

**SUBSTITUTE SENATE BILL 6160**

**State of Washington                      61st Legislature                      2009 Regular Session**

**By Senate Ways & Means (originally sponsored by Senator Prentice)**

READ FIRST TIME 04/22/09.

1            AN ACT Relating to criminal justice sentencing by amending the  
2 sentencing grid to allow judges greater discretion and addressing  
3 mitigating and aggravating circumstances that may allow the imposition  
4 of a sentence above or below the standard sentence range; amending RCW  
5 9.94A.510, 9.94A.190, and 9.94A.850; reenacting and amending RCW  
6 9.94A.535; prescribing penalties; and providing an effective date.

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

8            **Sec. 1.** RCW 9.94A.510 and 2002 c 290 s 10 are each amended to read  
9 as follows:

10

11

12

((TABLE 1

Sentencing Grid

13

14

15

16

SERIOUSNESS		OFFENDER SCORE									
LEVEL		0	1	2	3	4	5	6	7	8	9 or more
<hr/>											

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46

XVII Life Sentence without Parole/Death Penalty										
XV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
	320	333	347	361	374	388	416	450	493	548
XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	220	234	244	254	265	275	295	316	357	397
XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	164	178	192	205	219	233	260	288	342	397
XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
	93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
	123	136	147	160	171	184	216	236	277	318
XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
	78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
	102	114	125	136	147	158	194	211	245	280
X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
	51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
	68	75	82	89	96	102	130	144	171	198
IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
	31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
	41	48	54	61	68	75	102	116	144	171
VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
	21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
	27	34	41	48	54	61	89	102	116	144
VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
	15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
	20	27	34	41	48	54	75	89	102	116
VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
	12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
	14	20	27	34	41	48	61	75	89	102
V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
	6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
	12	14	17	20	29	43	54	68	82	96
IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
	3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
	9	12	14	17	20	29	43	57	70	84
III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
	1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
	3	8	12	12	16	22	29	43	57	68
II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
	Days	6	9	12	14	18	22	29	43	57
I			3m	4m	5m	8m	13m	16m	20m	2y2m
	0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
	Days	Days	5	6	8	12	14	18	22	29))

TABLE 1

Sentencing Grid

SERIOUSNESS

LEVEL

OFFENDER SCORE

10 or

0      1      2      3      4      5      6      7      8      9      more

XVI Life Sentence without Parole/Death Penalty

XV 225- 233- 243- 262- 272- 289- 289- 315- 345- 383- 383-  
337 350 365 393 408 435 435 473 518 575 862

XIV 123- 134- 144- 154- 165- 175- 195- 216- 257- 298- 298-  
220 234 244 254 265 275 295 316 357 397 595

XIII 115- 125- 134- 144- 154- 163- 182- 201- 238- 277- 277-  
172 187 202 216 230 245 273 301 357 416 624

XII 88- 95- 103- 112- 120- 128- 151- 166- 193- 222- 222-  
132 143 155 168 180 194 227 248 290 333 500

XI 72- 80- 88- 95- 100- 112- 136- 148- 172- 196- 196-  
107 120 132 143 150 168 204 222 257 295 442

X 43- 47- 52- 56- 61- 64- 79- 90- 108- 127- 127-  
71 79 86 93 100 107 132 150 180 208 312

IX 26- 29- 34- 38- 43- 47- 64- 72- 90- 108- 108-  
43 50 57 64 71 79 107 120 150 180 270

VIII 17- 21- 26- 30- 34- 38- 56- 64- 72- 90- 90-  
28 36 43 50 57 64 93 107 120 150 225

VII 14- 17- 21- 26- 30- 34- 47- 55- 64- 72- 72-  
21 28 36 43 50 57 79 93 107 120 180

VI 10+- 14- 17- 21- 26- 30- 38- 47- 55- 64- 64-  
17 21 28 36 43 50 64 79 93 107 157

V 6- 10+- 12+- 14- 17- 27- 34- 43- 52- 61- 61-  
12 17 18 21 30 45 57 71 86 100 120

IV 3- 6- 10+- 12+- 14- 17- 27- 34- 44- 52- 52-  
9 12 17 18 21 30 45 57 74 86 120

III 1- 3- 4- 9- 10+- 16- 17- 27- 36- 43- 43-  
3 8 12 12 17 23 30 45 60 71 120

II 0-90 2- 3- 4- 10+- 13- 16- 17- 27- 36- 36-  
Days 6 9 12 17 19 23 30 45 60 120

I 0-60 0-90 2- 2- 3- 4- 10+- 13- 16- 17- 17-

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

7            **Sec. 2.** RCW 9.94A.535 and 2008 c 276 s 303 and 2008 c 233 s 9 are  
8 each reenacted and amended to read as follows:

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

15            Whenever a sentence outside the standard sentence range is imposed,  
16 the court shall set forth the reasons for its decision in written  
17 findings of fact and conclusions of law. A sentence outside the  
18 standard sentence range shall be a determinate sentence.

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

22            A departure from the standards in RCW 9.94A.589 (1) and (2)  
23 governing whether sentences are to be served consecutively or  
24 concurrently is an exceptional sentence subject to the limitations in  
25 this section, and may be appealed by the offender or the state as set  
26 forth in RCW 9.94A.585 (2) through (6).

27            (1) Mitigating Circumstances - Court to Consider

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

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

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

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

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

6 (e) The defendant's capacity to appreciate the wrongfulness of his  
7 or her conduct, or to conform his or her conduct to the requirements of  
8 the law, was significantly impaired. Voluntary use of drugs or alcohol  
9 is excluded.

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

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

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

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

22 (2) Aggravating Circumstances - Considered and Imposed by the Court  
23 The trial court may impose an aggravated exceptional sentence  
24 without a finding of fact by a jury under the following circumstances:

25 (a) The defendant and the state both stipulate that justice is best  
26 served by the imposition of an exceptional sentence outside the  
27 standard range, and the court finds the exceptional sentence to be  
28 consistent with and in furtherance of the interests of justice and the  
29 purposes of the sentencing reform act.

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

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

37 ~~((d) The failure to consider the defendant's prior criminal~~

1 ~~history which was omitted from the offender score calculation pursuant~~  
2 ~~to RCW 9.94A.525 results in a presumptive sentence that is clearly too~~  
3 ~~lenient.)~~)

4 (3) Aggravating Circumstances - Considered by a Jury -Imposed by  
5 the Court

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

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

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

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

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

19 (i) The current offense involved multiple victims or multiple  
20 incidents per victim;

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

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

25 (iv) The defendant used his or her position of trust, confidence,  
26 or fiduciary responsibility to facilitate the commission of the current  
27 offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (i) The offense resulted in the pregnancy of a child victim of  
27 rape.

28 (j) The defendant knew that the victim of the current offense was  
29 a youth who was not residing with a legal custodian and the defendant  
30 established or promoted the relationship for the primary purpose of  
31 victimization.

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

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

- 1 (m) The offense involved a high degree of sophistication or  
2 planning.
- 3 (n) The defendant used his or her position of trust, confidence, or  
4 fiduciary responsibility to facilitate the commission of the current  
5 offense.
- 6 (o) The defendant committed a current sex offense, has a history of  
7 sex offenses, and is not amenable to treatment.
- 8 (p) The offense involved an invasion of the victim's privacy.
- 9 (q) The defendant demonstrated or displayed an egregious lack of  
10 remorse.
- 11 (r) The offense involved a destructive and foreseeable impact on  
12 persons other than the victim.
- 13 (s) The defendant committed the offense to obtain or maintain his  
14 or her membership or to advance his or her position in the hierarchy of  
15 an organization, association, or identifiable group.
- 16 (t) The defendant committed the current offense shortly after being  
17 released from incarceration.
- 18 (u) The current offense is a burglary and the victim of the  
19 burglary was present in the building or residence when the crime was  
20 committed.
- 21 (v) The offense was committed against a law enforcement officer who  
22 was performing his or her official duties at the time of the offense,  
23 the offender knew that the victim was a law enforcement officer, and  
24 the victim's status as a law enforcement officer is not an element of  
25 the offense.
- 26 (w) The defendant committed the offense against a victim who was  
27 acting as a good samaritan.
- 28 (x) The defendant committed the offense against a public official  
29 or officer of the court in retaliation of the public official's  
30 performance of his or her duty to the criminal justice system.
- 31 (y) The victim's injuries substantially exceed the level of bodily  
32 harm necessary to satisfy the elements of the offense. This aggravator  
33 is not an exception to RCW 9.94A.530(2).
- 34 (z) The defendant's prior unscored misdemeanor or prior unscored  
35 foreign criminal history results in a presumptive sentence that is  
36 clearly too lenient in light of the purpose of this chapter, as  
37 expressed in RCW 9.94A.010.



1        (aa) The failure to consider the defendant's prior criminal history  
2 which was omitted from the offender score calculation pursuant to RCW  
3 9.94A.525 results in a presumptive sentence that is clearly too  
4 lenient.

5        (bb)(i)(A) The current offense is theft in the first degree, theft  
6 in the second degree, possession of stolen property in the first  
7 degree, or possession of stolen property in the second degree; (B) the  
8 stolen property involved is metal property; and (C) the property damage  
9 to the victim caused in the course of the theft of metal property is  
10 more than three times the value of the stolen metal property, or the  
11 theft of the metal property creates a public hazard.

12        (ii) For purposes of this subsection, "metal property" means  
13 commercial metal property, private metal property, or nonferrous metal  
14 property, as defined in RCW 19.290.010.

15        ~~((aa))~~ (cc) The defendant committed the offense with the intent  
16 to directly or indirectly cause any benefit, aggrandizement, gain,  
17 profit, or other advantage to or for a criminal street gang as defined  
18 in RCW 9.94A.030, its reputation, influence, or membership.

19        **Sec. 3.** RCW 9.94A.190 and 2009 c 28 s 5 are each amended to read  
20 as follows:

21        (1) A sentence that includes a term or terms of confinement  
22 totaling more than one year, or a sentence set under RCW 9.94A.510  
23 based on a sentence range with a minimum sentence of more than ten  
24 months, shall be served in a facility or institution operated, or  
25 utilized under contract, by the state. Except as provided in this  
26 subsection or subsection (3) or (5) of this section, a sentence of not  
27 more than one year of confinement shall be served in a facility  
28 operated, licensed, or utilized under contract, by the county, or if  
29 home detention or work crew has been ordered by the court, in the  
30 residence of either the offender or a member of the offender's  
31 immediate family.

32        (2) If a county uses a state partial confinement facility for the  
33 partial confinement of a person sentenced to confinement for not more  
34 than one year, the county shall reimburse the state for the use of the  
35 facility as provided in this subsection. The office of financial  
36 management shall set the rate of reimbursement based upon the average  
37 per diem cost per offender in the facility. The office of financial

1 management shall determine to what extent, if any, reimbursement shall  
2 be reduced or eliminated because of funds provided by the legislature  
3 to the department for the purpose of covering the cost of county use of  
4 state partial confinement facilities. The office of financial  
5 management shall reestablish reimbursement rates each even-numbered  
6 year.

7 (3) A person who is sentenced for a felony to a term of not more  
8 than one year, and who is committed or returned to incarceration in a  
9 state facility on another felony conviction, either under the  
10 indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter  
11 shall serve all terms of confinement, including a sentence of not more  
12 than one year, in a facility or institution operated, or utilized under  
13 contract, by the state, consistent with the provisions of RCW  
14 9.94A.589.

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

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

22 **Sec. 4.** RCW 9.94A.850 and 2009 c 28 s 17 are each amended to read  
23 as follows:

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

26 (2) The legislature finds that the commission, having accomplished  
27 its original statutory directive to implement this chapter, and having  
28 expertise in sentencing practice and policies, shall:

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

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

32 (ii) The intent of the legislature to emphasize confinement for the  
33 violent offender and alternatives to confinement for the nonviolent  
34 offender.

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

1 (b) Recommend to the legislature revisions or modifications to the  
2 standard sentence ranges, state sentencing policy, prosecuting  
3 standards, and other standards. If implementation of the revisions or  
4 modifications would result in exceeding the capacity of correctional  
5 facilities, then the commission shall accompany its recommendation with  
6 an additional list of standard sentence ranges which are consistent  
7 with correction capacity;

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

10 (d)(i) Serve as a clearinghouse and information center for the  
11 collection, preparation, analysis, and dissemination of information on  
12 state and local adult and juvenile sentencing practices; (ii) develop  
13 and maintain a computerized adult and juvenile sentencing information  
14 system by individual superior court judge consisting of offender,  
15 offense, history, and sentence information entered from judgment and  
16 sentence forms for all adult felons; and (iii) conduct ongoing research  
17 regarding adult and juvenile sentencing guidelines, use of total  
18 confinement and alternatives to total confinement, plea bargaining, and  
19 other matters relating to the improvement of the adult criminal justice  
20 system and the juvenile justice system;

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

23 (f) Evaluate the effectiveness of existing disposition standards  
24 and related statutes in implementing policies set forth in RCW  
25 13.40.010 generally, specifically review the guidelines relating to the  
26 confinement of minor and first-time offenders as well as the use of  
27 diversion, and review the application of current and proposed juvenile  
28 sentencing standards and guidelines for potential adverse impacts on  
29 the sentencing outcomes of racial and ethnic minority youth;

30 (g) Solicit the comments and suggestions of the juvenile justice  
31 community concerning disposition standards, and make recommendations to  
32 the legislature regarding revisions or modifications of the standards.  
33 The evaluations shall be submitted to the legislature on December 1 of  
34 each odd-numbered year. The department of social and health services  
35 shall provide the commission with available data concerning the  
36 implementation of the disposition standards and related statutes and  
37 their effect on the performance of the department's responsibilities  
38 relating to juvenile offenders, and with recommendations for

1 modification of the disposition standards. The administrative office  
2 of the courts shall provide the commission with available data on  
3 diversion, including the use of youth court programs, and dispositions  
4 of juvenile offenders under chapter 13.40 RCW; and

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

8 (i) Racial disproportionality in juvenile and adult sentencing,  
9 and, if available, the impact that diversions, such as youth courts,  
10 have on racial disproportionality in juvenile prosecution,  
11 adjudication, and sentencing;

12 (ii) The capacity of state and local juvenile and adult facilities  
13 and resources; and

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

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

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

21 (a) If the maximum term in the range is one year or less, the  
22 minimum term in the range shall be no less than one-third of the  
23 maximum term in the range, except that if the maximum term in the range  
24 is ninety days or less, the minimum term may be less than one-third of  
25 the maximum;

26 (b) If the maximum term in the range is greater than one year, the  
27 minimum term in the range shall be no less than (~~seventy-five~~) sixty  
28 percent of the maximum term in the range, except that for murder in the  
29 second degree in seriousness level XIV under RCW 9.94A.510, the minimum  
30 term in the range shall be no less than fifty percent of the maximum  
31 term in the range and except that for any offense with an offender  
32 score of ten or more, the minimum term in the range shall be no less  
33 than twenty-five percent of the maximum term in the range; and

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

36 (5)(a) Not later than December 31 of each year, the commission may  
37 propose modifications to the community custody ranges to be included in  
38 sentences under RCW 9.94A.701. The ranges shall be based on the

1 principles in RCW 9.94A.010, and shall take into account the funds  
2 available to the department for community custody. The minimum term in  
3 each range shall not be less than one-half of the maximum term.

4 (b) The legislature may, by enactment of a legislative bill, adopt  
5 or modify the community custody ranges proposed by the commission. If  
6 the legislature fails to adopt or modify the initial ranges in its next  
7 regular session after they are proposed, the proposed ranges shall take  
8 effect without legislative approval for crimes committed on or after  
9 July 1, 2000.

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

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

18 NEW SECTION. **Sec. 5.** This act takes effect August 1, 2009.

--- END ---