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ENGROSSED SUBSTITUTE SENATE BILL 5288

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State of Washington

61st Legislature

2009 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Regala, and Shin)

READ FIRST TIME 01/26/09.

1 AN ACT Relating to the supervision of offenders; amending RCW  
2 9.94A.501, 9.94A.501, 9.95.210, 9.95.214, 9.95.220, and 9.92.060;  
3 amending 2008 c 231 s 6 (uncodified); reenacting and amending RCW  
4 9.94A.030 and 9.95.204; creating a new section; repealing RCW 9.95.206  
5 and 9.95.212; repealing 2008 c 231 s 60 (uncodified); providing an  
6 effective date; providing an expiration date; and declaring an  
7 emergency.

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

9 **Sec. 1.** RCW 9.94A.501 and 2005 c 362 s 1 are each amended to read  
10 as follows:

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

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

1 ~~(a) Whose risk assessment places that offender or probationer in~~  
2 ~~one of the two highest risk categories; or~~

3 ~~(b) Regardless of the offender's or probationer's risk category if:~~

4 ~~(i) The offender's or probationer's current conviction is for:~~

5 ~~(A) A sex offense;~~

6 ~~(B) A violent offense;~~

7 ~~(C) A crime against persons as defined in RCW 9.94A.411;~~

8 ~~(D) A felony that is domestic violence as defined in RCW 10.99.020;~~

9 ~~(E) A violation of RCW 9A.52.025 (residential burglary);~~

10 ~~(F) A violation of, or an attempt, solicitation, or conspiracy to~~  
11 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~  
12 ~~intent to deliver methamphetamine; or~~

13 ~~(G) A violation of, or an attempt, solicitation, or conspiracy to~~  
14 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~

15 ~~(ii) The offender or probationer has a prior conviction for:~~

16 ~~(A) A sex offense;~~

17 ~~(B) A violent offense;~~

18 ~~(C) A crime against persons as defined in RCW 9.94A.411;~~

19 ~~(D) A felony that is domestic violence as defined in RCW 10.99.020;~~

20 ~~(E) A violation of RCW 9A.52.025 (residential burglary);~~

21 ~~(F) A violation of, or an attempt, solicitation, or conspiracy to~~  
22 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~  
23 ~~intent to deliver methamphetamine; or~~

24 ~~(G) A violation of, or an attempt, solicitation, or conspiracy to~~  
25 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~

26 ~~(iii) The conditions of the offender's community custody, community~~  
27 ~~placement, or community supervision or the probationer's supervision~~  
28 ~~include chemical dependency treatment;~~

29 ~~(iv) The offender)) The department shall supervise every offender~~  
30 ~~sentenced to community custody:~~

31 (a) Whose risk assessment, conducted pursuant to subsection (4) of  
32 this section, places the offender in one of the two highest risk  
33 categories; or

34 (b)(i) Who is not classified in one of the two highest risk  
35 categories and:

36 (A) Has a current felony conviction for a violent offense or a  
37 crime against persons as provided in RCW 9.94A.411; or

1 (B) Is required to participate in chemical dependency treatment as  
2 a condition of community custody;

3 (ii) The department shall terminate supervision for an offender  
4 supervised pursuant to this subsection (1)(b) six months after the date  
5 of release if the offender, after conducting a new risk assessment, is  
6 still not classified in one of the two highest risk categories.

7 (2) Notwithstanding any other provision of this section, the  
8 department shall supervise an offender sentenced to community custody  
9 regardless of risk classification if the offender:

10 (a) Has a current conviction for a sex offense that is not a  
11 failure to register;

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

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

16 (d) Was sentenced under RCW 9.94A.650, 9.94A.660, or 9.94A.670; or  
17 ((~~(v) The offender~~) (e) Is subject to supervision pursuant to RCW  
18 9.94A.745.

19 (3) The department is not authorized to, and may not, supervise any  
20 offender sentenced to a term of community custody, community placement,  
21 or community supervision ~~((or any probationer))~~ unless the offender  
22 ~~((or probationer))~~ is one for whom supervision is required under  
23 ~~((subsection (2) of))~~ this section.

24 ~~((This section expires July 1, 2010))~~ The department shall  
25 conduct a risk assessment for every offender sentenced to a term of  
26 community custody, community placement, or community supervision who  
27 may be subject to supervision under this section.

28 **Sec. 2.** RCW 9.94A.501 and 2008 c 231 s 24 are each amended to read  
29 as follows:

30 ~~((When the department performs a risk assessment pursuant to~~  
31 ~~RCW 9.94A.500, or to determine a person's conditions of supervision,~~  
32 ~~the risk assessment shall classify the offender or a probationer~~  
33 ~~sentenced in superior court into one of at least four risk categories.~~

34 ~~(2) The department shall supervise every offender sentenced to a~~  
35 ~~term of community custody and every misdemeanor and gross misdemeanor~~  
36 ~~probationer ordered by a superior court to probation under the~~

1 ~~supervision of the department pursuant to RCW 9.92.060, 9.95.204, or~~  
2 ~~9.95.210;~~

3 ~~(a) Whose risk assessment places that offender or probationer in~~  
4 ~~one of the two highest risk categories; or~~

5 ~~(b) Regardless of the offender's or probationer's risk category if:~~

6 ~~(i) The offender's or probationer's current conviction is for:~~

7 ~~(A) A sex offense;~~

8 ~~(B) A violent offense;~~

9 ~~(C) A crime against persons as defined in RCW 9.94A.411;~~

10 ~~(D) A felony that is domestic violence as defined in RCW 10.99.020;~~

11 ~~(E) A violation of RCW 9A.52.025 (residential burglary);~~

12 ~~(F) A violation of, or an attempt, solicitation, or conspiracy to~~  
13 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~  
14 ~~intent to deliver methamphetamine; or~~

15 ~~(G) A violation of, or an attempt, solicitation, or conspiracy to~~  
16 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~

17 ~~(ii) The offender or probationer has a prior conviction for:~~

18 ~~(A) A sex offense;~~

19 ~~(B) A violent offense;~~

20 ~~(C) A crime against persons as defined in RCW 9.94A.411;~~

21 ~~(D) A felony that is domestic violence as defined in RCW 10.99.020;~~

22 ~~(E) A violation of RCW 9A.52.025 (residential burglary);~~

23 ~~(F) A violation of, or an attempt, solicitation, or conspiracy to~~  
24 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~  
25 ~~intent to deliver methamphetamine; or~~

26 ~~(G) A violation of, or an attempt, solicitation, or conspiracy to~~  
27 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a minor);~~

28 ~~(iii) The conditions of the offender's community custody or the~~  
29 ~~probationer's supervision include chemical dependency treatment;~~

30 ~~(iv) The offender)) The department shall supervise every offender~~  
31 ~~sentenced to community custody:~~

32 (a) Whose risk assessment, conducted pursuant to subsection (4) of  
33 this section, classifies the offender as one who is at a high risk to  
34 reoffend; or

35 (b)(i) Who is classified at a low or moderate risk to reoffend and:

36 (A) Has a current felony conviction for a violent offense or a  
37 crime against persons as provided in RCW 9.94A.411; or

1 (B) Is required to participate in chemical dependency treatment as  
2 a condition of community custody;

3 (ii) The department shall terminate supervision for an offender  
4 supervised pursuant to this subsection (1)(b) six months after the date  
5 of release if the offender, after conducting a new risk assessment,  
6 remains at a low or moderate risk to reoffend.

7 (2) Notwithstanding any other provision of this section, the  
8 department shall supervise an offender sentenced to community custody  
9 regardless of risk classification if the offender:

10 (a) Has a current conviction for a sex offense that is not a  
11 failure to register;

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

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

16 (d) Was sentenced under RCW 9.94A.650, 9.94A.660, or 9.94A.670; or  
17 ((~~v~~The offender)) (e) Is subject to supervision pursuant to RCW  
18 9.94A.745.

19 (3) The department is not authorized to, and may not, supervise any  
20 offender sentenced to a term of community custody (~~or any~~  
21 ~~probationer~~) unless the offender (~~or probationer~~) is one for whom  
22 supervision is required under (~~subsection (2) of~~) this section.

23 (4) ((This section expires July 1, 2010)) The department shall  
24 conduct a risk assessment for every offender sentenced to a term of  
25 community custody who may be subject to supervision under this section.

26 **Sec. 3.** RCW 9.94A.030 and 2008 c 276 s 309, 2008 c 231 s 23, 2008  
27 c 230 s 2, and 2008 c 7 s 1 are each reenacted and amended to read as  
28 follows:

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

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

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

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

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

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

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

13 (6) "Community custody range" means the minimum and maximum period  
14 of community custody included as part of a sentence under RCW  
15 (~~9.94A.715~~) 9.94A.701, as established by the commission or the  
16 legislature under RCW 9.94A.850.

17 (7) "Community protection zone" means the area within eight hundred  
18 eighty feet of the facilities and grounds of a public or private  
19 school.

20 (8) "Community restitution" means compulsory service, without  
21 compensation, performed for the benefit of the community by the  
22 offender.

23 (9) "Confinement" means total or partial confinement.

24 (10) "Conviction" means an adjudication of guilt pursuant to  
25 Title(~~(§)~~) 10 or 13 RCW and includes a verdict of guilty, a finding of  
26 guilty, and acceptance of a plea of guilty.

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

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

37 (a) The history shall include, where known, for each conviction (i)

1 whether the defendant has been placed on probation and the length and  
2 terms thereof; and (ii) whether the defendant has been incarcerated and  
3 the length of incarceration.

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

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

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

23 (14) "Criminal street gang associate or member" means any person  
24 who actively participates in any criminal street gang and who  
25 intentionally promotes, furthers, or assists in any criminal act by the  
26 criminal street gang.

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

33 (a) To gain admission, prestige, or promotion within the gang;

34 (b) To increase or maintain the gang's size, membership, prestige,  
35 dominance, or control in any geographical area;

36 (c) To exact revenge or retribution for the gang or any member of  
37 the gang;

1 (d) To obstruct justice, or intimidate or eliminate any witness  
2 against the gang or any member of the gang;

3 (e) To directly or indirectly cause any benefit, aggrandizement,  
4 gain, profit, or other advantage for the gang, its reputation,  
5 influence, or membership; or

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

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

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

22 (18) "Department" means the department of corrections.

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

31 (20) "Disposable earnings" means that part of the earnings of an  
32 offender remaining after the deduction from those earnings of any  
33 amount required by law to be withheld. For the purposes of this  
34 definition, "earnings" means compensation paid or payable for personal  
35 services, whether denominated as wages, salary, commission, bonuses, or  
36 otherwise, and, notwithstanding any other provision of law making the  
37 payments exempt from garnishment, attachment, or other process to  
38 satisfy a court-ordered legal financial obligation, specifically



1 includes periodic payments pursuant to pension or retirement programs,  
2 or insurance policies of any type, but does not include payments made  
3 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
4 or Title 74 RCW.

5 (21) "Drug offender sentencing alternative" is a sentencing option  
6 available to persons convicted of a felony offense other than a violent  
7 offense or a sex offense and who are eligible for the option under RCW  
8 9.94A.660.

9 (22) "Drug offense" means:

10 (a) Any felony violation of chapter 69.50 RCW except possession of  
11 a controlled substance (RCW 69.50.4013) or forged prescription for a  
12 controlled substance (RCW 69.50.403);

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

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

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

21 (24) "Escape" means:

22 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
23 first degree (RCW 9A.76.110), escape in the second degree (RCW  
24 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
25 willful failure to return from work release (RCW 72.65.070), or willful  
26 failure to be available for supervision by the department while in  
27 community custody (RCW 72.09.310); or

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

31 (25) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

32 (b) Assault in the second degree;

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

34 (d) Child molestation in the second degree;

35 (e) Controlled substance homicide;

36 (f) Extortion in the first degree;

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

38 (h) Indecent liberties;

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

1 (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 (31) "Nonviolent offense" means an offense which is not a violent  
8 offense.

9 (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. Throughout this chapter, the terms "offender" and  
15 "defendant" are used interchangeably.

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

24 (34) "Pattern of criminal street gang activity" means:

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

28 (i) Any "serious violent" felony offense as defined in RCW  
29 9.94A.030, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of  
30 a Child 1 (RCW 9A.36.120);

31 (ii) Any "violent" offense as defined by RCW 9.94A.030, excluding  
32 Assault of a Child 2 (RCW 9A.36.130);

33 (iii) Deliver or Possession with Intent to Deliver a Controlled  
34 Substance (chapter 69.50 RCW);

35 (iv) Any violation of the firearms and dangerous weapon act  
36 (chapter 9.41 RCW);

37 (v) Theft of a Firearm (RCW 9A.56.300);

38 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);

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

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

6 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
7 of a child in the first degree, child molestation in the first degree,  
8 rape in the second degree, rape of a child in the second degree, or  
9 indecent liberties by forcible compulsion; (B) any of the following  
10 offenses with a finding of sexual motivation: Murder in the first  
11 degree, murder in the second degree, homicide by abuse, kidnapping in  
12 the first degree, kidnapping in the second degree, assault in the first  
13 degree, assault in the second degree, assault of a child in the first  
14 degree, assault of a child in the second degree, or burglary in the  
15 first degree; or (C) an attempt to commit any crime listed in this  
16 subsection (35)(b)(i); and

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

29 (36) "Predatory" means: (a) The perpetrator of the crime was a  
30 stranger to the victim, as defined in this section; (b) the perpetrator  
31 established or promoted a relationship with the victim prior to the  
32 offense and the victimization of the victim was a significant reason  
33 the perpetrator established or promoted the relationship; or (c) the  
34 perpetrator was: (i) A teacher, counselor, volunteer, or other person  
35 in authority in any public or private school and the victim was a  
36 student of the school under his or her authority or supervision. For  
37 purposes of this subsection, "school" does not include home-based  
38 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,

1 volunteer, or other person in authority in any recreational activity  
2 and the victim was a participant in the activity under his or her  
3 authority or supervision; or (iii) a pastor, elder, volunteer, or other  
4 person in authority in any church or religious organization, and the  
5 victim was a member or participant of the organization under his or her  
6 authority.

7 (37) "Private school" means a school regulated under chapter  
8 28A.195 or 28A.205 RCW.

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

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

14 (40) "Risk assessment" means the application of (~~(an objective)~~)  
15 the risk instrument (~~((supported by research and adopted by))~~)  
16 recommended to the department (~~((for the purpose of assessing an~~  
17 ~~offender's risk of reoffense, taking into consideration the nature of~~  
18 ~~the harm done by the offender, place and circumstances of the offender~~  
19 ~~related to risk, the offender's relationship to any victim, and any~~  
20 ~~information provided to the department by victims. The results of a~~  
21 ~~risk assessment shall not be based on unconfirmed or unconfirmable~~  
22 ~~allegations))~~) by the Washington state institute for public policy as  
23 having the highest degree of predictive accuracy for assessing an  
24 offender's risk of reoffense.

25 (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 (42) "Serious violent offense" is a subcategory of violent offense  
35 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 (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 (44) "Sexual motivation" means that one of the purposes for which  
28 the defendant committed the crime was for the purpose of his or her  
29 sexual gratification.  
30 (45) "Standard sentence range" means the sentencing court's  
31 discretionary range in imposing a nonappealable sentence.  
32 (46) "Statutory maximum sentence" means the maximum length of time  
33 for which an offender may be confined as punishment for a crime as  
34 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the  
35 crime, or other statute defining the maximum penalty for a crime.  
36 (47) "Stranger" means that the victim did not know the offender  
37 twenty-four hours before the offense.



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

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

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

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

10 (53) "Work ethic camp" means an alternative incarceration program  
11 as provided in RCW 9.94A.690 designed to reduce recidivism and lower  
12 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 (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 **Sec. 4.** RCW 9.95.204 and 2005 c 400 s 2 and 2005 c 362 s 3 are  
21 each reenacted and amended to read as follows:

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

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

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

36 ~~(4) A contract between a county legislative authority and the~~

1 department — of — corrections — for — the — transfer — of — supervision  
2 responsibility must include, at a minimum, the following provisions:

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

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

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

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

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

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

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

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

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

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

35 (6) The state of Washington, the department of corrections and its  
36 employees, community corrections officers, and volunteers who assist  
37 community corrections officers are not liable for any harm caused by  
38 the actions of a superior court misdemeanor probationer who is under

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

8 ~~(7) The state of Washington, the department of corrections and its~~  
9 ~~employees, community corrections officers, any county under contract~~  
10 ~~with the department of corrections pursuant to this section and its~~  
11 ~~employees, probation officers, and volunteers who assist community~~  
12 ~~corrections officers and)) A county legislative authority may authorize~~  
13 ~~a probation program for the supervision of defendants within its~~  
14 ~~jurisdiction who have been convicted of a misdemeanor or gross~~  
15 ~~misdemeanor and who may be sentenced to probation by a superior court.~~

16 (2) To the extent the county legislative authority has authorized  
17 a superior court misdemeanor probation program pursuant to subsection  
18 (1) of this section, a superior court may place a defendant convicted  
19 of a misdemeanor or gross misdemeanor on probation and order  
20 supervision under RCW 9.92.060 or 9.95.210.

21 (3) The state of Washington is not liable for any harm caused by  
22 the actions of a superior court misdemeanor probationer who is under  
23 the supervision of a county. The state of Washington and a county are  
24 not liable for any harm caused by the actions of a misdemeanor or gross  
25 misdemeanor defendant who has been sentenced to a term of probation by  
26 a superior court but who is not being supervised pursuant to a duly  
27 authorized superior court misdemeanor probation program.

28 (4) The state of Washington, a county, its probation department and  
29 employees, probations officers, and volunteers who assist probation  
30 officers in the superior court misdemeanor probation program are not  
31 liable for civil damages resulting from any act or omission in the  
32 rendering of superior court misdemeanor probation activities unless  
33 the act or omission constitutes gross negligence. For purposes of this  
34 section, "volunteers" is defined according to RCW 51.12.035.

35 ~~((8) The provisions of RCW 9.94A.501 apply to sentences imposed~~  
36 ~~under this section.~~

37 ~~(9))~~ (5)(a) If a misdemeanor probationer requests permission to  
38 travel or transfer to another state, the assigned probation officer

1 employed (~~or contracted for~~) by the county shall determine whether  
2 such request is subject to RCW 9.94A.745, the interstate compact for  
3 adult offender supervision. If such request is subject to the compact,  
4 the probation officer shall:

5 ~~(i) (Notify the department of corrections of the probationer's~~  
6 ~~request;~~

7 ~~(ii) Provide the department of corrections with the supporting~~  
8 ~~documentation it requests for processing an application for transfer;~~

9 ~~(iii) Notify the probationer of the fee due to the department of~~  
10 ~~corrections for processing an application under the compact;~~

11 ~~(iv))~~ Cease supervision of the probationer while another state  
12 supervises the probationer pursuant to the compact;

13 ~~((v) Resume supervision if the probationer returns to this state~~  
14 ~~before the term of probation expires.~~

15 ~~(b) The probationer shall receive credit for time served while~~  
16 ~~being supervised by another state))~~ (ii) Resume supervision if the  
17 probationer returns to this state before the term of probation expires.

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

20 **Sec. 5.** RCW 9.95.210 and 2005 c 362 s 4 are each amended to read  
21 as follows:

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

27 (2) In the order granting probation and as a condition thereof, the  
28 superior court may in its discretion imprison the defendant in the  
29 county jail for a period not exceeding one year and may fine the  
30 defendant any sum not exceeding the statutory limit for the offense  
31 committed, and court costs. As a condition of probation, the superior  
32 court shall require the payment of the penalty assessment required by  
33 RCW 7.68.035. The superior court may also require the defendant to  
34 make such monetary payments, on such terms as it deems appropriate  
35 under the circumstances, as are necessary: (a) To comply with any  
36 order of the court for the payment of family support; (b) to make  
37 restitution to any person or persons who may have suffered loss or

1 damage by reason of the commission of the crime in question or when the  
2 offender pleads guilty to a lesser offense or fewer offenses and agrees  
3 with the prosecutor's recommendation that the offender be required to  
4 pay restitution to a victim of an offense or offenses which are not  
5 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be  
6 imposed and court costs, including reimbursement of the state for costs  
7 of extradition if return to this state by extradition was required; (d)  
8 following consideration of the financial condition of the person  
9 subject to possible electronic monitoring, to pay for the costs of  
10 electronic monitoring if that monitoring was required by the court as  
11 a condition of release from custody or as a condition of probation; (e)  
12 to contribute to a county or interlocal drug fund; and (f) to make  
13 restitution to a public agency for the costs of an emergency response  
14 under RCW 38.52.430, and may require bonds for the faithful observance  
15 of any and all conditions imposed in the probation.

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

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

1 to the agency having supervision responsibility for the probationer's  
2 county of residence.

3 (5) If the probationer has been ordered to make restitution and the  
4 superior court has ordered supervision, the officer supervising the  
5 probationer shall make a reasonable effort to ascertain whether  
6 restitution has been made. If the superior court has ordered  
7 supervision and restitution has not been made as ordered, the officer  
8 shall inform the prosecutor of that violation of the terms of probation  
9 not less than three months prior to the termination of the probation  
10 period. (~~The secretary of corrections will promulgate rules and~~  
11 ~~regulations for the conduct of the person during the term of~~  
12 ~~probation.~~) For defendants found guilty in district court, (~~like~~)  
13 functions (~~as the secretary performs~~) in regard to probation may be  
14 performed by probation officers employed for that purpose by the county  
15 legislative authority of the county wherein the court is located.

16 (~~(6) The provisions of RCW 9.94A.501 apply to sentences imposed~~  
17 ~~under this section.~~)

18 **Sec. 6.** RCW 9.95.214 and 2005 c 400 s 3 are each amended to read  
19 as follows:

20 Whenever a defendant convicted of a misdemeanor or gross  
21 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and  
22 the defendant is supervised by (~~the department of corrections or~~) a  
23 county probation department, the (~~department or~~) county probation  
24 department may assess and collect from the defendant for the duration  
25 of the term of supervision a monthly assessment not to exceed one  
26 hundred dollars per month. This assessment shall be paid to the agency  
27 supervising the defendant and shall be applied, along with funds  
28 appropriated by the legislature, toward the payment or part payment of  
29 the cost of supervising the defendant. The (~~department or~~) county  
30 probation department shall suspend such assessment while the defendant  
31 is being supervised by another state pursuant to RCW 9.94A.745, the  
32 interstate compact for adult offender supervision.

33 **Sec. 7.** RCW 9.95.220 and 1957 c 227 s 5 are each amended to read  
34 as follows:

35 Whenever the (~~state parole officer or other~~) officer under whose  
36 supervision the probationer has been placed shall have reason to

1 believe such probationer is violating the terms of his probation, or  
2 engaging in criminal practices, or is abandoned to improper associates,  
3 or living a vicious life, he shall cause the probationer to be brought  
4 before the court wherein the probation was granted. For this purpose  
5 any peace officer or ((state)) parole officer may rearrest any such  
6 person without warrant or other process. The court may thereupon in  
7 its discretion without notice revoke and terminate such probation. In  
8 the event the judgment has been pronounced by the court and the  
9 execution thereof suspended, the court may revoke such suspension,  
10 whereupon the judgment shall be in full force and effect, and the  
11 defendant shall be delivered to the sheriff to be transported to the  
12 penitentiary or reformatory as the case may be. If the judgment has  
13 not been pronounced, the court shall pronounce judgment after such  
14 revocation of probation and the defendant shall be delivered to the  
15 sheriff to be transported to the penitentiary or reformatory, in  
16 accordance with the sentence imposed.

17 **Sec. 8.** RCW 9.92.060 and 2005 c 362 s 2 are each amended to read  
18 as follows:

19 (1) Whenever any person is convicted of any crime except murder,  
20 burglary in the first degree, arson in the first degree, robbery, rape  
21 of a child, or rape, the superior court may, in its discretion, at the  
22 time of imposing sentence upon such person, direct that such sentence  
23 be stayed and suspended until otherwise ordered by the superior  
24 court(~~(, and that the sentenced person be placed under the charge of a~~  
25 ~~community — corrections — officer — employed — by — the — department — of~~  
26 ~~corrections, or if the county elects to assume responsibility for the~~  
27 ~~supervision of all superior court misdemeanor probationers a probation~~  
28 ~~officer employed or contracted for))<sub>.</sub>~~

29 (2) If the county has authorized a superior court misdemeanor  
30 probation program for the supervision of persons with suspended  
31 sentences as provided in subsection (1) of this section, the sentenced  
32 person shall be placed under the charge of a probation officer employed  
33 by the county, upon such terms as the superior court may determine.

34 ((+2)) (3) As a condition to suspension of sentence, the superior  
35 court shall require the payment of the penalty assessment required by  
36 RCW 7.68.035. In addition, the superior court may require the  
37 convicted person to make such monetary payments, on such terms as the



1 superior court deems appropriate under the circumstances, as are  
2 necessary: (a) To comply with any order of the court for the payment  
3 of family support; (b) to make restitution to any person or persons who  
4 may have suffered loss or damage by reason of the commission of the  
5 crime in question or when the offender pleads guilty to a lesser  
6 offense or fewer offenses and agrees with the prosecutor's  
7 recommendation that the offender be required to pay restitution to a  
8 victim of an offense or offenses which are not prosecuted pursuant to  
9 a plea agreement; (c) to pay any fine imposed and not suspended and the  
10 court or other costs incurred in the prosecution of the case, including  
11 reimbursement of the state for costs of extradition if return to this  
12 state by extradition was required; and (d) to contribute to a county or  
13 interlocal drug fund.

14 ~~((3) As a condition of the suspended sentence, the superior court  
15 may order the probationer to report to the secretary of corrections or  
16 such officer as the secretary may designate and as a condition of the  
17 probation to follow the instructions of the secretary. If the county  
18 legislative authority has elected to assume responsibility for the  
19 supervision of superior court misdemeanor probationers within its  
20 jurisdiction, the superior court misdemeanor probationer shall report  
21 to a probation officer employed or contracted for by the county.))~~

22 (4) In cases where a superior court misdemeanor probationer is  
23 sentenced in one county, but resides within another county, ~~((there  
24 must be provisions for))~~ the superior court may require that the  
25 probationer ~~((to))~~ report to the ~~((agency having supervision  
26 responsibility for the))~~ probationer's county of residence if the  
27 probationer's county of residence has a superior court misdemeanor  
28 program.

29 ~~((4))~~ (5) If restitution to the victim has been ordered under  
30 subsection ~~((2))~~ (3)(b) of this section and the superior court has  
31 ordered supervision, the officer supervising the probationer shall make  
32 a reasonable effort to ascertain whether restitution has been made as  
33 ordered. If the superior court has ordered supervision and restitution  
34 has not been made, the officer shall inform the prosecutor of that  
35 violation of the terms of the suspended sentence not less than three  
36 months prior to the termination of the suspended sentence.

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

1       **Sec. 9.** 2008 c 231 s 6 (uncodified) is amended to read as follows:

2       The existing sentencing reform act contains numerous provisions for  
3 supervision of different types of offenders. This duplication has  
4 caused great confusion for judges, lawyers, offenders, and the  
5 department of corrections, and often results in inaccurate sentences.  
6 The clarifications in this act are intended to support continued  
7 discussions by the sentencing guidelines commission with the courts and  
8 the criminal justice community to identify and propose policy changes  
9 that will further simplify and improve the sentencing reform act  
10 relating to the supervision of offenders. The sentencing guidelines  
11 commission shall submit policy change proposals to the legislature on  
12 or before December 1, 2008.

13       Sections 7 through 58 of this act are intended to simplify the  
14 supervision provisions of the sentencing reform act and increase the  
15 uniformity of its application. These sections are not intended to  
16 either increase or decrease the authority of sentencing courts or the  
17 department relating to supervision, except for those provisions  
18 instructing the court to apply the provisions of the current community  
19 custody law to offenders sentenced after July 1, 2009, but who  
20 committed their crime prior to August 1, 2009, to the extent that such  
21 application is constitutionally permissible.

22       This will effect a change for offenders who committed their crimes  
23 prior to the offender accountability act, chapter 196, Laws of 1999.  
24 These offenders will be ordered to a term of community custody rather  
25 than community placement or community supervision. To the extent  
26 constitutionally permissible, the terms of the offender's supervision  
27 will be as provided in current law. With the exception of this change,  
28 the legislature does not intend to make, and no provision of sections  
29 7 through 58 of this act may be construed as making, a substantive  
30 change to the supervision provisions of the sentencing reform act.

31       ~~((It is the intent of the legislature to reaffirm that section 3,~~  
32 ~~chapter 379, Laws of 2003, expires July 1, 2010.))~~

33       NEW SECTION. **Sec. 10.** The following acts or parts of acts are  
34 each repealed:

35       (1) RCW 9.95.206 (Misdemeanant probation services--Offender  
36 classification system--Supervision standards) and 1996 c 298 s 2; and

1 (2) RCW 9.95.212 (Standards for supervision of misdemeanant  
2 probationers) and 1998 c 245 s 2 & 1995 1st sp.s. c 19 s 31.

3 NEW SECTION. **Sec. 11.** 2008 c 231 s 60 (uncodified) is repealed.

4 NEW SECTION. **Sec. 12.** (1) Sections 1, 4 through 8, 10, 11, and 14  
5 of this act are necessary for the immediate preservation of the public  
6 peace, health, or safety, or support of the state government and its  
7 existing public institutions, and take effect immediately.

8 (2) Sections 2, 3, and 9 of this act take effect August 1, 2009.

9 NEW SECTION. **Sec. 13.** Section 1 of this act expires August 1,  
10 2009.

11 NEW SECTION. **Sec. 14.** This act applies retroactively and  
12 prospectively regardless of whether the offender is currently on  
13 community custody or probation with the department, currently  
14 incarcerated with a term of community custody or probation with the  
15 department, or sentenced after the effective date of this section.

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