
HOUSE BILL 3045

State of Washington

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2010 Regular Session

By Representatives Roberts, Dickerson, Seaquist, Goodman, Carlyle, Green, Kagi, Upthegrove, Appleton, and Darneille; by request of Department of Corrections

Read first time 01/21/10. Referred to Committee on Human Services.

1 AN ACT Relating to creating alternatives to total confinement for
2 nonviolent offenders with minor children; amending RCW 9.94A.030,
3 9.94A.501, 9.94A.505, 9.94A.701, 9.94A.734, 9.94A.190, 9.94A.6332, and
4 9.94A.633; reenacting and amending RCW 9.94A.728; and adding a new
5 section to chapter 9.94A RCW.

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

7 **Sec. 1.** RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

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

13 (2) "Collect," or any derivative thereof, "collect and remit," or
14 "collect and deliver," when used with reference to the department,
15 means that the department, either directly or through a collection
16 agreement authorized by RCW 9.94A.760, is responsible for monitoring
17 and enforcing the offender's sentence with regard to the legal
18 financial obligation, receiving payment thereof from the offender, and,

1 consistent with current law, delivering daily the entire payment to the
2 superior court clerk without depositing it in a departmental account.

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

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

8 (5) "Community custody" means that portion of an offender's
9 sentence of confinement in lieu of earned release time or imposed as
10 part of a sentence under this chapter and served in the community
11 subject to controls placed on the offender's movement and activities by
12 the department.

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

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

19 (8) "Confinement" means total or partial confinement.

20 (9) "Conviction" means an adjudication of guilt pursuant to Title
21 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
22 acceptance of a plea of guilty.

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

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

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

37 (b) A conviction may be removed from a defendant's criminal history

1 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
2 a similar out-of-state statute, or if the conviction has been vacated
3 pursuant to a governor's pardon.

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

9 (12) "Criminal street gang" means any ongoing organization,
10 association, or group of three or more persons, whether formal or
11 informal, having a common name or common identifying sign or symbol,
12 having as one of its primary activities the commission of criminal
13 acts, and whose members or associates individually or collectively
14 engage in or have engaged in a pattern of criminal street gang
15 activity. This definition does not apply to employees engaged in
16 concerted activities for their mutual aid and protection, or to the
17 activities of labor and bona fide nonprofit organizations or their
18 members or agents.

19 (13) "Criminal street gang associate or member" means any person
20 who actively participates in any criminal street gang and who
21 intentionally promotes, furthers, or assists in any criminal act by the
22 criminal street gang.

23 (14) "Criminal street gang-related offense" means any felony or
24 misdemeanor offense, whether in this state or elsewhere, that is
25 committed for the benefit of, at the direction of, or in association
26 with any criminal street gang, or is committed with the intent to
27 promote, further, or assist in any criminal conduct by the gang, or is
28 committed for one or more of the following reasons:

- 29 (a) To gain admission, prestige, or promotion within the gang;
- 30 (b) To increase or maintain the gang's size, membership, prestige,
31 dominance, or control in any geographical area;
- 32 (c) To exact revenge or retribution for the gang or any member of
33 the gang;
- 34 (d) To obstruct justice, or intimidate or eliminate any witness
35 against the gang or any member of the gang;
- 36 (e) To directly or indirectly cause any benefit, aggrandizement,
37 gain, profit, or other advantage for the gang, its reputation,
38 influence, or membership; or

1 (f) To provide the gang with any advantage in, or any control or
2 dominance over any criminal market sector, including, but not limited
3 to, manufacturing, delivering, or selling any controlled substance
4 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
5 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
6 RCW); human trafficking (RCW 9A.40.100); or promoting pornography
7 (chapter 9.68 RCW).

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

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

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

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

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

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

5 (21) "Drug offense" means:

6 (a) Any felony violation of chapter 69.50 RCW except possession of
7 a controlled substance (RCW 69.50.4013) or forged prescription for a
8 controlled substance (RCW 69.50.403);

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

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

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

17 (23) "Escape" means:

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

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

27 (24) "Felony traffic offense" means:

28 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
29 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
30 run injury-accident (RCW 46.52.020(4)), felony driving while under the
31 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or
32 felony physical control of a vehicle while under the influence of
33 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

37 (25) "Fine" means a specific sum of money ordered by the sentencing

1 court to be paid by the offender to the court over a specific period of
2 time.

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

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

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

23 (29) "Minor child" means a biological or adopted child of the
24 offender who is under age eighteen at the time of the offender's
25 current offense.

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

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

31 (b) Assault in the second degree;

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

33 (d) Child molestation in the second degree;

34 (e) Controlled substance homicide;

35 (f) Extortion in the first degree;

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

37 (h) Indecent liberties;

38 (i) Kidnapping in the second degree;

1 (j) Leading organized crime;
2 (k) Manslaughter in the first degree;
3 (l) Manslaughter in the second degree;
4 (m) Promoting prostitution in the first degree;
5 (n) Rape in the third degree;
6 (o) Robbery in the second degree;
7 (p) Sexual exploitation;
8 (q) Vehicular assault, when caused by the operation or driving of
9 a vehicle by a person while under the influence of intoxicating liquor
10 or any drug or by the operation or driving of a vehicle in a reckless
11 manner;
12 (r) Vehicular homicide, when proximately caused by the driving of
13 any vehicle by any person while under the influence of intoxicating
14 liquor or any drug as defined by RCW 46.61.502, or by the operation of
15 any vehicle in a reckless manner;
16 (s) Any other class B felony offense with a finding of sexual
17 motivation;
18 (t) Any other felony with a deadly weapon verdict under RCW
19 9.94A.825;
20 (u) Any felony offense in effect at any time prior to December 2,
21 1993, that is comparable to a most serious offense under this
22 subsection, or any federal or out-of-state conviction for an offense
23 that under the laws of this state would be a felony classified as a
24 most serious offense under this subsection;
25 (v)(i) A prior conviction for indecent liberties under RCW
26 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
27 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
28 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
29 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
30 (ii) A prior conviction for indecent liberties under RCW
31 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
32 if: (A) The crime was committed against a child under the age of
33 fourteen; or (B) the relationship between the victim and perpetrator is
34 included in the definition of indecent liberties under RCW
35 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
36 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
37 through July 27, 1997;

1 (w) Any out-of-state conviction for a felony offense with a finding
2 of sexual motivation if the minimum sentence imposed was ten years or
3 more; provided that the out-of-state felony offense must be comparable
4 to a felony offense under Title 9 or 9A RCW and the out-of-state
5 definition of sexual motivation must be comparable to the definition of
6 sexual motivation contained in this section.

7 ~~((+30+))~~ (31) "Nonviolent offense" means an offense which is not a
8 violent offense.

9 ~~((+31+))~~ (32) "Offender" means a person who has committed a felony
10 established by state law and is eighteen years of age or older or is
11 less than eighteen years of age but whose case is under superior court
12 jurisdiction under RCW 13.04.030 or has been transferred by the
13 appropriate juvenile court to a criminal court pursuant to RCW
14 13.40.110. In addition, for the purpose of community custody
15 requirements under this chapter, "offender" also means a misdemeanor or
16 gross misdemeanor probationer convicted of an offense included in RCW
17 9.94A.501(1) and ordered by a superior court to probation under the
18 supervision of the department pursuant to RCW 9.92.060, 9.95.204, or
19 9.95.210. Throughout this chapter, the terms "offender" and
20 "defendant" are used interchangeably.

21 ~~((+32+))~~ (33) "Partial confinement" means confinement for no more
22 than one year in a facility or institution operated or utilized under
23 contract by the state or any other unit of government, or, if home
24 detention or work crew has been ordered by the court or home detention
25 has been ordered by the department as part of the parenting program, in
26 an approved residence, for a substantial portion of each day with the
27 balance of the day spent in the community. Partial confinement
28 includes work release, home detention, work crew, and a combination of
29 work crew and home detention.

30 ~~((+33+))~~ (34) "Pattern of criminal street gang activity" means:

31 (a) The commission, attempt, conspiracy, or solicitation of, or any
32 prior juvenile adjudication of or adult conviction of, two or more of
33 the following criminal street gang-related offenses:

34 (i) Any "serious violent" felony offense as defined in this
35 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
36 Child 1 (RCW 9A.36.120);

37 (ii) Any "violent" offense as defined by this section, excluding
38 Assault of a Child 2 (RCW 9A.36.130);

1 (iii) Deliver or Possession with Intent to Deliver a Controlled
2 Substance (chapter 69.50 RCW);
3 (iv) Any violation of the firearms and dangerous weapon act
4 (chapter 9.41 RCW);
5 (v) Theft of a Firearm (RCW 9A.56.300);
6 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);
7 (vii) Malicious Harassment (RCW 9A.36.080);
8 (viii) Harassment where a subsequent violation or deadly threat is
9 made (RCW 9A.46.020(2)(b));
10 (ix) Criminal Gang Intimidation (RCW 9A.46.120);
11 (x) Any felony conviction by a person eighteen years of age or
12 older with a special finding of involving a juvenile in a felony
13 offense under RCW 9.94A.833;
14 (xi) Residential Burglary (RCW 9A.52.025);
15 (xii) Burglary 2 (RCW 9A.52.030);
16 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
17 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
18 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
19 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
20 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);
21 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
22 9A.56.075);
23 (xix) Extortion 1 (RCW 9A.56.120);
24 (xx) Extortion 2 (RCW 9A.56.130);
25 (xxi) Intimidating a Witness (RCW 9A.72.110);
26 (xxii) Tampering with a Witness (RCW 9A.72.120);
27 (xxiii) Reckless Endangerment (RCW 9A.36.050);
28 (xxiv) Coercion (RCW 9A.36.070);
29 (xxv) Harassment (RCW 9A.46.020); or
30 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
31 (b) That at least one of the offenses listed in (a) of this
32 subsection shall have occurred after July 1, 2008;
33 (c) That the most recent committed offense listed in (a) of this
34 subsection occurred within three years of a prior offense listed in (a)
35 of this subsection; and
36 (d) Of the offenses that were committed in (a) of this subsection,
37 the offenses occurred on separate occasions or were committed by two or
38 more persons.

1 (~~(+34+)~~) (35) "Persistent offender" is an offender who:

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

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

12 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
13 of a child in the first degree, child molestation in the first degree,
14 rape in the second degree, rape of a child in the second degree, or
15 indecent liberties by forcible compulsion; (B) any of the following
16 offenses with a finding of sexual motivation: Murder in the first
17 degree, murder in the second degree, homicide by abuse, kidnapping in
18 the first degree, kidnapping in the second degree, assault in the first
19 degree, assault in the second degree, assault of a child in the first
20 degree, assault of a child in the second degree, or burglary in the
21 first degree; or (C) an attempt to commit any crime listed in this
22 subsection (~~(+34+)~~) (35)(b)(i); and

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

35 (~~(+35+)~~) (36) "Predatory" means: (a) The perpetrator of the crime
36 was a stranger to the victim, as defined in this section; (b) the
37 perpetrator established or promoted a relationship with the victim
38 prior to the offense and the victimization of the victim was a

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

13 ~~((+36+))~~ (37) "Private school" means a school regulated under
14 chapter 28A.195 or 28A.205 RCW.

15 ~~((+37+))~~ (38) "Public school" has the same meaning as in RCW
16 28A.150.010.

17 ~~((+38+))~~ (39) "Restitution" means a specific sum of money ordered
18 by the sentencing court to be paid by the offender to the court over a
19 specified period of time as payment of damages. The sum may include
20 both public and private costs.

21 ~~((+39+))~~ (40) "Risk assessment" means the application of the risk
22 instrument recommended to the department by the Washington state
23 institute for public policy as having the highest degree of predictive
24 accuracy for assessing an offender's risk of reoffense.

25 ~~((+40+))~~ (41) "Serious traffic offense" means:

26 (a) Nonfelony driving while under the influence of intoxicating
27 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
28 while under the influence of intoxicating liquor or any drug (RCW
29 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
30 attended vehicle (RCW 46.52.020(5)); or

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

34 ~~((+41+))~~ (42) "Serious violent offense" is a subcategory of violent
35 offense and means:

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

37 (ii) Homicide by abuse;

38 (iii) Murder in the second degree;

1 (iv) Manslaughter in the first degree;
2 (v) Assault in the first degree;
3 (vi) Kidnapping in the first degree;
4 (vii) Rape in the first degree;
5 (viii) Assault of a child in the first degree; or
6 (ix) An attempt, criminal solicitation, or criminal conspiracy to
7 commit one of these felonies; or
8 (b) Any federal or out-of-state conviction for an offense that
9 under the laws of this state would be a felony classified as a serious
10 violent offense under (a) of this subsection.

11 (~~(42)~~) (43) "Sex offense" means:
12 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
13 RCW 9A.44.130(12);
14 (ii) A violation of RCW 9A.64.020;
15 (iii) A felony that is a violation of chapter 9.68A RCW other than
16 RCW 9.68A.080; or
17 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
18 criminal solicitation, or criminal conspiracy to commit such crimes;
19 (b) Any conviction for a felony offense in effect at any time prior
20 to July 1, 1976, that is comparable to a felony classified as a sex
21 offense in (a) of this subsection;
22 (c) A felony with a finding of sexual motivation under RCW
23 9.94A.835 or 13.40.135; or
24 (d) Any federal or out-of-state conviction for an offense that
25 under the laws of this state would be a felony classified as a sex
26 offense under (a) of this subsection.

27 (~~(43)~~) (44) "Sexual motivation" means that one of the purposes
28 for which the defendant committed the crime was for the purpose of his
29 or her sexual gratification.

30 (~~(44)~~) (45) "Standard sentence range" means the sentencing
31 court's discretionary range in imposing a nonappealable sentence.

32 (~~(45)~~) (46) "Statutory maximum sentence" means the maximum length
33 of time for which an offender may be confined as punishment for a crime
34 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining
35 the crime, or other statute defining the maximum penalty for a crime.

36 (~~(46)~~) (47) "Stranger" means that the victim did not know the
37 offender twenty-four hours before the offense.

1 ~~((47))~~ (48) "Total confinement" means confinement inside the
2 physical boundaries of a facility or institution operated or utilized
3 under contract by the state or any other unit of government for twenty-
4 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

5 ~~((48))~~ (49) "Transition training" means written and verbal
6 instructions and assistance provided by the department to the offender
7 during the two weeks prior to the offender's successful completion of
8 the work ethic camp program. The transition training shall include
9 instructions in the offender's requirements and obligations during the
10 offender's period of community custody.

11 ~~((49))~~ (50) "Victim" means any person who has sustained
12 emotional, psychological, physical, or financial injury to person or
13 property as a direct result of the crime charged.

14 ~~((50))~~ (51) "Violent offense" means:

15 (a) Any of the following felonies:

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

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

20 (iii) Manslaughter in the first degree;

21 (iv) Manslaughter in the second degree;

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

23 (vi) Kidnapping in the second degree;

24 (vii) Arson in the second degree;

25 (viii) Assault in the second degree;

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

27 (x) Extortion in the first degree;

28 (xi) Robbery in the second degree;

29 (xii) Drive-by shooting;

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

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

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

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

7 ~~((+51+))~~ (52) "Work crew" means a program of partial confinement
8 consisting of civic improvement tasks for the benefit of the community
9 that complies with RCW 9.94A.725.

10 ~~((+52+))~~ (53) "Work ethic camp" means an alternative incarceration
11 program as provided in RCW 9.94A.690 designed to reduce recidivism and
12 lower the cost of corrections by requiring offenders to complete a
13 comprehensive array of real-world job and vocational experiences,
14 character-building work ethics training, life management skills
15 development, substance abuse rehabilitation, counseling, literacy
16 training, and basic adult education.

17 ~~((+53+))~~ (54) "Work release" means a program of partial confinement
18 available to offenders who are employed or engaged as a student in a
19 regular course of study at school.

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

22 (1) An offender is eligible for the parenting sentencing
23 alternative if:

24 (a) The high end of the standard sentence range for the current
25 offense is greater than one year;

26 (b) The offender has no current convictions for a sex offense or
27 violent offense;

28 (c) The offender has not been found by the United States attorney
29 general to be subject to a deportation detainer or order and does not
30 become subject to a deportation order during the period of the
31 sentence;

32 (d) The offender signs any release of information waivers required
33 to allow information regarding current or prior child welfare cases to
34 be shared with the department and the court; and

35 (e) The offender has physical custody of his or her minor child or
36 is a legal guardian or custodian with physical custody of a child under
37 the age of eighteen at the time of the current offense.

1 (2) To assist the court in making its determination, the court may
2 order the department to complete either a risk assessment report or a
3 chemical dependency screening report as provided in RCW 9.94A.500, or
4 both reports prior to sentencing.

5 (3) If the court is considering this alternative, the court shall
6 request that the department contact the children's administration of
7 the Washington state department of social and health services to
8 determine if the agency has any open or prior cases of substantiated
9 referrals of abuse and/or neglect involving the offender or if the
10 agency is aware of any substantiated cases of abuse and/or neglect with
11 a tribal child welfare agency involving the offender.

12 (a) If it is determined the offender has an open case of
13 substantiated referrals of abuse and/or neglect with the children's
14 administration or a child welfare agency, the department will provide
15 the release of information waiver and request that the children's
16 administration or the tribal child welfare agency provide a report to
17 the court. The children's administration will provide a report within
18 seven business days of the request that will include, at the minimum,
19 the following:

20 (i) Legal status of the child welfare case;

21 (ii) Length of time the children's administration has been involved
22 with the offender;

23 (iii) Legal status of the case and permanent plan;

24 (iv) If the child has special needs;

25 (v) Whether or not the offender has been cooperative with services
26 ordered by a juvenile court under a child welfare case; and

27 (vi) If the offender has been convicted of a crime against a child.

28 (b) If a report is required from a tribal child welfare agency, the
29 department shall attempt to obtain information that is similar to what
30 is required for the report provided by the children's administration in
31 a timely manner.

32 (c) If it is determined the offender does not have an open case
33 with the children's administration or with a tribal child welfare
34 agency but has prior such involvement, the department will obtain
35 information from the children's administration on the number and type
36 of past substantiated referrals of abuse and neglect and report that
37 information to the court. If the children's administration has never

1 had any substantiated referrals or an open case with the offender, the
2 department will inform the court.

3 (4) If the sentencing court determines that the offender is
4 eligible for a sentencing alternative under this section and that the
5 sentencing alternative is appropriate and should be imposed, the court
6 shall waive imposition of a sentence within the standard sentence range
7 and impose a sentence consisting of twelve months of community custody.
8 The court shall consider the offender's criminal history when
9 determining if the alternative is appropriate.

10 (5) When a court imposes a sentence of community custody under this
11 section:

12 (a) The court may impose conditions as provided in RCW 9.94A.703
13 and may impose other affirmative conditions as the court considers
14 appropriate. In addition, an offender may be required to pay thirty
15 dollars per month while on community custody to offset the cost of
16 monitoring for alcohol or controlled substances.

17 (b) The department may impose conditions as authorized in RCW
18 9.94A.704 that may include, but are not limited to:

- 19 (i) Parenting classes;
- 20 (ii) Chemical dependency treatment;
- 21 (iii) Mental health treatment;
- 22 (iv) Vocational training;
- 23 (v) Offender change programs;
- 24 (vi) Life skills classes.

25 (c) The department shall report to the court if the offender
26 commits any violations of his or her sentence conditions.

27 (6) The department shall provide the court with quarterly progress
28 reports that state the offender's progress in required programming
29 and/or treatment and other supervision conditions. When an offender
30 has an open child welfare case, the department will seek to coordinate
31 services with the children's administration.

32 (7)(a) The court may bring any offender sentenced under this
33 section back into court at any time during the period of community
34 custody on its own initiative to evaluate the offender's progress in
35 treatment, or to determine if any violations of the conditions of the
36 sentence have occurred.

37 (b) If the offender is brought back to court, the court may modify

1 the conditions of the community custody or impose sanctions under (c)
2 of this subsection.

3 (c) The court may order the offender to serve a term of total
4 confinement within the standard range of the offender's current offense
5 at any time during the period of community custody, if the offender
6 violates the conditions or requirements of the sentence or if the
7 offender is failing to make satisfactory progress in treatment.

8 (d) An offender ordered to serve a term of total confinement under
9 (c) of this subsection shall receive credit for any time previously
10 served in confinement under this section.

11 **Sec. 3.** RCW 9.94A.501 and 2009 c 376 s 2 are each amended to read
12 as follows:

13 (1) The department shall supervise every offender convicted of a
14 misdemeanor or gross misdemeanor offense who is sentenced to probation
15 in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, for
16 an offense included in (a) and (b) of this subsection. The superior
17 court shall order probation for:

18 (a) Offenders convicted of fourth degree assault, violation of a
19 domestic violence court order pursuant to RCW 10.99.040, 10.99.050,
20 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145,
21 and who also have a prior conviction for one or more of the following:

- 22 (i) A violent offense;
- 23 (ii) A sex offense;
- 24 (iii) A crime against a person as provided in RCW 9.94A.411;
- 25 (iv) Fourth degree assault; or
- 26 (v) Violation of a domestic violence court order; and

27 (b) Offenders convicted of:

- 28 (i) Sexual misconduct with a minor second degree;
- 29 (ii) Custodial sexual misconduct second degree;
- 30 (iii) Communication with a minor for immoral purposes; and
- 31 (iv) Failure to register pursuant to RCW 9A.44.130.

32 (2) Misdemeanor and gross misdemeanor offenders supervised by the
33 department pursuant to this section shall be placed on community
34 custody.

35 (3) The department shall supervise every felony offender sentenced
36 to community custody whose risk assessment, conducted pursuant to

1 subsection (6) of this section, classifies the offender as one who is
2 at a high risk to reoffend.

3 (4) Notwithstanding any other provision of this section, the
4 department shall supervise an offender sentenced to community custody
5 regardless of risk classification if the offender:

6 (a) Has a current conviction for a sex offense or a serious violent
7 offense as defined in RCW 9.94A.030;

8 (b) Has been identified by the department as a dangerous mentally
9 ill offender pursuant to RCW 72.09.370;

10 (c) Has an indeterminate sentence and is subject to parole pursuant
11 to RCW 9.95.017;

12 (d) Was sentenced under RCW 9.94A.650, 9.94A.660, section 2 of this
13 act, or 9.94A.670; or

14 (e) Is subject to supervision pursuant to RCW 9.94A.745.

15 (5) The department is not authorized to, and may not, supervise any
16 offender sentenced to a term of community custody or any probationer
17 unless the offender or probationer is one for whom supervision is
18 required under subsection (1), (2), (3), or (4) of this section.

19 (6) The department shall conduct a risk assessment for every felony
20 offender sentenced to a term of community custody who may be subject to
21 supervision under this section.

22 **Sec. 4.** RCW 9.94A.505 and 2009 c 389 s 1 are each amended to read
23 as follows:

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

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

28 (i) Unless another term of confinement applies, a sentence within
29 the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

30 (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

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

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

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

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

36 (vii) RCW 9.94A.670, relating to the special sex offender
37 sentencing alternative;

1 (viii) Section 2 of this act, relating to the parenting sentencing
2 alternative;

3 ~~(ix)~~ RCW 9.94A.507, relating to certain sex offenses;

4 ~~((+ix+))~~ (x) RCW 9.94A.535, relating to exceptional sentences;

5 ~~((+x+))~~ (xi) RCW 9.94A.589, relating to consecutive and concurrent
6 sentences;

7 ~~((+xi+))~~ (xii) RCW 9.94A.603, relating to felony driving while
8 under the influence of intoxicating liquor or any drug and felony
9 physical control of a vehicle while under the influence of intoxicating
10 liquor or any drug.

11 (b) If a standard sentence range has not been established for the
12 offender's crime, the court shall impose a determinate sentence which
13 may include not more than one year of confinement; community
14 restitution work; a term of community custody under RCW 9.94A.702 not
15 to exceed one year; and/or other legal financial obligations. The
16 court may impose a sentence which provides more than one year of
17 confinement and a community custody term under RCW 9.94A.701 if the
18 court finds reasons justifying an exceptional sentence as provided in
19 RCW 9.94A.535.

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

26 (4) If a sentence imposed includes payment of a legal financial
27 obligation, it shall be imposed as provided in RCW 9.94A.750,
28 9.94A.753, 9.94A.760, and 43.43.7541.

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

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

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

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

4 (9) In any sentence of partial confinement, the court may require
5 the offender to serve the partial confinement in work release, in a
6 program of home detention, on work crew, or in a combined program of
7 work crew and home detention.

8 **Sec. 5.** RCW 9.94A.701 and 2009 c 375 s 5 are each amended to read
9 as follows:

10 (1) If an offender is sentenced to the custody of the department
11 for one of the following crimes, the court shall, in addition to the
12 other terms of the sentence, sentence the offender to community custody
13 for three years:

14 (a) A sex offense not sentenced under RCW 9.94A.507;

15 (b) A serious violent offense; or

16 (c) A violation of RCW 9A.44.130(11)(a) committed on or after June
17 7, 2006, when a court sentences the person to a term of confinement of
18 one year or less.

19 (2) A court shall, in addition to the other terms of the sentence,
20 sentence an offender to community custody for eighteen months when the
21 court sentences the person to the custody of the department for a
22 violent offense that is not considered a serious violent offense.

23 (3) A court shall, in addition to the other terms of the sentence,
24 sentence an offender to community custody for one year when the court
25 sentences the person to the custody of the department for:

26 (a) Any crime against persons under RCW 9.94A.411(2);

27 (b) An offense involving the unlawful possession of a firearm under
28 RCW 9.41.040, where the offender is a criminal street gang member or
29 associate; or

30 (c) A felony offense under chapter 69.50 or 69.52 RCW, committed on
31 or after July 1, 2000.

32 (4) If an offender is sentenced under the drug offender sentencing
33 alternative, the court shall impose community custody as provided in
34 RCW 9.94A.660.

35 (5) If an offender is sentenced under the special (~~(sexual-[sex])~~)
36 sex offender sentencing alternative, the court shall impose community
37 custody as provided in RCW 9.94A.670.

1 (6) If an offender is sentenced to a work ethic camp, the court
2 shall impose community custody as provided in RCW 9.94A.690.

3 (7) If an offender is sentenced under the parenting sentencing
4 alternative, the court shall impose a term of community custody as
5 provided in section 2 of this act.

6 (8) If a sex offender is sentenced as a nonpersistent offender
7 pursuant to RCW 9.94A.507, the court shall impose community custody as
8 provided in that section.

9 ((+8)) (9) The term of community custody specified by this section
10 shall be reduced by the court whenever an offender's standard range
11 term of confinement in combination with the term of community custody
12 exceeds the statutory maximum for the crime as provided in RCW
13 9A.20.021.

14 **Sec. 6.** RCW 9.94A.728 and 2009 c 455 s 2, 2009 c 441 s 1, and 2009
15 c 399 s 1 are each reenacted and amended to read as follows:

16 No person serving a sentence imposed pursuant to this chapter and
17 committed to the custody of the department shall leave the confines of
18 the correctional facility or be released prior to the expiration of the
19 sentence except as follows:

20 (1) An offender may earn early release time as authorized by RCW
21 9.94A.729;

22 (2) An offender may leave a correctional facility pursuant to an
23 authorized furlough or leave of absence. In addition, offenders may
24 leave a correctional facility when in the custody of a corrections
25 officer or officers;

26 (3)(a) The secretary may authorize an extraordinary medical
27 placement for an offender when all of the following conditions exist:

28 (i) The offender has a medical condition that is serious and is
29 expected to require costly care or treatment;

30 (ii) The offender poses a low risk to the community because he or
31 she is currently physically incapacitated due to age or the medical
32 condition or is expected to be so at the time of release; and

33 (iii) It is expected that granting the extraordinary medical
34 placement will result in a cost savings to the state.

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

1 (c) The secretary shall require electronic monitoring for all
2 offenders in extraordinary medical placement unless the electronic
3 monitoring equipment interferes with the function of the offender's
4 medical equipment or results in the loss of funding for the offender's
5 medical care, in which case, an alternative type of monitoring shall be
6 utilized. The secretary shall specify who shall provide the monitoring
7 services and the terms under which the monitoring shall be performed.

8 (d) The secretary may revoke an extraordinary medical placement
9 under this subsection at any time.

10 (e) Persistent offenders are not eligible for extraordinary medical
11 placement;

12 (4) The governor, upon recommendation from the clemency and pardons
13 board, may grant an extraordinary release for reasons of serious health
14 problems, senility, advanced age, extraordinary meritorious acts, or
15 other extraordinary circumstances;

16 (5) No more than the final six months of the offender's term of
17 confinement may be served in partial confinement designed to aid the
18 offender in finding work and reestablishing himself or herself in the
19 community or no more than the final twelve months of the offender's
20 term of confinement may be served in partial confinement as part of the
21 parenting plan in subsection (6) of this section. This is in addition
22 to that period of earned early release time that may be exchanged for
23 partial confinement pursuant to RCW 9.94A.729(5)(d);

24 (6) For offenders not sentenced under section 2 of this act, but
25 otherwise eligible under (a) of this subsection, no more than the final
26 twelve months of the offender's term of confinement may be served in
27 partial confinement as home detention as part of the parenting program
28 developed by the department.

29 (a) The secretary may transfer an offender from a correctional
30 facility to home detention in the community if it is determined that
31 the parenting program is an appropriate placement and when all of the
32 following conditions exist:

33 (i) The offender is serving a sentence in which the high end of the
34 range is greater than one year;

35 (ii) The offender has no current convictions for a felony that is
36 a sex offense or a violent offense;

37 (iii) The offender has not been found by the United States attorney

1 general to be subject to a deportation detainer or order and does not
2 become subject to a deportation order during the period of the
3 sentence;

4 (iv) The offender signs any release of information waivers required
5 to allow information regarding current or prior child welfare cases to
6 be shared with the department and the court;

7 (v) The offender:

8 (A) Has physical or legal custody of a minor child;

9 (B) Has a proven, established, ongoing, and substantial
10 relationship with his or her minor child that existed prior to the
11 commission of the current offense; or

12 (C) Is a legal guardian of a child that was under the age of
13 eighteen at the time of the current offense; and

14 (vi) It is determined by the department that such a placement would
15 be in the best interests of the child.

16 (b) For those offenders that the department is considering for
17 partial confinement as part of the parenting program, the department
18 shall inquire of children's administration and the individual if there
19 are prior substantiated referrals for abuse or neglect, and if there is
20 an open case. If there is a current open child welfare case with the
21 children's administration or a tribal jurisdiction, the department will
22 seek input from the children's administration or the involved tribal
23 jurisdiction as to the status of the child welfare case and
24 recommendations regarding the location of the offender, and services
25 required of offenders by the department and the court governing the
26 individual's child welfare case. The department and its officers,
27 agents, and employees shall not be liable for the acts of offenders
28 participating in the parenting program unless the department or its
29 officers, agents, and employees acted with willful and wanton
30 disregard.

31 (c) All offenders placed on home detention as part of the parenting
32 program shall provide an approved residence and living arrangement
33 prior to transfer to home detention.

34 (d) While in the community on home detention as part of the
35 parenting program, the department shall:

36 (i) Require the offender to be placed on electronic home
37 monitoring;

1 (ii) Require the offender to participate in programming and
2 treatment that the supervising community corrections officer determines
3 is needed;

4 (iii) Assign a community corrections officer who will monitor the
5 offender's compliance with conditions of partial confinement and
6 programming requirements; and

7 (iv) If the offender has an open child welfare case with the
8 children's administration of the Washington state department of social
9 and health services, collaborate and communicate with the identified
10 social worker in the provision of services.

11 (e) The department has the authority to return any offender serving
12 partial confinement in the parenting program to total confinement if
13 the offender is not complying with sentence requirements;

14 (7) The governor may pardon any offender;

15 ~~((+7))~~ (8) The department may release an offender from confinement
16 any time within ten days before a release date calculated under this
17 section;

18 ~~((+8))~~ (9) An offender may leave a correctional facility prior to
19 completion of his or her sentence if the sentence has been reduced as
20 provided in RCW 9.94A.870; and

21 ~~((+9))~~ (10) Notwithstanding any other provisions of this section,
22 an offender sentenced for a felony crime listed in RCW 9.94A.540 as
23 subject to a mandatory minimum sentence of total confinement shall not
24 be released from total confinement before the completion of the listed
25 mandatory minimum sentence for that felony crime of conviction unless
26 allowed under RCW 9.94A.540.

27 **Sec. 7.** RCW 9.94A.734 and 2007 c 199 s 9 are each amended to read
28 as follows:

29 (1) Home detention may not be imposed for offenders convicted of
30 the following offenses, unless imposed as partial confinement in the
31 department's parenting plan under RCW 9.94A.728(6):

32 (a) A violent offense;

33 (b) Any sex offense;

34 (c) Any drug offense;

35 (d) Reckless burning in the first or second degree as defined in
36 RCW 9A.48.040 or 9A.48.050;

37 (e) Assault in the third degree as defined in RCW 9A.36.031;

- 1 (f) Assault of a child in the third degree;
- 2 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or
- 3 (h) Harassment as defined in RCW 9A.46.020.

4 Home detention may be imposed for offenders convicted of possession of
5 a controlled substance under RCW 69.50.4013 or forged prescription for
6 a controlled substance under RCW 69.50.403 if the offender fulfills the
7 participation conditions set forth in this section and is monitored for
8 drug use by a treatment alternatives to street crime program or a
9 comparable court or agency-referred program.

10 (2) Home detention may be imposed for offenders convicted of
11 burglary in the second degree as defined in RCW 9A.52.030 or
12 residential burglary conditioned upon the offender:

13 (a) Successfully completing twenty-one days in a work release
14 program;

15 (b) Having no convictions for burglary in the second degree or
16 residential burglary during the preceding two years and not more than
17 two prior convictions for burglary or residential burglary;

18 (c) Having no convictions for a violent felony offense during the
19 preceding two years and not more than two prior convictions for a
20 violent felony offense;

21 (d) Having no prior charges of escape; and

22 (e) Fulfilling the other conditions of the home detention program.

23 (3) Home detention may be imposed for offenders convicted of taking
24 a motor vehicle without permission in the second degree as defined in
25 RCW 9A.56.075, theft of a motor vehicle as defined under RCW 9A.56.065,
26 or possession of a stolen motor vehicle as defined under RCW 9A.56.068
27 conditioned upon the offender:

28 (a) Having no convictions for taking a motor vehicle without
29 permission, theft of a motor vehicle or possession of a stolen motor
30 vehicle during the preceding five years and not more than two prior
31 convictions for taking a motor vehicle without permission, theft of a
32 motor vehicle or possession of a stolen motor vehicle;

33 (b) Having no convictions for a violent felony offense during the
34 preceding two years and not more than two prior convictions for a
35 violent felony offense;

36 (c) Having no prior charges of escape; and

37 (d) Fulfilling the other conditions of the home detention program.

1 (4) Participation in a home detention program shall be conditioned
2 upon:

3 (a) The offender obtaining or maintaining current employment or
4 attending a regular course of school study at regularly defined hours,
5 or the offender performing parental duties to offspring or minors
6 normally in the custody of the offender;

7 (b) Abiding by the rules of the home detention program; and

8 (c) Compliance with court-ordered legal financial obligations. The
9 home detention program may also be made available to offenders whose
10 charges and convictions do not otherwise disqualify them if medical or
11 health-related conditions, concerns or treatment would be better
12 addressed under the home detention program, or where the health and
13 welfare of the offender, other inmates, or staff would be jeopardized
14 by the offender's incarceration. Participation in the home detention
15 program for medical or health-related reasons is conditioned on the
16 offender abiding by the rules of the home detention program and
17 complying with court-ordered restitution.

18 **Sec. 8.** RCW 9.94A.190 and 2009 c 28 s 5 are each amended to read
19 as follows:

20 (1) A sentence that includes a term or terms of confinement
21 totaling more than one year shall be served in a facility or
22 institution operated, or utilized under contract, by the state, or in
23 home detention pursuant to RCW 9.94A.728(6). Except as provided in
24 subsection (3) or (5) of this section, a sentence of not more than one
25 year of confinement shall be served in a facility operated, licensed,
26 or utilized under contract, by the county, or if home detention or work
27 crew has been ordered by the court, in the residence of either the
28 offender or a member of the offender's immediate family.

29 (2) If a county uses a state partial confinement facility for the
30 partial confinement of a person sentenced to confinement for not more
31 than one year, the county shall reimburse the state for the use of the
32 facility as provided in this subsection. The office of financial
33 management shall set the rate of reimbursement based upon the average
34 per diem cost per offender in the facility. The office of financial
35 management shall determine to what extent, if any, reimbursement shall
36 be reduced or eliminated because of funds provided by the legislature
37 to the department for the purpose of covering the cost of county use of

1 state partial confinement facilities. The office of financial
2 management shall reestablish reimbursement rates each even-numbered
3 year.

4 (3) A person who is sentenced for a felony to a term of not more
5 than one year, and who is committed or returned to incarceration in a
6 state facility on another felony conviction, either under the
7 indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter
8 shall serve all terms of confinement, including a sentence of not more
9 than one year, in a facility or institution operated, or utilized under
10 contract, by the state, consistent with the provisions of RCW
11 9.94A.589.

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

16 (5) Sentences imposed pursuant to RCW 9.94A.507 shall be served in
17 a facility or institution operated, or utilized under contract, by the
18 state.

19 **Sec. 9.** RCW 9.94A.6332 and 2009 c 375 s 14 are each amended to
20 read as follows:

21 The procedure for imposing sanctions for violations of sentence
22 conditions or requirements is as follows:

23 (1) If the offender was sentenced under the drug offender
24 sentencing alternative, any sanctions shall be imposed by the
25 department or the court pursuant to RCW 9.94A.660.

26 (2) If the offender was sentenced under the special (~~sexual~~
27 ~~{sex}~~) sex offender sentencing alternative, any sanctions shall be
28 imposed by the department or the court pursuant to RCW 9.94A.670.

29 (3) If the offender was sentenced under the parenting sentencing
30 alternative, any sanctions shall be imposed by the department or by the
31 court pursuant to section 2 of this act.

32 (4) If a sex offender was sentenced pursuant to RCW 9.94A.507, any
33 sanctions shall be imposed by the board pursuant to RCW 9.95.435.

34 ((+4)) (5) In any other case, if the offender is being supervised
35 by the department, any sanctions shall be imposed by the department
36 pursuant to RCW 9.94A.737. If a probationer is being supervised by the
37 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon

1 receipt of a violation hearing report from the department, the court
2 retains any authority that those statutes provide to respond to a
3 probationer's violation of conditions.

4 ((+5)) (6) If the offender is not being supervised by the
5 department, any sanctions shall be imposed by the court pursuant to RCW
6 9.94A.6333.

7 **Sec. 10.** RCW 9.94A.633 and 2009 c 375 s 12 are each amended to
8 read as follows:

9 (1)(a) An offender who violates any condition or requirement of a
10 sentence may be sanctioned with up to sixty days' confinement for each
11 violation.

12 (b) In lieu of confinement, an offender may be sanctioned with work
13 release, home detention with electronic monitoring, work crew,
14 community restitution, inpatient treatment, daily reporting, curfew,
15 educational or counseling sessions, supervision enhanced through
16 electronic monitoring, or any other sanctions available in the
17 community.

18 (2) If an offender was under community custody pursuant to one of
19 the following statutes, the offender may be sanctioned as follows:

20 (a) If the offender was transferred to community custody in lieu of
21 earned early release in accordance with RCW 9.94A.728(2), the offender
22 may be transferred to a more restrictive confinement status to serve up
23 to the remaining portion of the sentence, less credit for any period
24 actually spent in community custody or in detention awaiting
25 disposition of an alleged violation.

26 (b) If the offender was sentenced under the drug offender
27 sentencing alternative set out in RCW 9.94A.660, the offender may be
28 sanctioned in accordance with that section.

29 (c) If the offender was sentenced under the parenting sentencing
30 alternative set out in section 2 of this act, the offender may be
31 sanctioned in accordance with that section.

32 (d) If the offender was sentenced under the special ~~((sexual~~
33 ~~{sex})~~) sex offender sentencing alternative set out in RCW 9.94A.670,
34 the suspended sentence may be revoked and the offender committed to
35 serve the original sentence of confinement.

36 ((+d)) (e) If the offender was sentenced to a work ethic camp

1 pursuant to RCW 9.94A.690, the offender may be reclassified to serve
2 the unexpired term of his or her sentence in total confinement.

3 ~~((e))~~ (f) If a sex offender was sentenced pursuant to RCW
4 9.94A.507, the offender may be transferred to a more restrictive
5 confinement status to serve up to the remaining portion of the
6 sentence, less credit for any period actually spent in community
7 custody or in detention awaiting disposition of an alleged violation.

8 (3) If a probationer is being supervised by the department pursuant
9 to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be
10 sanctioned pursuant to subsection (1) of this section. The department
11 shall have authority to issue a warrant for the arrest of an offender
12 who violates a condition of community custody, as provided in RCW
13 9.94A.716. Any sanctions shall be imposed by the department pursuant
14 to RCW 9.94A.737. The department shall provide a copy of the violation
15 hearing report to the sentencing court in a timely manner. Nothing in
16 this subsection is intended to limit the power of the sentencing court
17 to respond to a probationer's violation of conditions.

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