
SUBSTITUTE SENATE BILL 6497

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Kline, Franklin and Hargrove)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to felony sentences; amending RCW 9.94A.510,
2 9.94A.535, 9.94A.537, 9.94A.190, and 9.94A.850; creating new sections;
3 and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that statutorily
6 granted judicial discretion in sentencing has been limited by appellate
7 court decisions requiring jury findings prior to imposing sentences
8 above the standard sentence ranges. The legislature further finds that
9 expanding the sentencing ranges is the most appropriate method of
10 increasing judicial discretion while retaining commensurate and
11 appropriate punishment for similarly situated offenders as well as
12 assuring the frugal use of state and local government resources. The
13 legislature intends to provide judges with increased discretion and
14 decrease the need to impose exceptional sentences. The legislature
15 further intends that sentencing courts have the authority and power to
16 adopt suitable processes of proceeding in cases where exceptional
17 sentences are appropriate to the extent that such procedures are
18 mandated by the United States Constitution or Washington state
19 Constitution.

1		3-	6-	12+	13-	15-	22-	33-	43-	53-	63-
2		9	12	14	17	20	29	43	57	70	84
3	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
4		1-	3-	4-	9-	12+	17-	22-	33-	43-	51-
5		3-	8-	12	12	16	22	29	43	57	68
6	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
7		0-90	2-	3-	4-	12+	14-	17-	22-	33-	43-
8		Days	6-	9-	12	14	18	22	29	43	57
9	I			3m	4m	5m	8m	13m	16m	20m	2y2m
10		0-60	0-90	2-	2-	3-	4-	12+	14-	17-	22-
11		Days	Days	5-	6-	8-	12	14-	18	22	29))

TABLE 1

Sentencing Grid

SERIOUSNESS

LEVEL

OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9	10 or more
<u>XVI</u>	<u>Life Sentence without Parole/Death Penalty</u>										
<u>XV</u>	<u>225-</u> <u>337</u>	<u>233-</u> <u>350</u>	<u>243-</u> <u>365</u>	<u>262-</u> <u>393</u>	<u>272-</u> <u>408</u>	<u>289-</u> <u>435</u>	<u>289-</u> <u>435</u>	<u>315-</u> <u>473</u>	<u>345-</u> <u>518</u>	<u>383-</u> <u>575</u>	<u>383-</u> <u>862</u>
<u>XIV</u>	<u>123-</u> <u>220</u>	<u>134-</u> <u>234</u>	<u>144-</u> <u>244</u>	<u>154-</u> <u>254</u>	<u>165-</u> <u>265</u>	<u>175-</u> <u>275</u>	<u>195-</u> <u>295</u>	<u>216-</u> <u>316</u>	<u>257-</u> <u>357</u>	<u>298-</u> <u>397</u>	<u>298-</u> <u>595</u>
<u>XIII</u>	<u>115-</u> <u>172</u>	<u>125-</u> <u>187</u>	<u>134-</u> <u>202</u>	<u>144-</u> <u>216</u>	<u>154-</u> <u>230</u>	<u>163-</u> <u>245</u>	<u>182-</u> <u>273</u>	<u>201-</u> <u>301</u>	<u>238-</u> <u>357</u>	<u>277-</u> <u>416</u>	<u>277-</u> <u>624</u>
<u>XII</u>	<u>88-</u> <u>132</u>	<u>95-</u> <u>143</u>	<u>103-</u> <u>155</u>	<u>112-</u> <u>168</u>	<u>120-</u> <u>180</u>	<u>128-</u> <u>194</u>	<u>151-</u> <u>227</u>	<u>166-</u> <u>248</u>	<u>193-</u> <u>290</u>	<u>222-</u> <u>333</u>	<u>222-</u> <u>500</u>
<u>XI</u>	<u>72-</u> <u>107</u>	<u>80-</u> <u>120</u>	<u>88-</u> <u>132</u>	<u>95-</u> <u>143</u>	<u>100-</u> <u>150</u>	<u>112-</u> <u>168</u>	<u>136-</u> <u>204</u>	<u>148-</u> <u>222</u>	<u>172-</u> <u>257</u>	<u>196-</u> <u>295</u>	<u>196-</u> <u>442</u>
<u>X</u>	<u>43-</u> <u>71</u>	<u>47-</u> <u>79</u>	<u>52-</u> <u>86</u>	<u>56-</u> <u>93</u>	<u>61-</u> <u>100</u>	<u>64-</u> <u>107</u>	<u>79-</u> <u>132</u>	<u>90-</u> <u>150</u>	<u>108-</u> <u>180</u>	<u>127-</u> <u>208</u>	<u>127-</u> <u>312</u>
<u>IX</u>	<u>26-</u> <u>43</u>	<u>29-</u> <u>50</u>	<u>34-</u> <u>57</u>	<u>38-</u> <u>64</u>	<u>43-</u> <u>71</u>	<u>47-</u> <u>79</u>	<u>64-</u> <u>107</u>	<u>72-</u> <u>120</u>	<u>90-</u> <u>150</u>	<u>108-</u> <u>180</u>	<u>108-</u> <u>270</u>
<u>VIII</u>	<u>17-</u> <u>28</u>	<u>21-</u> <u>36</u>	<u>26-</u> <u>43</u>	<u>30-</u> <u>50</u>	<u>34-</u> <u>57</u>	<u>38-</u> <u>64</u>	<u>56-</u> <u>93</u>	<u>64-</u> <u>107</u>	<u>72-</u> <u>120</u>	<u>90-</u> <u>150</u>	<u>90-</u> <u>225</u>
<u>VII</u>	<u>14-</u> <u>21</u>	<u>17-</u> <u>28</u>	<u>21-</u> <u>36</u>	<u>26-</u> <u>43</u>	<u>30-</u> <u>50</u>	<u>34-</u> <u>57</u>	<u>47-</u> <u>79</u>	<u>55-</u> <u>93</u>	<u>64-</u> <u>107</u>	<u>72-</u> <u>120</u>	<u>72-</u> <u>180</u>

1	VI	<u>10+-</u>	<u>14-</u>	<u>17-</u>	<u>21-</u>	<u>26-</u>	<u>30-</u>	<u>38-</u>	<u>47-</u>	<u>55-</u>	<u>64-</u>	<u>64-</u>
2		<u>17</u>	<u>21</u>	<u>28</u>	<u>36</u>	<u>43</u>	<u>50</u>	<u>64</u>	<u>79</u>	<u>93</u>	<u>107</u>	<u>157</u>
3	V	<u>6-</u>	<u>10+-</u>	<u>12+-</u>	<u>14-</u>	<u>17-</u>	<u>27-</u>	<u>34-</u>	<u>43-</u>	<u>52-</u>	<u>61-</u>	<u>61-</u>
4		<u>12</u>	<u>17</u>	<u>18</u>	<u>21</u>	<u>30</u>	<u>45</u>	<u>57</u>	<u>71</u>	<u>86</u>	<u>100</u>	<u>120</u>
5	IV	<u>3-</u>	<u>6-</u>	<u>10+-</u>	<u>12+-</u>	<u>14-</u>	<u>17-</u>	<u>27-</u>	<u>34-</u>	<u>44-</u>	<u>52-</u>	<u>52-</u>
6		<u>9</u>	<u>12</u>	<u>17</u>	<u>18</u>	<u>21</u>	<u>30</u>	<u>45</u>	<u>57</u>	<u>74</u>	<u>86</u>	<u>120</u>
7	III	<u>1-</u>	<u>3-</u>	<u>4-</u>	<u>9-</u>	<u>10+-</u>	<u>16-</u>	<u>17-</u>	<u>27-</u>	<u>36-</u>	<u>43-</u>	<u>43-</u>
8		<u>3</u>	<u>8</u>	<u>12</u>	<u>12</u>	<u>17</u>	<u>23</u>	<u>30</u>	<u>45</u>	<u>60</u>	<u>71</u>	<u>120</u>
9	II	<u>0-90</u>	<u>2-</u>	<u>3-</u>	<u>4-</u>	<u>10+-</u>	<u>13-</u>	<u>16-</u>	<u>17-</u>	<u>27-</u>	<u>36-</u>	<u>36-</u>
10		<u>Days</u>	<u>6</u>	<u>9</u>	<u>12</u>	<u>17</u>	<u>19</u>	<u>23</u>	<u>30</u>	<u>45</u>	<u>60</u>	<u>120</u>
11	I	<u>0-60</u>	<u>0-90</u>	<u>2-</u>	<u>2-</u>	<u>3-</u>	<u>4-</u>	<u>10+-</u>	<u>13-</u>	<u>16-</u>	<u>17-</u>	<u>17-</u>
12		<u>Days</u>	<u>Days</u>	<u>5</u>	<u>6</u>	<u>8</u>	<u>12</u>	<u>17</u>	<u>19</u>	<u>23</u>	<u>30</u>	<u>60</u>

13 Numbers in the first and second horizontal rows of each seriousness
14 category (~~((represent sentencing midpoints in years(y) and months(m).~~
15 ~~Numbers in the second and third rows))~~ represent standard sentence
16 ranges in months, or in days if so designated. 12+ equals one year and
17 one day. 10+ equals ten months and one day.

18 **Sec. 3.** RCW 9.94A.535 and 2005 c 68 s 3 are each amended to read
19 as follows:

20 The court may impose a sentence outside the standard sentence range
21 for an offense if it finds, considering the purpose of this chapter,
22 that there are substantial and compelling reasons justifying an
23 exceptional sentence. Facts supporting aggravated sentences, other
24 than the fact of a prior conviction, shall be determined pursuant to
25 the provisions of RCW 9.94A.537.

26 Whenever a sentence outside the standard sentence range is imposed,
27 the court shall set forth the reasons for its decision in written
28 findings of fact and conclusions of law. A sentence outside the
29 standard sentence range shall be a determinate sentence.

30 If the sentencing court finds that an exceptional sentence outside
31 the standard sentence range should be imposed, the sentence is subject
32 to review only as provided for in RCW 9.94A.585(4).

33 A departure from the standards in RCW 9.94A.589 (1) and (2)
34 governing whether sentences are to be served consecutively or
35 concurrently is an exceptional sentence subject to the limitations in

1 this section, and may be appealed by the offender or the state as set
2 forth in RCW 9.94A.585 (2) through (6).

3 (1) Mitigating Circumstances - Court to Consider

4 The court may impose an exceptional sentence below the standard
5 range if it finds that mitigating circumstances are established by a
6 preponderance of the evidence. The following are illustrative only and
7 are not intended to be exclusive reasons for exceptional sentences.

8 (a) To a significant degree, the victim was an initiator, willing
9 participant, aggressor, or provoker of the incident.

10 (b) Before detection, the defendant compensated, or made a good
11 faith effort to compensate, the victim of the criminal conduct for any
12 damage or injury sustained.

13 (c) The defendant committed the crime under duress, coercion,
14 threat, or compulsion insufficient to constitute a complete defense but
15 which significantly affected his or her conduct.

16 (d) The defendant, with no apparent predisposition to do so, was
17 induced by others to participate in the crime.

18 (e) The defendant's capacity to appreciate the wrongfulness of his
19 or her conduct, or to conform his or her conduct to the requirements of
20 the law, was significantly impaired. Voluntary use of drugs or alcohol
21 is excluded.

22 (f) The offense was principally accomplished by another person and
23 the defendant manifested extreme caution or sincere concern for the
24 safety or well-being of the victim.

25 (g) The operation of the multiple offense policy of RCW 9.94A.589
26 results in a presumptive sentence that is clearly excessive in light of
27 the purpose of this chapter, as expressed in RCW 9.94A.010.

28 (h) The defendant or the defendant's children suffered a continuing
29 pattern of physical or sexual abuse by the victim of the offense and
30 the offense is a response to that abuse.

31 (i) The offender score due to other current offenses, as opposed to
32 prior offenses, results in a presumptive sentence that is clearly
33 excessive.

34 (2) Aggravating Circumstances - Considered and Imposed by the Court

35 The trial court may impose an aggravated exceptional sentence
36 without a finding of fact by a jury under the following circumstances:

37 ((+a)) The defendant and the state both stipulate that justice is
38 best served by the imposition of an exceptional sentence outside the

1 standard range, and the court finds the exceptional sentence to be
2 consistent with and in furtherance of the interests of justice and the
3 purposes of the sentencing reform act.

4 ~~((b) The defendant's prior unscored misdemeanor or prior unscored
5 foreign criminal history results in a presumptive sentence that is
6 clearly too lenient in light of the purpose of this chapter, as
7 expressed in RCW 9.94A.010.~~

8 ~~(c) The defendant has committed multiple current offenses and the
9 defendant's high offender score results in some of the current offenses
10 going unpunished.~~

11 ~~(d) The failure to consider the defendant's prior criminal history
12 which was omitted from the offender score calculation pursuant to RCW
13 9.94A.525 results in a presumptive sentence that is clearly too
14 lenient.))~~

15 (3) Aggravating Circumstances - Considered by a Jury - Imposed by
16 the Court

17 Except for circumstances listed in subsection (2) of this section,
18 the following circumstances are an exclusive list of factors that can
19 support a sentence above the standard range. Such facts should be
20 determined by procedures specified in RCW 9.94A.537.

21 (a) The defendant's conduct during the commission of the current
22 offense manifested deliberate cruelty to the victim.

23 (b) The defendant knew or should have known that the victim of the
24 current offense was particularly vulnerable or incapable of resistance.

25 (c) The current offense was a violent offense, and the defendant
26 knew that the victim of the current offense was pregnant.

27 (d) The current offense was a major economic offense or series of
28 offenses, so identified by a consideration of any of the following
29 factors:

30 (i) The current offense involved multiple victims or multiple
31 incidents per victim;

32 (ii) The current offense involved attempted or actual monetary loss
33 substantially greater than typical for the offense;

34 (iii) The current offense involved a high degree of sophistication
35 or planning or occurred over a lengthy period of time; or

36 (iv) The defendant used his or her position of trust, confidence,
37 or fiduciary responsibility to facilitate the commission of the current
38 offense.

1 (e) The current offense was a major violation of the Uniform
2 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
3 trafficking in controlled substances, which was more onerous than the
4 typical offense of its statutory definition: The presence of ANY of
5 the following may identify a current offense as a major VUCSA:

6 (i) The current offense involved at least three separate
7 transactions in which controlled substances were sold, transferred, or
8 possessed with intent to do so;

9 (ii) The current offense involved an attempted or actual sale or
10 transfer of controlled substances in quantities substantially larger
11 than for personal use;

12 (iii) The current offense involved the manufacture of controlled
13 substances for use by other parties;

14 (iv) The circumstances of the current offense reveal the offender
15 to have occupied a high position in the drug distribution hierarchy;

16 (v) The current offense involved a high degree of sophistication or
17 planning, occurred over a lengthy period of time, or involved a broad
18 geographic area of disbursement; or

19 (vi) The offender used his or her position or status to facilitate
20 the commission of the current offense, including positions of trust,
21 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
22 other medical professional).

23 (f) The current offense included a finding of sexual motivation
24 pursuant to RCW 9.94A.835.

25 (g) The offense was part of an ongoing pattern of sexual abuse of
26 the same victim under the age of eighteen years manifested by multiple
27 incidents over a prolonged period of time.

28 (h) The current offense involved domestic violence, as defined in
29 RCW 10.99.020, and one or more of the following was present:

30 (i) The offense was part of an ongoing pattern of psychological,
31 physical, or sexual abuse of the victim manifested by multiple
32 incidents over a prolonged period of time;

33 (ii) The offense occurred within sight or sound of the victim's or
34 the offender's minor children under the age of eighteen years; or

35 (iii) The offender's conduct during the commission of the current
36 offense manifested deliberate cruelty or intimidation of the victim.

37 (i) The offense resulted in the pregnancy of a child victim of
38 rape.

1 (j) The defendant knew that the victim of the current offense was
2 a youth who was not residing with a legal custodian and the defendant
3 established or promoted the relationship for the primary purpose of
4 victimization.

5 (k) The offense was committed with the intent to obstruct or impair
6 human or animal health care or agricultural or forestry research or
7 commercial production.

8 (l) The current offense is trafficking in the first degree or
9 trafficking in the second degree and any victim was a minor at the time
10 of the offense.

11 (m) The offense involved a high degree of sophistication or
12 planning.

13 (n) The defendant used his or her position of trust, confidence, or
14 fiduciary responsibility to facilitate the commission of the current
15 offense.

16 (o) The defendant committed a current sex offense, has a history of
17 sex offenses, and is not amenable to treatment.

18 (p) The offense involved an invasion of the victim's privacy.

19 (q) The defendant demonstrated or displayed an egregious lack of
20 remorse.

21 (r) The offense involved a destructive and foreseeable impact on
22 persons other than the victim.

23 (s) The defendant committed the offense to obtain or maintain his
24 or her membership or to advance his or her position in the hierarchy of
25 an organization, association, or identifiable group.

26 (t) The defendant committed the current offense shortly after being
27 released from incarceration.

28 (u) The current offense is a burglary and the victim of the
29 burglary was present in the building or residence when the crime was
30 committed.

31 (v) The offense was committed against a law enforcement officer who
32 was performing his or her official duties at the time of the offense,
33 the offender knew that the victim was a law enforcement officer, and
34 the victim's status as a law enforcement officer is not an element of
35 the offense.

36 (w) The defendant committed the offense against a victim who was
37 acting as a good samaritan.

1 (x) The defendant committed the offense against a public official
2 or officer of the court in retaliation of the public official's
3 performance of his or her duty to the criminal justice system.

4 (y) The victim's injuries substantially exceed the level of bodily
5 harm necessary to satisfy the elements of the offense. This aggravator
6 is not an exception to RCW 9.94A.530(2).

7 (z) The defendant's prior unscored misdemeanor or prior unscored
8 foreign criminal history results in a presumptive sentence that is
9 clearly too lenient in light of the purpose of this chapter, as
10 expressed in RCW 9.94A.010.

11 (aa) The defendant has committed multiple current offenses and the
12 defendant's high offender score results in some of the current offenses
13 going unpunished.

14 (bb) The failure to consider the defendant's prior criminal history
15 which was omitted from the offender score calculation pursuant to RCW
16 9.94A.525 results in a presumptive sentence that is clearly too
17 lenient.

18 **Sec. 4.** RCW 9.94A.537 and 2005 c 68 s 4 are each amended to read
19 as follows:

20 (1) At any time prior to trial or entry of the guilty plea if
21 substantial rights of the defendant are not prejudiced, the state may
22 give notice that it is seeking a sentence above the standard sentencing
23 range. The notice shall state aggravating circumstances upon which the
24 requested sentence will be based.

25 (2) The facts supporting aggravating circumstances shall be proved
26 to a jury beyond a reasonable doubt. The jury's verdict on the
27 aggravating factor must be unanimous, and by special interrogatory. If
28 a jury is waived, proof shall be to the court beyond a reasonable
29 doubt, unless the defendant stipulates to the aggravating facts. A
30 jury may be empaneled to find aggravating facts if the defendant pleads
31 guilty to the underlying crime but not to the aggravating factor.

32 (3) Evidence regarding any facts supporting aggravating
33 circumstances under RCW 9.94A.535(3) (a) through (y) shall be presented
34 to the jury during the trial of the alleged crime, unless the state
35 alleges the aggravating circumstances listed in RCW 9.94A.535(3)
36 (e)(iv), (h)(i), (o), or (t). If one of these aggravating
37 circumstances is alleged, the trial court may conduct a separate

1 proceeding if the evidence supporting the aggravating fact is not part
2 of the res geste of the charged crime, if the evidence is not otherwise
3 admissible in trial of the charged crime, and if the court finds that
4 the probative value of the evidence to the aggravated fact is
5 substantially outweighed by its prejudicial effect on the jury's
6 ability to determine guilt or innocence for the underlying crime.

7 (4) If the court conducts a separate proceeding to determine the
8 existence of aggravating circumstances, the proceeding shall
9 immediately follow the trial on the underlying conviction, if possible.
10 If any person who served on the jury is unable to continue, the court
11 shall substitute an alternate juror.

12 (5) If the jury finds, unanimously and beyond a reasonable doubt,
13 one or more of the facts alleged by the state in support of an
14 aggravated sentence, the court may sentence the offender pursuant to
15 RCW 9.94A.535 to a term of confinement up to the maximum allowed under
16 RCW 9A.20.021 for the underlying conviction if it finds, considering
17 the purposes of this chapter, that the facts found are substantial and
18 compelling reasons justifying an exceptional sentence.

19 (6) If the defendant enters a guilty plea to the charged crime or
20 the case is remanded for a new sentencing hearing, the court may
21 empanel a jury for the purpose of considering any aggravating
22 circumstances alleged by the state. The trial on the aggravating
23 circumstances should occur within ninety days of the entry of the
24 guilty plea, or the filing of an appellate court mandate. Upon a
25 showing of good cause, the court may extend the time for the trial on
26 aggravating circumstances. The time limit for holding a sentencing
27 hearing, set forth in RCW 9.94A.500, shall not begin to run until the
28 jury renders a verdict on the aggravating circumstances.

29 **Sec. 5.** RCW 9.94A.190 and 2001 2nd sp.s. c 12 s 313 are each
30 amended to read as follows:

31 (1) A sentence that includes a term or terms of confinement
32 totaling more than one year, or a sentence set under RCW 9.94A.510
33 based on a sentence range with a minimum sentence of more than ten
34 months, shall be served in a facility or institution operated, or
35 utilized under contract, by the state. Except as provided in this
36 subsection or subsection (3) or (5) of this section, a sentence of not
37 more than one year of confinement shall be served in a facility

1 operated, licensed, or utilized under contract, by the county, or if
2 home detention or work crew has been ordered by the court, in the
3 residence of either the offender or a member of the offender's
4 immediate family.

5 (2) If a county uses a state partial confinement facility for the
6 partial confinement of a person sentenced to confinement for not more
7 than one year, the county shall reimburse the state for the use of the
8 facility as provided in this subsection. The office of financial
9 management shall set the rate of reimbursement based upon the average
10 per diem cost per offender in the facility. The office of financial
11 management shall determine to what extent, if any, reimbursement shall
12 be reduced or eliminated because of funds provided by the legislature
13 to the department for the purpose of covering the cost of county use of
14 state partial confinement facilities. The office of financial
15 management shall reestablish reimbursement rates each even-numbered
16 year.

17 (3) A person who is sentenced for a felony to a term of not more
18 than one year, and who is committed or returned to incarceration in a
19 state facility on another felony conviction, either under the
20 indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter
21 shall serve all terms of confinement, including a sentence of not more
22 than one year, in a facility or institution operated, or utilized under
23 contract, by the state, consistent with the provisions of RCW
24 9.94A.589.

25 (4) Notwithstanding any other provision of this section, a sentence
26 imposed pursuant to RCW 9.94A.660 which has a standard sentence range
27 of over one year, regardless of length, shall be served in a facility
28 or institution operated, or utilized under contract, by the state.

29 (5) Sentences imposed pursuant to RCW 9.94A.712 shall be served in
30 a facility or institution operated, or utilized under contract, by the
31 state.

32 **Sec. 6.** RCW 9.94A.850 and 2005 c 282 s 19 are each amended to read
33 as follows:

34 (1) A sentencing guidelines commission is established as an agency
35 of state government.

36 (2) The legislature finds that the commission, having accomplished

1 its original statutory directive to implement this chapter, and having
2 expertise in sentencing practice and policies, shall:

3 (a) Evaluate state sentencing policy, to include whether the
4 sentencing ranges and standards are consistent with and further:

5 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

6 (ii) The intent of the legislature to emphasize confinement for the
7 violent offender and alternatives to confinement for the nonviolent
8 offender.

9 The commission shall provide the governor and the legislature with
10 its evaluation and recommendations under this subsection not later than
11 December 1, 1996, and every two years thereafter;

12 (b) Recommend to the legislature revisions or modifications to the
13 standard sentence ranges, state sentencing policy, prosecuting
14 standards, and other standards. If implementation of the revisions or
15 modifications would result in exceeding the capacity of correctional
16 facilities, then the commission shall accompany its recommendation with
17 an additional list of standard sentence ranges which are consistent
18 with correction capacity;

19 (c) Study the existing criminal code and from time to time make
20 recommendations to the legislature for modification;

21 (d)(i) Serve as a clearinghouse and information center for the
22 collection, preparation, analysis, and dissemination of information on
23 state and local adult and juvenile sentencing practices; (ii) develop
24 and maintain a computerized adult and juvenile sentencing information
25 system by individual superior court judge consisting of offender,
26 offense, history, and sentence information entered from judgment and
27 sentence forms for all adult felons; and (iii) conduct ongoing research
28 regarding adult and juvenile sentencing guidelines, use of total
29 confinement and alternatives to total confinement, plea bargaining, and
30 other matters relating to the improvement of the adult criminal justice
31 system and the juvenile justice system;

32 (e) Assume the powers and duties of the juvenile disposition
33 standards commission after June 30, 1996;

34 (f) Evaluate the effectiveness of existing disposition standards
35 and related statutes in implementing policies set forth in RCW
36 13.40.010 generally, specifically review the guidelines relating to the
37 confinement of minor and first-time offenders as well as the use of

1 diversion, and review the application of current and proposed juvenile
2 sentencing standards and guidelines for potential adverse impacts on
3 the sentencing outcomes of racial and ethnic minority youth;

4 (g) Solicit the comments and suggestions of the juvenile justice
5 community concerning disposition standards, and make recommendations to
6 the legislature regarding revisions or modifications of the standards.
7 The evaluations shall be submitted to the legislature on December 1 of
8 each odd-numbered year. The department of social and health services
9 shall provide the commission with available data concerning the
10 implementation of the disposition standards and related statutes and
11 their effect on the performance of the department's responsibilities
12 relating to juvenile offenders, and with recommendations for
13 modification of the disposition standards. The administrative office
14 of the courts shall provide the commission with available data on
15 diversion, including the use of youth court programs, and dispositions
16 of juvenile offenders under chapter 13.40 RCW; and

17 (h) Not later than December 1, 1997, and at least every two years
18 thereafter, based on available information, report to the governor and
19 the legislature on:

20 (i) Racial disproportionality in juvenile and adult sentencing,
21 and, if available, the impact that diversions, such as youth courts,
22 have on racial disproportionality in juvenile prosecution,
23 adjudication, and sentencing;

24 (ii) The capacity of state and local juvenile and adult facilities
25 and resources; and

26 (iii) Recidivism information on adult and juvenile offenders.

27 (3) Each of the commission's recommended standard sentence ranges
28 shall include one or more of the following: Total confinement, partial
29 confinement, community supervision, community restitution, and a fine.

30 (4) The standard sentence ranges of total and partial confinement
31 under this chapter, except as provided in RCW 9.94A.517, are subject to
32 the following limitations:

33 (a) If the maximum term in the range is one year or less, the
34 minimum term in the range shall be no less than one-third of the
35 maximum term in the range, except that if the maximum term in the range
36 is ninety days or less, the minimum term may be less than one-third of
37 the maximum;

1 (b) If the maximum term in the range is greater than one year, the
2 minimum term in the range shall be no less than (~~seventy-five~~) sixty
3 percent of the maximum term in the range, except that for murder in the
4 second degree in seriousness level XIV under RCW 9.94A.510, the minimum
5 term in the range shall be no less than fifty percent of the maximum
6 term in the range and except that for any offense with an offender
7 score of ten or more, the minimum term in the range shall be no less
8 than twenty-five percent of the maximum term in the range; and

9 (c) The maximum term of confinement in a range may not exceed the
10 statutory maximum for the crime as provided in RCW 9A.20.021.

11 (5)(a) Not later than December 31, 1999, the commission shall
12 propose to the legislature the initial community custody ranges to be
13 included in sentences under RCW 9.94A.715 for crimes committed on or
14 after July 1, 2000. Not later than December 31 of each year, the
15 commission may propose modifications to the ranges. The ranges shall
16 be based on the principles in RCW 9.94A.010, and shall take into
17 account the funds available to the department for community custody.
18 The minimum term in each range shall not be less than one-half of the
19 maximum term.

20 (b) The legislature may, by enactment of a legislative bill, adopt
21 or modify the community custody ranges proposed by the commission. If
22 the legislature fails to adopt or modify the initial ranges in its next
23 regular session after they are proposed, the proposed ranges shall take
24 effect without legislative approval for crimes committed on or after
25 July 1, 2000.

26 (c) When the commission proposes modifications to ranges pursuant
27 to this subsection, the legislature may, by enactment of a bill, adopt
28 or modify the ranges proposed by the commission for crimes committed on
29 or after July 1 of the year after they were proposed. Unless the
30 legislature adopts or modifies the commission's proposal in its next
31 regular session, the proposed ranges shall not take effect.

32 (6) The commission shall exercise its duties under this section in
33 conformity with chapter 34.05 RCW.

34 NEW SECTION. Sec. 7. (1) Savings to the state general fund
35 resulting from reductions in sentencing as a result of sections 2 and
36 6 of this act, shall be deposited in the criminal justice treatment

1 account. All moneys deposited pursuant to this act shall be
2 appropriated to the division of alcohol and substance abuse for
3 distribution pursuant to RCW 70.96A.350(5).

4 (2) Moneys allocated under this section shall be used to
5 supplement, not supplant, other federal, state, and local funds used
6 for substance abuse treatment.

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