteered, or for
25 the purpose of government or educational benefit.

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

30 (10)(a) A person who knowingly fails to register with the county
31 sheriff or notify the county sheriff, or who changes his or her name
32 without notifying the county sheriff and the state patrol, as required
33 by this section is guilty of a class C felony if the crime for which
34 the individual was convicted was a felony sex offense as defined in
35 subsection (9)(a) of this section or a federal or out-of-state
36 conviction for an offense that under the laws of this state would be a
37 felony sex offense as defined in subsection (9)(a) of this section.

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

5 (11)(a) A person who knowingly fails to register or who moves
6 within the state without notifying the county sheriff as required by
7 this section is guilty of a class C felony if the crime for which the
8 individual was convicted was a felony kidnapping offense as defined in
9 subsection (9)(b) of this section or a federal or out-of-state
10 conviction for an offense that under the laws of this state would be a
11 felony kidnapping offense as defined in subsection (9)(b) of this
12 section.

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

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

19 (1)(a) Any adult or juvenile residing whether or not the person has
20 a fixed residence, or who is a student, is employed, or carries on a
21 vocation in this state who has been found to have committed or has been
22 convicted of any sex offense or kidnapping offense or sexual
23 exploitation of a child under chapter 9.68A RCW, or who has been found
24 not guilty by reason of insanity under chapter 10.77 RCW of committing
25 any sex offense or kidnapping offense, shall register with the county
26 sheriff for the county of the person's residence, or if the person is
27 not a resident of Washington, the county of the person's school, or
28 place of employment or vocation, or as otherwise specified in this
29 section. Where a person required to register under this section is in
30 custody of the state department of corrections, the state department of
31 social and health services, a local division of youth services, or a
32 local jail or juvenile detention facility as a result of a sex offense
33 or kidnapping offense or sexual exploitation of a child under chapter
34 9.68A RCW, the person shall also register at the time of release from
35 custody with an official designated by the agency that has jurisdiction
36 over the person.

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

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

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

14 (iii) Who gains employment at a public or private institution of
15 higher education shall, within ten days of accepting employment or by
16 the first business day after commencing work at the institution,
17 whichever is earlier, notify the sheriff for the county of the person's
18 residence of the person's employment by the institution; or

19 (iv) Whose enrollment or employment at a public or private
20 institution of higher education is terminated shall, within ten days of
21 such termination, notify the sheriff for the county of the person's
22 residence of the person's termination of enrollment or employment at
23 the institution.

24 (c) Persons required to register under this section who are
25 enrolled in a public or private institution of higher education on June
26 11, 1998, or a public or private school regulated under Title 28A RCW
27 or chapter 72.40 RCW on September 1, 2006, must notify the county
28 sheriff immediately.

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

33 (e)(i) A principal receiving notice under this subsection must
34 disclose the information received from the sheriff under (b) of this
35 subsection as follows:

36 (A) If the student who is required to register as a sex offender is
37 classified as a risk level II or III, the principal shall provide the
38 information received to every teacher of any student required to

1 register under (a) of this subsection and to any other personnel who,
2 in the judgment of the principal, supervises the student or for
3 security purposes should be aware of the student's record;

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

9 (ii) Any information received by a principal or school personnel
10 under this subsection is confidential and may not be further
11 disseminated except as provided in RCW 28A.225.330, other statutes or
12 case law, and the family and educational and privacy rights act of
13 1994, 20 U.S.C. Sec. 1232g et seq.

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

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

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

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

32 (i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex
33 offense on, before, or after February 28, 1990, and who, on or after
34 July 28, 1991, are in custody, as a result of that offense, of the
35 state department of corrections, the state department of social and
36 health services, a local division of youth services, or a local jail or
37 juvenile detention facility, and (B) kidnapping offenders who on or
38 after July 27, 1997, are in custody of the state department of

1 corrections, the state department of social and health services, a
2 local division of youth services, or a local jail or juvenile detention
3 facility, must register at the time of release from custody with an
4 official designated by the agency that has jurisdiction over the
5 offender. The agency shall within three days forward the registration
6 information to the county sheriff for the county of the offender's
7 anticipated residence. The offender must also register within twenty-
8 four hours from the time of release with the county sheriff for the
9 county of the person's residence, or if the person is not a resident of
10 Washington, the county of the person's school, or place of employment
11 or vocation. The agency that has jurisdiction over the offender shall
12 provide notice to the offender of the duty to register. Failure to
13 register at the time of release and within twenty-four hours of release
14 constitutes a violation of this section and is punishable as provided
15 in subsection (10) of this section.

16 When the agency with jurisdiction intends to release an offender
17 with a duty to register under this section, and the agency has
18 knowledge that the offender is eligible for developmental disability
19 services from the department of social and health services, the agency
20 shall notify the division of developmental disabilities of the release.
21 Notice shall occur not more than thirty days before the offender is to
22 be released. The agency and the division shall assist the offender in
23 meeting the initial registration requirement under this section.
24 Failure to provide such assistance shall not constitute a defense for
25 any violation of this section.

26 (ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
27 JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody
28 but are under the jurisdiction of the indeterminate sentence review
29 board or under the department of corrections' active supervision, as
30 defined by the department of corrections, the state department of
31 social and health services, or a local division of youth services, for
32 sex offenses committed before, on, or after February 28, 1990, must
33 register within ten days of July 28, 1991. Kidnapping offenders who,
34 on July 27, 1997, are not in custody but are under the jurisdiction of
35 the indeterminate sentence review board or under the department of
36 corrections' active supervision, as defined by the department of
37 corrections, the state department of social and health services, or a
38 local division of youth services, for kidnapping offenses committed

1 before, on, or after July 27, 1997, must register within ten days of
2 July 27, 1997. A change in supervision status of a sex offender who
3 was required to register under this subsection (4)(a)(ii) as of July
4 28, 1991, or a kidnapping offender required to register as of July 27,
5 1997, shall not relieve the offender of the duty to register or to
6 reregister following a change in residence. The obligation to register
7 shall only cease pursuant to RCW 9A.44.140.

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

35 (iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
36 who are convicted of a sex offense on or after July 28, 1991, for a sex
37 offense that was committed on or after February 28, 1990, and
38 kidnapping offenders who are convicted on or after July 27, 1997, for

1 a kidnapping offense that was committed on or after July 27, 1997, but
2 who are not sentenced to serve a term of confinement immediately upon
3 sentencing, shall report to the county sheriff to register immediately
4 upon completion of being sentenced.

5 (v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
6 RESIDENTS. Sex offenders and kidnapping offenders who move to
7 Washington state from another state or a foreign country that are not
8 under the jurisdiction of the state department of corrections, the
9 indeterminate sentence review board, or the state department of social
10 and health services at the time of moving to Washington, must register
11 within thirty days of establishing residence or reestablishing
12 residence if the person is a former Washington resident. The duty to
13 register under this subsection applies to sex offenders convicted under
14 the laws of another state or a foreign country, federal or military
15 statutes, or Washington state for offenses committed on or after
16 February 28, 1990, and to kidnapping offenders convicted under the laws
17 of another state or a foreign country, federal or military statutes, or
18 Washington state for offenses committed on or after July 27, 1997. Sex
19 offenders and kidnapping offenders from other states or a foreign
20 country who, when they move to Washington, are under the jurisdiction
21 of the department of corrections, the indeterminate sentence review
22 board, or the department of social and health services must register
23 within twenty-four hours of moving to Washington. The agency that has
24 jurisdiction over the offender shall notify the offender of the
25 registration requirements before the offender moves to Washington.

26 (vi) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
27 or juvenile who has been found not guilty by reason of insanity under
28 chapter 10.77 RCW of (A) committing a sex offense on, before, or after
29 February 28, 1990, and who, on or after July 23, 1995, is in custody,
30 as a result of that finding, of the state department of social and
31 health services, or (B) committing a kidnapping offense on, before, or
32 after July 27, 1997, and who on or after July 27, 1997, is in custody,
33 as a result of that finding, of the state department of social and
34 health services, must register within twenty-four hours from the time
35 of release with the county sheriff for the county of the person's
36 residence. The state department of social and health services shall
37 provide notice to the adult or juvenile in its custody of the duty to
38 register. Any adult or juvenile who has been found not guilty by

1 reason of insanity of committing a sex offense on, before, or after
2 February 28, 1990, but who was released before July 23, 1995, or any
3 adult or juvenile who has been found not guilty by reason of insanity
4 of committing a kidnapping offense but who was released before July 27,
5 1997, shall be required to register within twenty-four hours of
6 receiving notice of this registration requirement. The state
7 department of social and health services shall make reasonable attempts
8 within available resources to notify sex offenders who were released
9 before July 23, 1995, and kidnapping offenders who were released before
10 July 27, 1997. Failure to register within twenty-four hours of
11 release, or of receiving notice, constitutes a violation of this
12 section and is punishable as provided in subsection (10) of this
13 section.

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

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

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

35 (b) Failure to register within the time required under this section
36 constitutes a per se violation of this section and is punishable as
37 provided in subsection (10) of this section. The county sheriff shall

1 not be required to determine whether the person is living within the
2 county.

3 (c) An arrest on charges of failure to register, service of an
4 information, or a complaint for a violation of this section, or
5 arraignment on charges for a violation of this section, constitutes
6 actual notice of the duty to register. Any person charged with the
7 crime of failure to register under this section who asserts as a
8 defense the lack of notice of the duty to register shall register
9 immediately following actual notice of the duty through arrest,
10 service, or arraignment. Failure to register as required under this
11 subsection (4)(c) constitutes grounds for filing another charge of
12 failing to register. Registering following arrest, service, or
13 arraignment on charges shall not relieve the offender from criminal
14 liability for failure to register prior to the filing of the original
15 charge.

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

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

36 (b) It is an affirmative defense to a charge that the person failed
37 to send a notice at least fourteen days in advance of moving as
38 required under (a) of this subsection that the person did not know the

1 location of his or her new residence at least fourteen days before
2 moving. The defendant must establish the defense by a preponderance of
3 the evidence and, to prevail on the defense, must also prove by a
4 preponderance that the defendant sent the required notice within
5 twenty-four hours of determining the new address.

6 (6)(a) Any person required to register under this section who lacks
7 a fixed residence shall provide written notice to the sheriff of the
8 county where he or she last registered within forty-eight hours
9 excluding weekends and holidays after ceasing to have a fixed
10 residence. The notice shall include the information required by
11 subsection (3)(b) of this section, except the photograph and
12 fingerprints. The county sheriff may, for reasonable cause, require
13 the offender to provide a photograph and fingerprints. The sheriff
14 shall forward this information to the sheriff of the county in which
15 the person intends to reside, if the person intends to reside in
16 another county.

17 (b) A person who lacks a fixed residence must report weekly, in
18 person, to the sheriff of the county where he or she is registered.
19 The weekly report shall be on a day specified by the county sheriff's
20 office, and shall occur during normal business hours. The county
21 sheriff's office may require the person to list the locations where the
22 person has stayed during the last seven days. The lack of a fixed
23 residence is a factor that may be considered in determining an
24 offender's risk level and shall make the offender subject to disclosure
25 of information to the public at large pursuant to RCW 4.24.550.

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

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 this section is guilty of a class C felony if the crime for which
17 the individual was convicted was a felony sex offense as defined in
18 subsection (9)(a) of this section or a federal or out-of-state
19 conviction for an offense that under the laws of this state would be a
20 felony sex offense as defined in subsection (9)(a) of this section.

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

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

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

37 (12) Except as may otherwise be provided by law, nothing in this

1 section shall impose any liability upon a peace officer, including a
2 county sheriff, or law enforcement agency, for failing to release
3 information authorized under this section.

4 **Sec. 5.** RCW 9.68A.070 and 1990 c 155 s 1 are each amended to read
5 as follows:

6 A person who knowingly possesses visual or printed matter depicting
7 a minor engaged in sexually explicit conduct is guilty of a class ((E))
8 B felony.

9 **Sec. 6.** RCW 9.94A.670 and 2004 c 176 s 4 and 2004 c 38 s 9 are
10 each reenacted and amended to read as follows:

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

13 (a) "Sex offender treatment provider" or "treatment provider" means
14 a certified sex offender treatment provider or a certified affiliate
15 sex offender treatment provider as defined in RCW 18.155.020.

16 (b) "Substantial bodily harm" means bodily injury that involves a
17 temporary but substantial disfigurement, or that causes a temporary but
18 substantial loss or impairment of the function of any body part or
19 organ, or that causes a fracture of any body part or organ.

20 (c) "Victim" means any person who has sustained emotional,
21 psychological, physical, or financial injury to person or property as
22 a result of the crime charged. "Victim" also means a parent or
23 guardian of a victim who is a minor child unless the parent or guardian
24 is the perpetrator of the offense.

25 (2) An offender is eligible for the special sex offender sentencing
26 alternative if:

27 (a) The offender has been convicted of a sex offense other than a
28 violation of RCW 9A.44.050 or a sex offense that is also a serious
29 violent offense. For the purposes of this subsection (2)(a), "sex
30 offense" includes a conviction for a violation of RCW 9.68A.070;

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

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

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

3 (e) The offender had an established relationship with, or
4 connection to, the victim such that the sole connection with the victim
5 was not the commission of the crime; and

6 (f) The offender's standard sentence range for the offense includes
7 the possibility of confinement for less than eleven years.

8 (3) If the court finds the offender is eligible for this
9 alternative, the court, on its own motion or the motion of the state or
10 the offender, may order an examination to determine whether the
11 offender is amenable to treatment.

12 (a) The report of the examination shall include at a minimum the
13 following:

14 (i) The offender's version of the facts and the official version of
15 the facts;

16 (ii) The offender's offense history;

17 (iii) An assessment of problems in addition to alleged deviant
18 behaviors;

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

20 (v) Other evaluation measures used.

21 The report shall set forth the sources of the examiner's
22 information.

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

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

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

30 (iii) Monitoring plans, including any requirements regarding living
31 conditions, lifestyle requirements, and monitoring by family members
32 and others;

33 (iv) Anticipated length of treatment; and

34 (v) Recommended crime-related prohibitions and affirmative
35 conditions, which must include, to the extent known, an identification
36 of specific activities or behaviors that are precursors to the
37 offender's offense cycle, including, but not limited to, activities or

1 behaviors such as viewing or listening to pornography or use of alcohol
2 or controlled substances.

3 (c) The court on its own motion may order, or on a motion by the
4 state shall order, a second examination regarding the offender's
5 amenability to treatment. The examiner shall be selected by the party
6 making the motion. The offender shall pay the cost of any second
7 examination ordered unless the court finds the defendant to be indigent
8 in which case the state shall pay the cost.

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

30 (a) The court shall order the offender to serve a term of
31 confinement of up to twelve months or the maximum term within the
32 standard range, whichever is less. The court may order the offender to
33 serve a term of confinement greater than twelve months or the maximum
34 term within the standard range based on the presence of an aggravating
35 circumstance listed in RCW 9.94A.535(~~((+2))~~) (3). In no case shall the
36 term of confinement exceed the statutory maximum sentence for the
37 offense. The court may order the offender to serve all or part of his

1 or her term of confinement in partial confinement. An offender
2 sentenced to a term of confinement under this subsection is not
3 eligible for earned release under RCW 9.92.151 or 9.94A.728.

4 (b) The court shall place the offender on community custody for the
5 length of the suspended sentence, the length of the maximum term
6 imposed pursuant to RCW 9.94A.712, or three years, whichever is
7 greater, and require the offender to comply with any conditions imposed
8 by the department under RCW 9.94A.720.

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

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

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

26 (a) Crime-related prohibitions;

27 (b) Require the offender to devote time to a specific employment or
28 occupation;

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

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

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

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

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

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

4 (7)(a) The sex offender treatment provider shall submit quarterly
5 reports on the offender's progress in treatment to the court and the
6 parties. The report shall reference the treatment plan and include at
7 a minimum the following: Dates of attendance, offender's compliance
8 with requirements, treatment activities, the offender's relative
9 progress in treatment, and any other material specified by the court at
10 sentencing.

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

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

1 court may: (a) Modify conditions of community custody, and either (b)
2 terminate treatment, or (c) extend treatment in two-year increments for
3 up to the remaining period of community custody.

4 (9)(a) If a violation of conditions other than a second violation
5 of the prohibitions or affirmative conditions relating to precursor
6 behaviors or activities imposed under subsection (4)(d) or (7)(b) of
7 this section occurs during community custody, the department shall
8 either impose sanctions as provided for in RCW 9.94A.737(2)(a) or refer
9 the violation to the court and recommend revocation of the suspended
10 sentence as provided for in subsections (6) and (8) of this section.

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

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

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

35 (a) The offender has already moved to another state or plans to
36 move to another state for reasons other than circumventing the
37 certification requirements; or

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

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

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

9 **Sec. 7.** RCW 9.94A.030 and 2005 c 436 s 1 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

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

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

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

24 (4) "Community corrections officer" means an employee of the
25 department who is responsible for carrying out specific duties in
26 supervision of sentenced offenders and monitoring of sentence
27 conditions.

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

1 (6) "Community custody range" means the minimum and maximum period
2 of community custody included as part of a sentence under RCW
3 9.94A.715, as established by the commission or the legislature under
4 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

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

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

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

18 (10) "Community supervision" means a period of time during which a
19 convicted offender is subject to crime-related prohibitions and other
20 sentence conditions imposed by a court pursuant to this chapter or RCW
21 16.52.200(6) or 46.61.524. Where the court finds that any offender has
22 a chemical dependency that has contributed to his or her offense, the
23 conditions of supervision may, subject to available resources, include
24 treatment. For purposes of the interstate compact for out-of-state
25 supervision of parolees and probationers, RCW 9.95.270, community
26 supervision is the functional equivalent of probation and should be
27 considered the same as probation by other states.

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

29 (12) "Conviction" means an adjudication of guilt pursuant to Titles
30 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
31 acceptance of a plea of guilty.

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

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

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

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

12 (c) The determination of a defendant's criminal history is distinct
13 from the determination of an offender score. A prior conviction that
14 was not included in an offender score calculated pursuant to a former
15 version of the sentencing reform act remains part of the defendant's
16 criminal history.

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

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

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

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

35 (19) "Disposable earnings" means that part of the earnings of an
36 offender remaining after the deduction from those earnings of any
37 amount required by law to be withheld. For the purposes of this
38 definition, "earnings" means compensation paid or payable for personal

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

9 (20) "Drug offender sentencing alternative" is a sentencing option
10 available to persons convicted of a felony offense other than a violent
11 offense or a sex offense and who are eligible for the option under RCW
12 9.94A.660.

13 (21) "Drug offense" means:

14 (a) Any felony violation of chapter 69.50 RCW except possession of
15 a controlled substance (RCW 69.50.4013) or forged prescription for a
16 controlled substance (RCW 69.50.403);

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

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

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

25 (23) "Escape" means:

26 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
27 first degree (RCW 9A.76.110), escape in the second degree (RCW
28 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
29 willful failure to return from work release (RCW 72.65.070), or willful
30 failure to be available for supervision by the department while in
31 community custody (RCW 72.09.310); or

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

35 (24) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

32 (b) Assault in the second degree;

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

34 (d) Child molestation in the second degree;

35 (e) Controlled substance homicide;

36 (f) Extortion in the first degree;

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

38 (h) Indecent liberties;

1 (i) Kidnapping in the second degree;
2 (j) Leading organized crime;
3 (k) Manslaughter in the first degree;
4 (l) Manslaughter in the second degree;
5 (m) Promoting prostitution in the first degree;
6 (n) Rape in the third degree;
7 (o) Robbery in the second degree;
8 (p) Sexual exploitation;
9 (q) Vehicular assault, when caused by the operation or driving of
10 a vehicle by a person while under the influence of intoxicating liquor
11 or any drug or by the operation or driving of a vehicle in a reckless
12 manner;
13 (r) Vehicular homicide, when proximately caused by the driving of
14 any vehicle by any person while under the influence of intoxicating
15 liquor or any drug as defined by RCW 46.61.502, or by the operation of
16 any vehicle in a reckless manner;
17 (s) Any other class B felony offense with a finding of sexual
18 motivation;
19 (t) Any other felony with a deadly weapon verdict under RCW
20 9.94A.602;
21 (u) Any felony offense in effect at any time prior to December 2,
22 1993, that is comparable to a most serious offense under this
23 subsection, or any federal or out-of-state conviction for an offense
24 that under the laws of this state would be a felony classified as a
25 most serious offense under this subsection;
26 (v)(i) A prior conviction for indecent liberties under RCW
27 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
28 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
29 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
30 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
31 (ii) A prior conviction for indecent liberties under RCW
32 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
33 if: (A) The crime was committed against a child under the age of
34 fourteen; or (B) the relationship between the victim and perpetrator is
35 included in the definition of indecent liberties under RCW
36 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
37 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
38 through July 27, 1997.

1 (30) "Nonviolent offense" means an offense which is not a violent
2 offense.

3 (31) "Offender" means a person who has committed a felony
4 established by state law and is eighteen years of age or older or is
5 less than eighteen years of age but whose case is under superior court
6 jurisdiction under RCW 13.04.030 or has been transferred by the
7 appropriate juvenile court to a criminal court pursuant to RCW
8 13.40.110. Throughout this chapter, the terms "offender" and
9 "defendant" are used interchangeably.

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

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

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

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

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

1 (ii) Has, before the commission of the offense under (b)(i) of this
2 subsection, been convicted as an offender on at least one occasion,
3 whether in this state or elsewhere, of an offense listed in (b)(i) of
4 this subsection or any federal or out-of-state offense or offense under
5 prior Washington law that is comparable to the offenses listed in
6 (b)(i) of this subsection. A conviction for rape of a child in the
7 first degree constitutes a conviction under (b)(i) of this subsection
8 only when the offender was sixteen years of age or older when the
9 offender committed the offense. A conviction for rape of a child in
10 the second degree constitutes a conviction under (b)(i) of this
11 subsection only when the offender was eighteen years of age or older
12 when the offender committed the offense.

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

15 (35) "Private school" means a school regulated under chapter
16 28A.195 or 28A.205 RCW.

17 (36) "Public school" has the same meaning as in RCW 28A.150.010.

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

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

30 (39) "Serious traffic offense" means:

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

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

1 (40) "Serious violent offense" is a subcategory of violent offense
2 and means:
3 (a)(i) Murder in the first degree;
4 (ii) Homicide by abuse;
5 (iii) Murder in the second degree;
6 (iv) Manslaughter in the first degree;
7 (v) Assault in the first degree;
8 (vi) Kidnapping in the first degree;
9 (vii) Rape in the first degree;
10 (viii) Assault of a child in the first degree; or
11 (ix) An attempt, criminal solicitation, or criminal conspiracy to
12 commit one of these felonies; or
13 (b) Any federal or out-of-state conviction for an offense that
14 under the laws of this state would be a felony classified as a serious
15 violent offense under (a) of this subsection.
16 (41) "Sex offense" means:
17 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
18 RCW 9A.44.130(11);
19 (ii) A violation of RCW 9A.64.020;
20 (iii) A felony that is a violation of chapter 9.68A RCW other than
21 RCW ((~~9.68A.070 or~~) 9.68A.080; or
22 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
23 criminal solicitation, or criminal conspiracy to commit such crimes;
24 (b) Any conviction for a felony offense in effect at any time prior
25 to July 1, 1976, that is comparable to a felony classified as a sex
26 offense in (a) of this subsection;
27 (c) A felony with a finding of sexual motivation under RCW
28 9.94A.835 or 13.40.135; or
29 (d) Any federal or out-of-state conviction for an offense that
30 under the laws of this state would be a felony classified as a sex
31 offense under (a) of this subsection.
32 (42) "Sexual motivation" means that one of the purposes for which
33 the defendant committed the crime was for the purpose of his or her
34 sexual gratification.
35 (43) "Standard sentence range" means the sentencing court's
36 discretionary range in imposing a nonappealable sentence.
37 (44) "Statutory maximum sentence" means the maximum length of time

1 for which an offender may be confined as punishment for a crime as
2 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
3 crime, or other statute defining the maximum penalty for a crime.

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

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

14 (47) "Victim" means any person who has sustained emotional,
15 psychological, physical, or financial injury to person or property as
16 a direct result of the crime charged.

17 (48) "Violent offense" means:

18 (a) Any of the following felonies:

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

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

23 (iii) Manslaughter in the first degree;

24 (iv) Manslaughter in the second degree;

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

26 (vi) Kidnapping in the second degree;

27 (vii) Arson in the second degree;

28 (viii) Assault in the second degree;

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

30 (x) Extortion in the first degree;

31 (xi) Robbery in the second degree;

32 (xii) Drive-by shooting;

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

37 (xiv) Vehicular homicide, when proximately caused by the driving of

1 any vehicle by any person while under the influence of intoxicating
2 liquor or any drug as defined by RCW 46.61.502, or by the operation of
3 any vehicle in a reckless manner;

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

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

10 (49) "Work crew" means a program of partial confinement consisting
11 of civic improvement tasks for the benefit of the community that
12 complies with RCW 9.94A.725.

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

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

23 **Sec. 8.** RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read
24 as follows:

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

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

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

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

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

5 (5) "Community custody" means that portion of an offender's
6 sentence of confinement in lieu of earned release time or imposed
7 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
8 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
9 community subject to controls placed on the offender's movement and
10 activities by the department. For offenders placed on community
11 custody for crimes committed on or after July 1, 2000, the department
12 shall assess the offender's risk of reoffense and may establish and
13 modify conditions of community custody, in addition to those imposed by
14 the court, based upon the risk to community safety.

15 (6) "Community custody range" means the minimum and maximum period
16 of community custody included as part of a sentence under RCW
17 9.94A.715, as established by the commission or the legislature under
18 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

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

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

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

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

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

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

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

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

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

23 (c) The determination of a defendant's criminal history is distinct
24 from the determination of an offender score. A prior conviction that
25 was not included in an offender score calculated pursuant to a former
26 version of the sentencing reform act remains part of the defendant's
27 criminal history.

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

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

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

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

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

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

25 (20) "Drug offense" means:

26 (a) Any felony violation of chapter 69.50 RCW except possession of
27 a controlled substance (RCW 69.50.4013) or forged prescription for a
28 controlled substance (RCW 69.50.403);

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

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

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

37 (22) "Escape" means:

1 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
2 first degree (RCW 9A.76.110), escape in the second degree (RCW
3 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
4 willful failure to return from work release (RCW 72.65.070), or willful
5 failure to be available for supervision by the department while in
6 community custody (RCW 72.09.310); or

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

10 (23) "Felony traffic offense" means:

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

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

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

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

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

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

1 of an emergency response to the incident resulting in the conviction,
2 subject to RCW 38.52.430.

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

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

8 (b) Assault in the second degree;

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

10 (d) Child molestation in the second degree;

11 (e) Controlled substance homicide;

12 (f) Extortion in the first degree;

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

14 (h) Indecent liberties;

15 (i) Kidnapping in the second degree;

16 (j) Leading organized crime;

17 (k) Manslaughter in the first degree;

18 (l) Manslaughter in the second degree;

19 (m) Promoting prostitution in the first degree;

20 (n) Rape in the third degree;

21 (o) Robbery in the second degree;

22 (p) Sexual exploitation;

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

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

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

33 (t) Any other felony with a deadly weapon verdict under RCW
34 9.94A.602;

35 (u) Any felony offense in effect at any time prior to December 2,
36 1993, that is comparable to a most serious offense under this
37 subsection, or any federal or out-of-state conviction for an offense

1 that under the laws of this state would be a felony classified as a
2 most serious offense under this subsection;

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

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

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

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

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

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

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

36 (ii) Has, before the commission of the offense under (a) of this
37 subsection, been convicted as an offender on at least two separate
38 occasions, whether in this state or elsewhere, of felonies that under

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

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

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

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

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

34 (35) "Risk assessment" means the application of an objective
35 instrument supported by research and adopted by the department for the
36 purpose of assessing an offender's risk of reoffense, taking into
37 consideration the nature of the harm done by the offender, place and
38 circumstances of the offender related to risk, the offender's

1 relationship to any victim, and any information provided to the
2 department by victims. The results of a risk assessment shall not be
3 based on unconfirmed or unconfirmable allegations.

4 (36) "Serious traffic offense" means:

5 (a) Driving while under the influence of intoxicating liquor or any
6 drug (RCW 46.61.502), actual physical control while under the influence
7 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
8 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
9 or

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

13 (37) "Serious violent offense" is a subcategory of violent offense
14 and means:

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

16 (ii) Homicide by abuse;

17 (iii) Murder in the second degree;

18 (iv) Manslaughter in the first degree;

19 (v) Assault in the first degree;

20 (vi) Kidnapping in the first degree;

21 (vii) Rape in the first degree;

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

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

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

28 (38) "Sex offense" means:

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

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

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

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

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

1 (c) A felony with a finding of sexual motivation under RCW
2 9.94A.835 or 13.40.135; or

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

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

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

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

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

19 (43) "Transition training" means written and verbal instructions
20 and assistance provided by the department to the offender during the
21 two weeks prior to the offender's successful completion of the work
22 ethic camp program. The transition training shall include instructions
23 in the offender's requirements and obligations during the offender's
24 period of community custody.

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

28 (45) "Violent offense" means:

29 (a) Any of the following felonies:

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

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

34 (iii) Manslaughter in the first degree;

35 (iv) Manslaughter in the second degree;

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

37 (vi) Kidnapping in the second degree;

38 (vii) Arson in the second degree;

1 (viii) Assault in the second degree;

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

3 (x) Extortion in the first degree;

4 (xi) Robbery in the second degree;

5 (xii) Drive-by shooting;

6 (xiii) Vehicular assault, when caused by the operation or driving
7 of a vehicle by a person while under the influence of intoxicating
8 liquor or any drug or by the operation or driving of a vehicle in a
9 reckless manner; and

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

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

17 (c) 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 violent
19 offense under (a) or (b) of this subsection.

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

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

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

33 NEW SECTION. **Sec. 9.** (1) Section 3 of this act expires September
34 1, 2006.

35 (2) Section 7 of this act expires July 1, 2006.

1 NEW SECTION. **Sec. 10.** (1) Section 4 of this act takes effect
2 September 1, 2006.
3 (2) Section 8 of this act takes effect July 1, 2006.

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