

SB 5790 - S AMD  
By Senator Hargrove

NOT CONSIDERED 05/25/2011

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 9.94A.8673 and 2008 c 249 s 3 are each amended to  
4 read as follows:

5 (1) At such times as the governor or the legislature may request  
6 and within amounts appropriated, the governor may convene a sex  
7 offender policy board established within the office of financial  
8 management to:

9 (a) Undertake projects to assist policymakers in making informed  
10 judgments about issues relating to sex offender policy; and

11 (b) Conduct case reviews of sex offense incidents to understand  
12 performance of Washington's sex offender prevention and response  
13 systems.

14 (2) The sex offender policy board shall consist of thirteen voting  
15 members(~~(. Unless the member is specifically named in this section,~~  
16 ~~the following organizations shall designate a person to sit on the~~  
17 ~~board.)) appointed by the governor, one of whom the governor shall~~  
18 designate as chair. The voting membership shall consist of the  
19 following:

20 (a) A representative of the Washington association of sheriffs and  
21 police chiefs;

22 (b) A representative of the Washington association of prosecuting  
23 attorneys;

24 (c) A representative of the Washington association of criminal  
25 defense lawyers;

26 (d) The chair of the indeterminate sentence review board or his or  
27 her designee;

28 (e) A representative of the Washington association for the  
29 treatment of sex abusers;

1 (f) The secretary of the department of corrections or his or her  
2 designee;

3 (g) A representative of the Washington state superior court judge's  
4 association;

5 (h) The assistant secretary of the juvenile rehabilitation  
6 administration or his or her designee;

7 (i) The office of crime victims advocacy in the department of  
8 ~~((community, trade, and economic development))~~ commerce;

9 (j) A representative of the Washington state association of  
10 counties;

11 (k) A representative of the association of Washington cities;

12 (l) A representative of the Washington association of sexual  
13 assault programs; and

14 (m) The director of the special commitment center or his or her  
15 designee.

16 (2) ~~((The person so named in subsection (1) of this section has the~~  
17 ~~authority to make decisions on behalf of the organization he or she~~  
18 ~~represents.~~

19 ~~(3) The nonvoting membership shall consist of the following:~~

20 ~~(a) Two members of the sentencing guidelines commission chosen by~~  
21 ~~the chair of the commission; and~~

22 ~~(b) A representative of the criminal justice division in the~~  
23 ~~attorney general's office.~~

24 ~~(4) The board shall choose its chair by majority vote from among~~  
25 ~~its voting membership. The chair's term shall be two years.~~

26 ~~(5) The chair of the sentencing guidelines commission shall convene~~  
27 ~~the first meeting.~~

28 ~~(6))~~ As appropriate, the board shall consult with the criminal  
29 justice division in the attorney general's office and the Washington  
30 institute for public policy ((shall act as an advisor to the board)).

31 (3) Members of the board shall receive no compensation but shall be  
32 reimbursed for travel expenses as provided in RCW 43.03.050 and  
33 43.03.060.

34 **Sec. 2.** RCW 9.95.003 and 2007 c 362 s 1 are each amended to read  
35 as follows:

36 (1) The board is created within the department. The board shall  
37 consist of a ((chairman)) chair and four other members, each of whom

1 shall be appointed by the governor with the consent of the senate.  
2 Each member shall hold office for a term of five years, and until his  
3 or her successor is appointed and qualified. The terms shall expire on  
4 April 15th of the expiration year. Vacancies in the membership of the  
5 board shall be filled by appointment by the governor with the consent  
6 of the senate. In the event of the inability of any member to act, the  
7 governor shall appoint some competent person to act in his stead during  
8 the continuance of such inability. The members shall not be removable  
9 during their respective terms except for cause determined by the  
10 superior court of Thurston county. The governor in appointing the  
11 members shall designate one of them to serve as (~~chairman~~) chair at  
12 the governor's pleasure. The appointed (~~chairman~~) chair shall serve  
13 as a fully participating board member (~~and as the director of the~~  
14 ~~agency~~)).

15 (2) The department shall provide administrative and staff support  
16 for the board. The secretary may employ a senior administrative  
17 officer and such other personnel as may be necessary to assist the  
18 board in carrying out its duties.

19 (3) The members of the board and (~~its officers and employees~~)  
20 staff assigned to the board shall not engage in any other business or  
21 profession or hold any other public office without the prior approval  
22 of the executive ethics board indicating compliance with RCW 42.52.020,  
23 42.52.030, 42.52.040 and 42.52.120; nor shall they, at the time of  
24 appointment or employment or during their incumbency, serve as the  
25 representative of any political party on an executive committee or  
26 other governing body thereof, or as an executive officer or employee of  
27 any political committee or association. The members of the board shall  
28 each severally receive salaries fixed by the governor in accordance  
29 with the provisions of RCW 43.03.040, and in addition shall receive  
30 travel expenses incurred in the discharge of their official duties in  
31 accordance with RCW 43.03.050 and 43.03.060.

32 (~~The board may employ, and fix, with the approval of the governor,~~  
33 ~~the compensation of and prescribe the duties of a senior administrative~~  
34 ~~officer and such officers, employees, and assistants as may be~~  
35 ~~necessary, and provide necessary quarters, supplies, and equipment.~~)

36 NEW SECTION. Sec. 3. (1) The indeterminate sentence review board  
37 is transferred to the department of corrections.

1 (2)(a) All reports, documents, surveys, books, records, files,  
2 papers, or written materials in the possession of the indeterminate  
3 sentence review board shall be delivered to the custody of the  
4 department of corrections. All cabinets, furniture, office equipment,  
5 motor vehicles, and other tangible property employed by the  
6 indeterminate sentence review board shall be made available to the  
7 department of corrections. All funds, credits, or other assets held by  
8 the indeterminate sentence review board shall be assigned to the  
9 department of corrections.

10 (b) Any appropriations made to the indeterminate sentence review  
11 board shall, on the effective date of this section, be transferred and  
12 credited to the department of corrections.

13 (c) If any question arises as to the transfer of any personnel,  
14 funds, books, documents, records, papers, files, equipment, or other  
15 tangible property used or held in the exercise of the powers and the  
16 performance of the duties and functions transferred, the director of  
17 financial management shall make a determination as to the proper  
18 allocation and certify the same to the state agencies concerned.

19 (3) All employees of the indeterminate sentence review board are  
20 transferred to the jurisdiction of the department of corrections. All  
21 employees classified under chapter 41.06 RCW, the state civil service  
22 law, are assigned to the department of corrections to perform their  
23 usual duties upon the same terms as formerly, without any loss of  
24 rights, subject to any action that may be appropriate thereafter in  
25 accordance with the laws and rules governing state civil service.

26 (4) All rules and all pending business before the indeterminate  
27 sentence review board shall be continued and acted upon by the  
28 department of corrections. All existing contracts and obligations  
29 shall remain in full force and shall be performed by the department of  
30 corrections.

31 (5) The transfer of the powers, duties, functions, and personnel of  
32 the indeterminate sentence review board shall not affect the validity  
33 of any act performed before the effective date of this section.

34 (6) If apportionments of budgeted funds are required because of the  
35 transfers directed by this section, the director of financial  
36 management shall certify the apportionments to the agencies affected,  
37 the state auditor, and the state treasurer. Each of these shall make

1 the appropriate transfer and adjustments in funds and appropriation  
2 accounts and equipment records in accordance with the certification.

3 (7) All classified employees of the indeterminate sentence review  
4 board assigned to the department of corrections under this act whose  
5 positions are within an existing bargaining unit description at the  
6 department of corrections shall become a part of the existing  
7 bargaining unit at the department of corrections and shall be  
8 considered an appropriate inclusion or modification of the existing  
9 bargaining unit under the provisions of chapter 41.80 RCW.

10 (8) Notwithstanding any provision of this act and despite the  
11 transfer of the indeterminate sentence review board to the department  
12 of corrections, the members of the indeterminate sentence review board  
13 will possess and shall exercise independent judgment when making any  
14 decisions concerning offenders. These decisions include, but are not  
15 limited to, decisions concerning offenders' release, revocation,  
16 reinstatement, or the imposition of conditions of supervision.

17 **Sec. 4.** RCW 9.95.005 and 2001 2nd sp.s. c 12 s 318 are each  
18 amended to read as follows:

19 The board shall meet at major state correctional institutions at  
20 such times as may be necessary for a full and complete study of the  
21 cases of all convicted persons whose durations of confinement are to be  
22 determined by it; whose community custody supervision is under the  
23 board's authority; or whose applications for parole come before it.  
24 Other times and places of meetings may also be fixed by the board.

25 The superintendents of the different institutions shall provide  
26 suitable quarters for the board (~~(and assistants)~~) while in the  
27 discharge of their duties.

28 **Sec. 5.** RCW 9.95.007 and 1986 c 224 s 5 are each amended to read  
29 as follows:

30 The board may meet and transact business in panels. Each board  
31 panel shall consist of at least two members of the board. In all  
32 matters concerning the internal affairs of the board and policy-making  
33 decisions, a majority of the full board must concur in such matters.  
34 The (~~chairman~~) chair of the board with the consent of a majority of  
35 the board may designate any two members to exercise all the powers and  
36 duties of the board in connection with any hearing before the board.

1 If the two members so designated cannot unanimously agree as to the  
2 disposition of the hearing assigned to them, such hearing shall be  
3 reheard by the full board. All actions of the full board shall be by  
4 concurrence of a majority of the sitting board members.

5 **Sec. 6.** RCW 9.95.140 and 2009 c 28 s 29 are each amended to read  
6 as follows:

7 (1) The board shall cause a complete record to be kept of every  
8 prisoner under the jurisdiction of the board released on parole or  
9 community custody. Such records shall be organized in accordance with  
10 the most modern methods of filing and indexing so that there will be  
11 always immediately available complete information about each such  
12 prisoner. Subject to information sharing provisions related to  
13 (~~mentally ill~~) offenders(~~(7)~~) with mental illness and the end of  
14 sentence review committee, (~~and the department of corrections,~~) the  
15 board may make rules as to the privacy of such records and their use by  
16 others than the board and (~~its~~) the department staff assigned to  
17 perform board-related duties. Sex offenders convicted of crimes  
18 committed before July 1, 1984, who are under the board's jurisdiction  
19 shall be subject to the determinations of the end of sentence review  
20 committee regarding risk level and subject to sex offender registration  
21 and community notification. The board and the department staff  
22 assigned to perform board-related duties shall be immune from liability  
23 for the release of information concerning sex offenders as provided in  
24 RCW 4.24.550.

25 The superintendents of state correctional facilities and all  
26 officers and employees thereof and all other public officials shall at  
27 all times cooperate with the board and furnish to the board(~~(7-its~~  
28 ~~officers, and employees)~~) and staff assigned to perform board-related  
29 duties such information as may be necessary to enable it to perform its  
30 functions, and such superintendents and other employees shall at all  
31 times give the members of the board(~~(, its officers, and employees)~~)  
32 and staff assigned to perform board-related duties free access to all  
33 prisoners confined in the state correctional facilities.

34 (2) Offenders sentenced under RCW 9.94A.507 shall be subject to the  
35 determinations of the end of sentence review committee regarding risk  
36 level and subject to sex offender registration and community  
37 notification.

1 (3) The end of sentence review committee shall make law enforcement  
2 notifications for offenders under board jurisdiction on the same basis  
3 that it notifies law enforcement regarding offenders sentenced under  
4 chapter 9.94A RCW for crimes committed after July 1, 1984.

5 **Sec. 7.** RCW 9.95.280 and 2001 2nd sp.s. c 12 s 344 are each  
6 amended to read as follows:

7 The secretary, upon recommendation by the board, may deputize any  
8 person (regularly employed by another state) to act as an officer and  
9 agent of this state in effecting the return of any person convicted of  
10 a crime committed before July 1, 1984, who has violated the terms and  
11 conditions of parole or probation as granted by this state. In any  
12 matter relating to the return of such a person, any agent so deputized  
13 shall have all the powers of a police officer of this state.

14 **Sec. 8.** RCW 9.95.300 and 2001 2nd sp.s. c 12 s 346 are each  
15 amended to read as follows:

16 The secretary, upon recommendation by the board, may enter into  
17 contracts with similar officials of any other state or states for the  
18 purpose of sharing an equitable portion of the cost of effecting the  
19 return of any person who has violated the terms and conditions of  
20 parole, probation, or community custody as granted by this state.

21 **Sec. 9.** RCW 9.96.050 and 2009 c 325 s 4 are each amended to read  
22 as follows:

23 (1)(a) When an offender on parole has performed all obligations of  
24 his or her release, including any and all legal financial obligations,  
25 for such time as shall satisfy the indeterminate sentence review board  
26 that his or her final release is not incompatible with the best  
27 interests of society and the welfare of the paroled individual, the  
28 board may make a final order of discharge and issue a certificate of  
29 discharge to the offender.

30 (b) The board retains the jurisdiction to issue a certificate of  
31 discharge after the expiration of the offender's or parolee's maximum  
32 statutory sentence. If not earlier granted and any and all legal  
33 financial obligations have been paid, the board shall issue a final  
34 order of discharge three years from the date of parole unless the

1 parolee is on suspended or revoked status at the expiration of the  
2 three years.

3 (c) The discharge, regardless of when issued, shall have the effect  
4 of restoring all civil rights not already restored by RCW 29A.08.520,  
5 and the certification of discharge shall so state.

6 (d) This restoration of civil rights shall not restore the right to  
7 receive, possess, own, or transport firearms.

8 (e) The board shall issue a certificate of discharge to the  
9 offender in person or by mail to the offender's last known address.

10 (2) (~~The board shall send to the department of corrections~~) A  
11 copy of every signed certificate of discharge for offender sentences  
12 under the authority of the department of corrections shall be placed in  
13 the department's files.

14 (3) The discharge provided for in this section shall be considered  
15 as a part of the sentence of the convicted person and shall not in any  
16 manner be construed as affecting the powers of the governor to pardon  
17 any such person.

18 **Sec. 10.** RCW 71.05.385 and 2009 c 320 s 2 are each amended to read  
19 as follows:

20 (1) A mental health service provider shall release to the persons  
21 authorized under subsection (2) of this section, upon request:

22 (a) The fact, place, and date of an involuntary commitment, the  
23 fact and date of discharge or release, and the last known address of a  
24 person who has been committed under this chapter.

25 (b) Information related to mental health services, in the format  
26 determined under subsection (9) of this section, concerning a person  
27 who:

28 (i) Is currently committed to the custody or supervision of the  
29 department of corrections or the indeterminate sentence review board  
30 under chapter 9.94A or 9.95 RCW;

31 (ii) Has been convicted or found not guilty by reason of insanity  
32 of a serious violent offense; or

33 (iii) Was charged with a serious violent offense and such charges  
34 were dismissed under RCW 10.77.086.

35 Legal counsel may release such information to the persons  
36 authorized under subsection (2) of this section on behalf of the mental



1 health service provider, provided that nothing in this subsection shall  
2 require the disclosure of attorney work product or attorney-client  
3 privileged information.

4 (2) The information subject to release under subsection (1) of this  
5 section shall be released to law enforcement officers, personnel of a  
6 county or city jail, designated mental health professionals, public  
7 health officers, therapeutic court personnel, or personnel of the  
8 department of corrections, (~~or personnel of~~) including the  
9 indeterminate sentence review board and personnel assigned to perform  
10 board-related duties, when such information is requested during the  
11 course of business and for the purpose of carrying out the  
12 responsibilities of the requesting person's office. No mental health  
13 service provider or person employed by a mental health service  
14 provider, or its legal counsel, shall be liable for information  
15 released to or used under the provisions of this section or rules  
16 adopted under this section except under RCW 71.05.440.

17 (3) A person who requests information under subsection (1)(b) of  
18 this section must comply with the following restrictions:

19 (a) Information must be requested only for the purposes permitted  
20 by this subsection and for the purpose of carrying out the  
21 responsibilities of the requesting person's office. Appropriate  
22 purposes for requesting information under this section include:

23 (i) Completing presentence investigations or risk assessment  
24 reports;

25 (ii) Assessing a person's risk to the community;

26 (iii) Assessing a person's risk of harm to self or others when  
27 confined in a city or county jail;

28 (iv) Planning for and provision of supervision of an offender,  
29 including decisions related to sanctions for violations of conditions  
30 of community supervision; and

31 (v) Responding to an offender's failure to report for department of  
32 corrections supervision.

33 (b) Information shall not be requested under this section unless  
34 the requesting person has reasonable suspicion that the individual who  
35 is the subject of the information:

36 (i) Has engaged in activity indicating that a crime or a violation  
37 of community custody or parole has been committed or, based upon his or

1 her current or recent past behavior, is likely to be committed in the  
2 near future; or

3 (ii) Is exhibiting signs of a deterioration in mental functioning  
4 which may make the individual appropriate for civil commitment under  
5 this chapter.

6 (c) Any information received under this section shall be held  
7 confidential and subject to the limitations on disclosure outlined in  
8 this chapter, except:

9 (i) Such information may be shared with other persons who have the  
10 right to request similar information under subsection (2) of this  
11 section, solely for the purpose of coordinating activities related to  
12 the individual who is the subject of the information in a manner  
13 consistent with the official responsibilities of the persons involved;

14 (ii) Such information may be shared with a prosecuting attorney  
15 acting in an advisory capacity for a person who receives information  
16 under this section. A prosecuting attorney under this subsection shall  
17 be subject to the same restrictions and confidentiality limitations as  
18 the person who requested the information; and

19 (iii) As provided in RCW 72.09.585.

20 (4) A request for information related to mental health services  
21 under this section shall not require the consent of the subject of the  
22 records. Such request shall be provided in writing, except to the  
23 extent authorized in subsection (5) of this section. A written request  
24 may include requests made by e-mail or facsimile so long as the  
25 requesting person is clearly identified. The request must specify the  
26 information being requested.

27 (5) In the event of an emergency situation that poses a significant  
28 risk to the public or the offender, a mental health service provider,  
29 or its legal counsel, shall release information related to mental  
30 health services delivered to the offender and, if known, information  
31 regarding where the offender is likely to be found to the department of  
32 corrections or law enforcement upon request. The initial request may  
33 be written or oral. All oral requests must be subsequently confirmed  
34 in writing. Information released in response to an oral request is  
35 limited to a statement as to whether the offender is or is not being  
36 treated by the mental health service provider and the address or  
37 information about the location or whereabouts of the offender.

1 (6) Disclosure under this section to state or local law enforcement  
2 authorities is mandatory for the purposes of the health insurance  
3 portability and accountability act.

4 (7) Whenever federal law or federal regulations restrict the  
5 release of information contained in the treatment records of any  
6 patient who receives treatment for alcoholism or drug dependency, the  
7 release of the information may be restricted as necessary to comply  
8 with federal law and regulations.

9 (8) This section does not modify the terms and conditions of  
10 disclosure of information related to sexually transmitted diseases  
11 under chapter 70.24 RCW.

12 (9) In collaboration with interested organizations, the department  
13 shall develop a standard form for requests for information related to  
14 mental health services made under this section and a standard format  
15 for information provided in response to such requests. Consistent with  
16 the goals of the health information privacy provisions of the federal  
17 health insurance portability and accountability act, in developing the  
18 standard form for responsive information, the department shall design  
19 the form in such a way that the information disclosed is limited to the  
20 minimum necessary to serve the purpose for which the information is  
21 requested.

22 **Sec. 11.** RCW 72.09.585 and 2004 c 166 s 5 are each amended to read  
23 as follows:

24 (1) When the department is determining an offender's risk  
25 management level, the department shall inquire of the offender and  
26 shall be told whether the offender is subject to court-ordered  
27 treatment for mental health services or chemical dependency services.  
28 The department shall request and the offender shall provide an  
29 authorization to release information form that meets applicable state  
30 and federal requirements and shall provide the offender with written  
31 notice that the department will request the offender's mental health  
32 and substance abuse treatment information. An offender's failure to  
33 inform the department of court-ordered treatment is a violation of the  
34 conditions of supervision if the offender is in the community and an  
35 infraction if the offender is in confinement, and the violation or  
36 infraction is subject to sanctions.

1 (2) When an offender discloses that he or she is subject to court-  
2 ordered mental health services or chemical dependency treatment, the  
3 department shall provide the mental health services provider or  
4 chemical dependency treatment provider with a written request for  
5 information and any necessary authorization to release information  
6 forms. The written request shall comply with rules adopted by the  
7 department of social and health services or protocols developed jointly  
8 by the department and the department of social and health services. A  
9 single request shall be valid for the duration of the offender's  
10 supervision in the community. Disclosures of information related to  
11 mental health services made pursuant to a department request shall not  
12 require consent of the offender.

13 (3) The information received by the department under RCW 71.05.445  
14 or (~~(71.34.225)~~) 71.34.345 may be released to the indeterminate  
15 sentence review board as relevant to carry out its responsibility of  
16 planning and ensuring community protection with respect to persons  
17 under its jurisdiction. Further disclosure by the indeterminate  
18 sentence review board is subject to the limitations set forth in  
19 subsections (5) and (6) of this section and must be consistent with the  
20 written policy of the indeterminate sentence review board. The  
21 decision to disclose or not shall not result in civil liability for the  
22 indeterminate sentence review board or (~~(its employees)~~) staff assigned  
23 to perform board-related duties provided that the decision was reached  
24 in good faith and without gross negligence.

25 (4) The information received by the department under RCW 71.05.445  
26 or (~~(71.34.225)~~) 71.34.345 may be used to meet the statutory duties of  
27 the department to provide evidence or report to the court. Disclosure  
28 to the public of information provided to the court by the department  
29 related to mental health services shall be limited in accordance with  
30 RCW 9.94A.500 or this section.

31 (5) The information received by the department under RCW 71.05.445  
32 or (~~(71.34.225)~~) 71.34.345 may be disclosed by the department to other  
33 state and local agencies as relevant to plan for and provide offenders  
34 transition, treatment, and supervision services, or as relevant and  
35 necessary to protect the public and counteract the danger created by a  
36 particular offender, and in a manner consistent with the written policy  
37 established by the secretary. The decision to disclose or not shall  
38 not result in civil liability for the department or its employees so

1 long as the decision was reached in good faith and without gross  
2 negligence. The information received by a state or local agency from  
3 the department shall remain confidential and subject to the limitations  
4 on disclosure set forth in chapters 70.02, 71.05, and 71.34 RCW and,  
5 subject to these limitations, may be released only as relevant and  
6 necessary to counteract the danger created by a particular offender.

7 (6) The information received by the department under RCW 71.05.445  
8 or (~~71.34.225~~) 71.34.345 may be disclosed by the department to  
9 individuals only with respect to offenders who have been determined by  
10 the department to have a high risk of reoffending by a risk assessment,  
11 as defined in RCW 9.94A.030, only as relevant and necessary for those  
12 individuals to take reasonable steps for the purpose of self-  
13 protection, or as provided in RCW 72.09.370(2). The information may  
14 not be disclosed for the purpose of engaging the public in a system of  
15 supervision, monitoring, and reporting offender behavior to the  
16 department. The department must limit the disclosure of information  
17 related to mental health services to the public to descriptions of an  
18 offender's behavior, risk he or she may present to the community, and  
19 need for mental health treatment, including medications, and shall not  
20 disclose or release to the public copies of treatment documents or  
21 records, except as otherwise provided by law. All disclosure of  
22 information to the public must be done in a manner consistent with the  
23 written policy established by the secretary. The decision to disclose  
24 or not shall not result in civil liability for the department or its  
25 employees so long as the decision was reached in good faith and without  
26 gross negligence. Nothing in this subsection prevents any person from  
27 reporting to law enforcement or the department behavior that he or she  
28 believes creates a public safety risk.

29 NEW SECTION. **Sec. 12.** RCW 4.24.5502 is decodified.

30 NEW SECTION. **Sec. 13.** The following acts or parts of acts are  
31 each repealed:

32 (1) RCW 13.40.005 (Juvenile disposition standards commission--  
33 Abolished--References to commission--Transfer of powers, duties, and  
34 functions) and 1995 c 269 s 301;

35 (2) RCW 9.94A.860 (Sentencing guidelines commission--Membership--

1 Appointments--Terms of office--Expenses and compensation) and 2001 2nd  
2 sp.s. c 12 s 311, 1996 c 232 s 3, 1993 c 11 s 1, 1988 c 157 s 2, 1984  
3 c 287 s 10, & 1981 c 137 s 6;

4 (3) RCW 9.94A.8671 (Sex offender policy board--Findings--Intent)  
5 and 2008 c 249 s 1;

6 (4) RCW 9.94A.8672 (Sex offender policy board--Establishment) and  
7 2008 c 249 s 2;

8 (5) RCW 9.94A.8674 (Sex offender policy board--Terms--Vacancies)  
9 and 2008 c 249 s 4;

10 (6) RCW 9.94A.8675 (Sex offender policy board--Authority) and 2008  
11 c 249 s 5;

12 (7) RCW 9.94A.8676 (Sex offender policy board--Duties) and 2008 c  
13 249 s 6;

14 (8) RCW 9.94A.8677 (Sex offender policy board--Travel expenses) and  
15 2008 c 249 s 7;

16 (9) RCW 9.94A.8678 (Sex offender policy board--Meeting attendance--  
17 Member replacement) and 2008 c 249 s 8;

18 (10) RCW 43.131.411 (Sex offender policy board--Termination) and  
19 2008 c 249 s 9; and

20 (11) RCW 43.131.412 (Sex offender policy board--Repeal) and 2008 c  
21 249 s 10.

22 **Sec. 14.** RCW 9.94A.850 and 2009 c 375 s 8 are each amended to read  
23 as follows:

24 (1) At such times as the governor or the legislature may request  
25 and within amounts appropriated, the governor may convene a sentencing  
26 guidelines commission ((is)), established ((as an agency of state  
27 government.

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

31 office of financial management to:  
32 (a) Evaluate state sentencing policy, to include whether the  
33 sentencing ranges and standards are consistent with and further:

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

35 (ii) The intent of the legislature to emphasize confinement for the  
36 violent offender and alternatives to confinement for the nonviolent  
37 offender.

1           ~~((The commission shall provide the governor and the legislature~~  
2 ~~with its evaluation and recommendations under this subsection not later~~  
3 ~~than December 1, 1996, and every two years thereafter;))~~

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

11           (c) ~~((Study the existing criminal code and from time to time make~~  
12 ~~recommendations to the legislature for modification;)~~

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

24           ~~(e) Assume the powers and duties of the juvenile disposition~~  
25 ~~standards commission after June 30, 1996;~~

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

33           ~~(g) Solicit the comments and suggestions of the juvenile justice~~  
34 ~~community concerning disposition standards, and make recommendations to~~  
35 ~~the legislature regarding revisions or modifications of the standards.~~  
36 ~~The evaluations shall be submitted to the legislature on December 1 of~~  
37 ~~each odd-numbered year. The department of social and health services~~  
38 ~~shall provide the commission with available data concerning the~~

1 ~~implementation of the disposition standards and related statutes and~~  
2 ~~their effect on the performance of the department's responsibilities~~  
3 ~~relating to juvenile offenders, and with recommendations for~~  
4 ~~modification of the disposition standards. The administrative office~~  
5 ~~of the courts shall provide the commission with available data on~~  
6 ~~diversion, including the use of youth court programs, and dispositions~~  
7 ~~of juvenile offenders under chapter 13.40 RCW; and~~

8 ~~(h) Not later than December 1, 1997, and at least every two years~~  
9 ~~thereafter, based on available information, report to the governor and~~  
10 ~~the legislature on:~~

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

15 ~~(ii) The capacity of state and local juvenile and adult facilities~~  
16 ~~and resources; and~~

17 ~~(iii) Recidivism information on adult and juvenile offenders.~~

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

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

24 ~~(a) If the maximum term in the range is one year or less, the~~  
25 ~~minimum term in the range shall be no less than one third of the~~  
26 ~~maximum term in the range, except that if the maximum term in the range~~  
27 ~~is ninety days or less, the minimum term may be less than one third of~~  
28 ~~the maximum;~~

29 ~~(b) If the maximum term in the range is greater than one year, the~~  
30 ~~minimum term in the range shall be no less than seventy five percent of~~  
31 ~~the maximum term in the range, except that for murder in the second~~  
32 ~~degree in seriousness level XIV under RCW 9.94A.510, the minimum term~~  
33 ~~in the range shall be no less than fifty percent of the maximum term in~~  
34 ~~the range; and~~

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

37 ~~(5) The commission shall exercise its duties under this section in~~  
38 ~~conformity with chapter 34.05 RCW)).~~



1       (2) The commission shall consist of twenty voting members appointed  
2 by the governor, one of whom the governor shall designate as chair.

3       (3) The voting membership consists of the following:

4       (a) The head of the state agency having general responsibility for  
5 adult correction programs, as an ex officio member;

6       (b) The director of financial management or designee, as an ex  
7 officio member;

8       (c) The chair of the indeterminate sentence review board, as an ex  
9 officio member;

10       (d) The head of the state agency, or the agency head's designee,  
11 having responsibility for juvenile corrections programs, as an ex  
12 officio member;

13       (e) Two prosecuting attorneys;

14       (f) Two attorneys with particular expertise in defense work;

15       (g) Four persons who are superior court judges;

16       (h) One person who is the chief law enforcement officer of a county  
17 or city;

18       (i) Four members of the public who are not prosecutors, defense  
19 attorneys, judges, or law enforcement officers, one of whom is a victim  
20 of crime or a crime victims' advocate;

21       (j) One person who is an elected official of a county government,  
22 other than a prosecuting attorney or sheriff;

23       (k) One person who is an elected official of a city government;

24       (l) One person who is an administrator of juvenile court services.

25       In making the appointments, the governor shall endeavor to assure  
26 that the commission membership includes adequate representation and  
27 expertise relating to both the adult criminal justice system and the  
28 juvenile justice system. In making the appointments, the governor  
29 shall seek the recommendations of Washington prosecutors in respect to  
30 the prosecuting attorney members, of the Washington state bar  
31 association in respect to the defense attorney members, of the  
32 association of superior court judges in respect to the members who are  
33 judges, of the Washington association of sheriffs and police chiefs in  
34 respect to the member who is a law enforcement officer, of the  
35 Washington state association of counties in respect to the member who  
36 is a county official, of the association of Washington cities in  
37 respect to the member who is a city official, of the office of crime  
38 victims advocacy and other organizations of crime victims in respect to

1 the member who is a victim of crime or a crime victims' advocate, and  
2 of the Washington association of juvenile court administrators in  
3 respect to the member who is an administrator of juvenile court  
4 services.

5 (4) The speaker of the house of representatives and the president  
6 of the senate may each appoint two nonvoting members to the commission,  
7 one from each of the two largest caucuses in each house.

8 (5) The members of the commission shall be reimbursed for travel  
9 expenses as provided in RCW 43.03.050 and 43.03.060. Legislative  
10 members shall be reimbursed by their respective houses as provided  
11 under RCW 44.04.120. Members shall be compensated in accordance with  
12 RCW 43.03.250.

13 NEW SECTION. Sec. 15. A new section is added to chapter 9.94A RCW  
14 to read as follows:

15 The standard sentence ranges of total and partial confinement under  
16 this chapter, except as provided in RCW 9.94A.517, are subject to the  
17 following limitations:

18 (1) If the maximum term in the range is one year or less, the  
19 minimum term in the range shall be no less than one-third of the  
20 maximum term in the range, except that if the maximum term in the range  
21 is ninety days or less, the minimum term may be less than one-third of  
22 the maximum;

23 (2) If the maximum term in the range is greater than one year, the  
24 minimum term in the range shall be no less than seventy-five percent of  
25 the maximum term in the range, except that for murder in the second  
26 degree in seriousness level XIV under RCW 9.94A.510, the minimum term  
27 in the range shall be no less than fifty percent of the maximum term in  
28 the range; and

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

31 **Sec. 16.** RCW 9.94A.480 and 2002 c 290 s 16 are each amended to  
32 read as follows:

33 (1) A current, newly created or reworked judgment and sentence  
34 document for each felony sentencing shall record any and all  
35 recommended sentencing agreements or plea agreements and the sentences  
36 for any and all felony crimes kept as public records under RCW

1 9.94A.475 shall contain the clearly printed name and legal signature of  
2 the sentencing judge. The judgment and sentence document as defined in  
3 this section shall also provide additional space for the sentencing  
4 judge's reasons for going either above or below the presumptive  
5 sentence range for any and all felony crimes covered as public records  
6 under RCW 9.94A.475. Both the sentencing judge and the prosecuting  
7 attorney's office shall each retain or receive a completed copy of each  
8 sentencing document as defined in this section for their own records.

9 (2) The (~~sentencing guidelines commission~~) department shall be  
10 sent a completed copy of the judgment and sentence document upon  
11 conviction for each felony sentencing under subsection (1) of this  
12 section and shall compile a yearly and cumulative judicial record of  
13 each sentencing judge in regards to his or her sentencing practices for  
14 any and all felony crimes involving:

15 (a) Any violent offense as defined in this chapter;

16 (b) Any most serious offense as defined in this chapter;

17 (c) Any felony with any deadly weapon special verdict under RCW  
18 (~~9.94A.602~~) 9.94A.825;

19 (d) Any felony with any deadly weapon enhancements under RCW  
20 9.94A.533 (3) or (4), or both; and/or

21 (e) The felony crimes of possession of a machine gun, possessing a  
22 stolen firearm, drive-by shooting, theft of a firearm, unlawful  
23 possession of a firearm in the first or second degree, and/or use of a  
24 machine gun in a felony.

25 (3) The (~~sentencing guidelines commission~~) department shall  
26 compare each individual judge's sentencing practices to the standard or  
27 presumptive sentence range for any and all felony crimes listed in  
28 subsection (2) of this section for the appropriate offense level as  
29 defined in RCW 9.94A.515 or 9.94A.518, offender score as defined in RCW  
30 9.94A.525, and any applicable deadly weapon enhancements as defined in  
31 RCW 9.94A.533 (3) or (4), or both. These comparative records shall be  
32 retained and made available to the public for review in a current,  
33 newly created or reworked official published document by the  
34 (~~sentencing guidelines commission~~) department.

35 (4) Any and all felony sentences which are either above or below  
36 the standard or presumptive sentence range in subsection (3) of this  
37 section shall also mark whether the prosecuting attorney in the case  
38 also recommended a similar sentence, if any, which was either above or

1 below the presumptive sentence range and shall also indicate if the  
2 sentence was in conjunction with an approved alternative sentencing  
3 option including a first-time offender waiver, sex offender sentencing  
4 alternative, or other prescribed sentencing option.

5 (5) If any completed judgment and sentence document as defined in  
6 subsection (1) of this section is not sent to the (~~sentencing~~  
7 ~~guidelines-commission~~) department as required in subsection (2) of  
8 this section, the (~~sentencing-guidelines-commission~~) department shall  
9 have the authority and shall undertake reasonable and necessary steps  
10 to assure that all past, current, and future sentencing documents as  
11 defined in subsection (1) of this section are received by the  
12 (~~sentencing-guidelines-commission~~) department.

13 **Sec. 17.** RCW 9.94A.863 and 2009 c 431 s 2 are each amended to read  
14 as follows:

15 The (~~sentencing-guidelines-commission~~) department shall review  
16 the monetary threshold amounts differentiating the various degrees of  
17 property crimes in Washington state to determine whether such amounts  
18 should be modified. The (~~sentencing-guidelines-commission~~)  
19 department shall report to the legislature with its recommendations by  
20 November 1, 2014, and every five years thereafter.

21 **Sec. 18.** RCW 13.50.010 and 2010 c 150 s 3 are each amended to read  
22 as follows:

23 (1) For purposes of this chapter:

24 (a) "Juvenile justice or care agency" means any of the following:  
25 Police, diversion units, court, prosecuting attorney, defense attorney,  
26 detention center, attorney general, the legislative children's  
27 oversight committee, the office of the family and children's ombudsman,  
28 the department of social and health services and its contracting  
29 agencies, schools; persons or public or private agencies having  
30 children committed to their custody; and any placement oversight  
31 committee created under RCW 72.05.415;

32 (b) "Official juvenile court file" means the legal file of the  
33 juvenile court containing the petition or information, motions,  
34 memorandums, briefs, findings of the court, and court orders;

35 (c) "Records" means the official juvenile court file, the social

1 file, and records of any other juvenile justice or care agency in the  
2 case;

3 (d) "Social file" means the juvenile court file containing the  
4 records and reports of the probation counselor.

5 (2) Each petition or information filed with the court may include  
6 only one juvenile and each petition or information shall be filed under  
7 a separate docket number. The social file shall be filed separately  
8 from the official juvenile court file.

9 (3) It is the duty of any juvenile justice or care agency to  
10 maintain accurate records. To this end:

11 (a) The agency may never knowingly record inaccurate information.  
12 Any information in records maintained by the department of social and  
13 health services relating to a petition filed pursuant to chapter 13.34  
14 RCW that is found by the court to be false or inaccurate shall be  
15 corrected or expunged from such records by the agency;

16 (b) An agency shall take reasonable steps to assure the security of  
17 its records and prevent tampering with them; and

18 (c) An agency shall make reasonable efforts to insure the  
19 completeness of its records, including action taken by other agencies  
20 with respect to matters in its files.

21 (4) Each juvenile justice or care agency shall implement procedures  
22 consistent with the provisions of this chapter to facilitate inquiries  
23 concerning records.

24 (5) Any person who has reasonable cause to believe information  
25 concerning that person is included in the records of a juvenile justice  
26 or care agency and who has been denied access to those records by the  
27 agency may make a motion to the court for an order authorizing that  
28 person to inspect the juvenile justice or care agency record concerning  
29 that person. The court shall grant the motion to examine records  
30 unless it finds that in the interests of justice or in the best  
31 interests of the juvenile the records or parts of them should remain  
32 confidential.

33 (6) A juvenile, or his or her parents, or any person who has  
34 reasonable cause to believe information concerning that person is  
35 included in the records of a juvenile justice or care agency may make  
36 a motion to the court challenging the accuracy of any information  
37 concerning the moving party in the record or challenging the continued

1 possession of the record by the agency. If the court grants the  
2 motion, it shall order the record or information to be corrected or  
3 destroyed.

4 (7) The person making a motion under subsection (5) or (6) of this  
5 section shall give reasonable notice of the motion to all parties to  
6 the original action and to any agency whose records will be affected by  
7 the motion.

8 (8) The court may permit inspection of records by, or release of  
9 information to, any clinic, hospital, or agency which has the subject  
10 person under care or treatment. The court may also permit inspection  
11 by or release to individuals or agencies, including juvenile justice  
12 advisory committees of county law and justice councils, engaged in  
13 legitimate research for educational, scientific, or public purposes.  
14 The court shall release to the (~~sentencing guidelines commission~~)  
15 department of corrections records needed for its research and data-  
16 gathering functions (~~under RCW 9.94A.850 and other statutes~~). Access  
17 to records or information for research purposes shall be permitted only  
18 if the anonymity of all persons mentioned in the records or information  
19 will be preserved. Each person granted permission to inspect juvenile  
20 justice or care agency records for research purposes shall present a  
21 notarized statement to the court stating that the names of juveniles  
22 and parents will remain confidential.

23 (9) Juvenile detention facilities shall release records to the  
24 (~~sentencing guidelines commission under RCW 9.94A.850~~) department of  
25 corrections upon request. The commission shall not disclose the names  
26 of any juveniles or parents mentioned in the records without the named  
27 individual's written permission.

28 (10) Requirements in this chapter relating to the court's authority  
29 to compel disclosure shall not apply to the legislative children's  
30 oversight committee or the office of the family and children's  
31 ombudsman.

32 (11) For the purpose of research only, the administrative office of  
33 the courts shall maintain an electronic research copy of all records in  
34 the judicial information system related to juveniles. Access to the  
35 research copy is restricted to the Washington state center for court  
36 research. The Washington state center for court research shall  
37 maintain the confidentiality of all confidential records and shall  
38 preserve the anonymity of all persons identified in the research copy.

1 The research copy may not be subject to any records retention schedule  
2 and must include records destroyed or removed from the judicial  
3 information system pursuant to RCW 13.50.050 (17) and (18) and  
4 13.50.100(3).

5 (12) The court shall release to the Washington state office of  
6 public defense records needed to implement the agency's oversight,  
7 technical assistance, and other functions as required by RCW 2.70.020.  
8 Access to the records used as a basis for oversight, technical  
9 assistance, or other agency functions is restricted to the Washington  
10 state office of public defense. The Washington state office of public  
11 defense shall maintain the confidentiality of all confidential  
12 information included in the records.

13 **Sec. 19.** RCW 9.94A.030 and 2010 c 274 s 401, 2010 c 267 s 9, 2010  
14 c 227 s 11, and 2010 c 224 s 1 are each reenacted and amended to read  
15 as follows:

16 Unless the context clearly requires otherwise, the definitions in  
17 this section apply throughout this chapter.

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

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

28 (~~(3) ("Commission" means the sentencing guidelines commission.~~  
29 ~~(4))~~) "Community corrections officer" means an employee of the  
30 department who is responsible for carrying out specific duties in  
31 supervision of sentenced offenders and monitoring of sentence  
32 conditions.

33 (~~(+5)~~) (4) "Community custody" means that portion of an offender's  
34 sentence of confinement in lieu of earned release time or imposed as  
35 part of a sentence under this chapter and served in the community  
36 subject to controls placed on the offender's movement and activities by  
37 the department.





1 collectively engage in or have engaged in a pattern of criminal street  
2 gang activity. This definition does not apply to employees engaged in  
3 concerted activities for their mutual aid and protection, or to the  
4 activities of labor and bona fide nonprofit organizations or their  
5 members or agents.

6 ~~((+13+))~~ (12) "Criminal street gang associate or member" means any  
7 person who actively participates in any criminal street gang and who  
8 intentionally promotes, furthers, or assists in any criminal act by the  
9 criminal street gang.

10 ~~((+14+))~~ (13) "Criminal street gang-related offense" means any  
11 felony or misdemeanor offense, whether in this state or elsewhere, that  
12 is committed for the benefit of, at the direction of, or in association  
13 with any criminal street gang, or is committed with the intent to  
14 promote, further, or assist in any criminal conduct by the gang, or is  
15 committed for one or more of the following reasons:

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

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

19 (c) To exact revenge or retribution for the gang or any member of  
20 the gang;

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

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

26 (f) To provide the gang with any advantage in, or any control or  
27 dominance over any criminal market sector, including, but not limited  
28 to, manufacturing, delivering, or selling any controlled substance  
29 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
30 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
31 RCW); human trafficking (RCW 9A.40.100); or promoting pornography  
32 (chapter 9.68 RCW).

33 ~~((+15+))~~ (14) "Day fine" means a fine imposed by the sentencing  
34 court that equals the difference between the offender's net daily  
35 income and the reasonable obligations that the offender has for the  
36 support of the offender and any dependents.

37 ~~((+16+))~~ (15) "Day reporting" means a program of enhanced  
38 supervision designed to monitor the offender's daily activities and

1 compliance with sentence conditions, and in which the offender is  
2 required to report daily to a specific location designated by the  
3 department or the sentencing court.

4 ~~((+17+))~~ (16) "Department" means the department of corrections.

5 ~~((+18+))~~ (17) "Determinate sentence" means a sentence that states  
6 with exactitude the number of actual years, months, or days of total  
7 confinement, of partial confinement, of community custody, the number  
8 of actual hours or days of community restitution work, or dollars or  
9 terms of a legal financial obligation. The fact that an offender  
10 through earned release can reduce the actual period of confinement  
11 shall not affect the classification of the sentence as a determinate  
12 sentence.

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

25 ~~((+20+))~~ (19) "Domestic violence" has the same meaning as defined  
26 in RCW 10.99.020 and 26.50.010.

27 ~~((+21+))~~ (20) "Drug offender sentencing alternative" is a  
28 sentencing option available to persons convicted of a felony offense  
29 other than a violent offense or a sex offense and who are eligible for  
30 the option under RCW 9.94A.660.

31 ~~((+22+))~~ (21) "Drug offense" means:

32 (a) Any felony violation of chapter 69.50 RCW except possession of  
33 a controlled substance (RCW 69.50.4013) or forged prescription for a  
34 controlled substance (RCW 69.50.403);

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

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

4 (~~(+23+)~~) (22) "Earned release" means earned release from  
5 confinement as provided in RCW 9.94A.728.

6 (~~(+24+)~~) (23) "Escape" means:

7 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
8 first degree (RCW 9A.76.110), escape in the second degree (RCW  
9 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
10 willful failure to return from work release (RCW 72.65.070), or willful  
11 failure to be available for supervision by the department while in  
12 community custody (RCW 72.09.310); or

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

16 (~~(+25+)~~) (24) "Felony traffic offense" means:

17 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
18 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
19 run injury-accident (RCW 46.52.020(4)), felony driving while under the  
20 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or  
21 felony physical control of a vehicle while under the influence of  
22 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

26 (~~(+26+)~~) (25) "Fine" means a specific sum of money ordered by the  
27 sentencing court to be paid by the offender to the court over a  
28 specific period of time.

29 (~~(+27+)~~) (26) "First-time offender" means any person who has no  
30 prior convictions for a felony and is eligible for the first-time  
31 offender waiver under RCW 9.94A.650.

32 (~~(+28+)~~) (27) "Home detention" means a program of partial  
33 confinement available to offenders wherein the offender is confined in  
34 a private residence subject to electronic surveillance.

35 (~~(+29+)~~) (28) "Legal financial obligation" means a sum of money  
36 that is ordered by a superior court of the state of Washington for  
37 legal financial obligations which may include restitution to the  
38 victim, statutorily imposed crime victims' compensation fees as

1 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
2 drug funds, court-appointed attorneys' fees, and costs of defense,  
3 fines, and any other financial obligation that is assessed to the  
4 offender as a result of a felony conviction. Upon conviction for  
5 vehicular assault while under the influence of intoxicating liquor or  
6 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the  
7 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
8 legal financial obligations may also include payment to a public agency  
9 of the expense of an emergency response to the incident resulting in  
10 the conviction, subject to RCW 38.52.430.

11 ~~((+30+))~~ (29) "Minor child" means a biological or adopted child of  
12 the offender who is under age eighteen at the time of the offender's  
13 current offense.

14 ~~((+31+))~~ (30) "Most serious offense" means any of the following  
15 felonies or a felony attempt to commit any of the following felonies:

16 (a) Any felony defined under any law as a class A felony or  
17 criminal solicitation of or criminal conspiracy to commit a class A  
18 felony;

- 19 (b) Assault in the second degree;
- 20 (c) Assault of a child in the second degree;
- 21 (d) Child molestation in the second degree;
- 22 (e) Controlled substance homicide;
- 23 (f) Extortion in the first degree;
- 24 (g) Incest when committed against a child under age fourteen;
- 25 (h) Indecent liberties;
- 26 (i) Kidnapping in the second degree;
- 27 (j) Leading organized crime;
- 28 (k) Manslaughter in the first degree;
- 29 (l) Manslaughter in the second degree;
- 30 (m) Promoting prostitution in the first degree;
- 31 (n) Rape in the third degree;
- 32 (o) Robbery in the second degree;
- 33 (p) Sexual exploitation;
- 34 (q) Vehicular assault, when caused by the operation or driving of  
35 a vehicle by a person while under the influence of intoxicating liquor  
36 or any drug or by the operation or driving of a vehicle in a reckless  
37 manner;

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

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

7 (t) Any other felony with a deadly weapon verdict under RCW  
8 9.94A.825;

9 (u) Any felony offense in effect at any time prior to December 2,  
10 1993, that is comparable to a most serious offense under this  
11 subsection, or any federal or out-of-state conviction for an offense  
12 that under the laws of this state would be a felony classified as a  
13 most serious offense under this subsection;

14 (v)(i) A prior conviction for indecent liberties under RCW  
15 (~~9A.88.100~~) 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975  
16 1st ex. sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a),  
17 (b), and (c) as it existed from July 1, 1979, until June 11, 1986, and  
18 RCW 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,  
19 until July 1, 1988;

20 (ii) A prior conviction for indecent liberties under RCW  
21 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
22 if: (A) The crime was committed against a child under the age of  
23 fourteen; or (B) the relationship between the victim and perpetrator is  
24 included in the definition of indecent liberties under RCW  
25 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
26 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
27 through July 27, 1997;

28 (w) Any out-of-state conviction for a felony offense with a finding  
29 of sexual motivation if the minimum sentence imposed was ten years or  
30 more; provided that the out-of-state felony offense must be comparable  
31 to a felony offense under Title 9 or 9A RCW and the out-of-state  
32 definition of sexual motivation must be comparable to the definition of  
33 sexual motivation contained in this section.

34 (~~(+32)~~) (31) "Nonviolent offense" means an offense which is not a  
35 violent offense.

36 (~~(+33)~~) (32) "Offender" means a person who has committed a felony  
37 established by state law and is eighteen years of age or older or is  
38 less than eighteen years of age but whose case is under superior court

1 jurisdiction under RCW 13.04.030 or has been transferred by the  
2 appropriate juvenile court to a criminal court pursuant to RCW  
3 13.40.110. In addition, for the purpose of community custody  
4 requirements under this chapter, "offender" also means a misdemeanor or  
5 gross misdemeanor probationer convicted of an offense included in RCW  
6 9.94A.501(1) and ordered by a superior court to probation under the  
7 supervision of the department pursuant to RCW 9.92.060, 9.95.204, or  
8 9.95.210. Throughout this chapter, the terms "offender" and  
9 "defendant" are used interchangeably.

10 ~~((+34+))~~ (33) "Partial confinement" means confinement for no more  
11 than one year in a facility or institution operated or utilized under  
12 contract by the state or any other unit of government, or, if home  
13 detention or work crew has been ordered by the court or home detention  
14 has been ordered by the department as part of the parenting program, in  
15 an approved residence, for a substantial portion of each day with the  
16 balance of the day spent in the community. Partial confinement  
17 includes work release, home detention, work crew, and a combination of  
18 work crew and home detention.

19 ~~((+35+))~~ (34) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

34 (vii) Malicious Harassment (RCW 9A.36.080);

35 (viii) Harassment where a subsequent violation or deadly threat is  
36 made (RCW 9A.46.020(2)(b));

37 (ix) Criminal Gang Intimidation (RCW 9A.46.120);

1 (x) Any felony conviction by a person eighteen years of age or  
2 older with a special finding of involving a juvenile in a felony  
3 offense under RCW 9.94A.833;

4 (xi) Residential Burglary (RCW 9A.52.025);

5 (xii) Burglary 2 (RCW 9A.52.030);

6 (xiii) Malicious Mischief 1 (RCW 9A.48.070);

7 (xiv) Malicious Mischief 2 (RCW 9A.48.080);

8 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);

9 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);

10 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);

11 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW  
12 9A.56.075);

13 (xix) Extortion 1 (RCW 9A.56.120);

14 (xx) Extortion 2 (RCW 9A.56.130);

15 (xxi) Intimidating a Witness (RCW 9A.72.110);

16 (xxii) Tampering with a Witness (RCW 9A.72.120);

17 (xxiii) Reckless Endangerment (RCW 9A.36.050);

18 (xxiv) Coercion (RCW 9A.36.070);

19 (xxv) Harassment (RCW 9A.46.020); or

20 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

21 (b) That at least one of the offenses listed in (a) of this  
22 subsection shall have occurred after July 1, 2008;

23 (c) That the most recent committed offense listed in (a) of this  
24 subsection occurred within three years of a prior offense listed in (a)  
25 of this subsection; and

26 (d) Of the offenses that were committed in (a) of this subsection,  
27 the offenses occurred on separate occasions or were committed by two or  
28 more persons.

29 (~~(+36+)~~) (35) "Persistent offender" is an offender who:

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

32 (ii) Has, before the commission of the offense under (a) of this  
33 subsection, been convicted as an offender on at least two separate  
34 occasions, whether in this state or elsewhere, of felonies that under  
35 the laws of this state would be considered most serious offenses and  
36 would be included in the offender score under RCW 9.94A.525; provided  
37 that of the two or more previous convictions, at least one conviction

1 must have occurred before the commission of any of the other most  
2 serious offenses for which the offender was previously convicted; or

3 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
4 of a child in the first degree, child molestation in the first degree,  
5 rape in the second degree, rape of a child in the second degree, or  
6 indecent liberties by forcible compulsion; (B) any of the following  
7 offenses with a finding of sexual motivation: Murder in the first  
8 degree, murder in the second degree, homicide by abuse, kidnapping in  
9 the first degree, kidnapping in the second degree, assault in the first  
10 degree, assault in the second degree, assault of a child in the first  
11 degree, assault of a child in the second degree, or burglary in the  
12 first degree; or (C) an attempt to commit any crime listed in this  
13 subsection (~~(+36+)~~) (35)(b)(i); and

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

26 (~~(+37+)~~) (36) "Predatory" means: (a) The perpetrator of the crime  
27 was a stranger to the victim, as defined in this section; (b) the  
28 perpetrator established or promoted a relationship with the victim  
29 prior to the offense and the victimization of the victim was a  
30 significant reason the perpetrator established or promoted the  
31 relationship; or (c) the perpetrator was: (i) A teacher, counselor,  
32 volunteer, or other person in authority in any public or private school  
33 and the victim was a student of the school under his or her authority  
34 or supervision. For purposes of this subsection, "school" does not  
35 include home-based instruction as defined in RCW 28A.225.010; (ii) a  
36 coach, trainer, volunteer, or other person in authority in any  
37 recreational activity and the victim was a participant in the activity  
38 under his or her authority or supervision; (iii) a pastor, elder,



1 volunteer, or other person in authority in any church or religious  
2 organization, and the victim was a member or participant of the  
3 organization under his or her authority; or (iv) a teacher, counselor,  
4 volunteer, or other person in authority providing home-based  
5 instruction and the victim was a student receiving home-based  
6 instruction while under his or her authority or supervision. For  
7 purposes of this subsection: (A) "Home-based instruction" has the same  
8 meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor,  
9 volunteer, or other person in authority" does not include the parent or  
10 legal guardian of the victim.

11 ~~((+38+))~~ (37) "Private school" means a school regulated under  
12 chapter 28A.195 or 28A.205 RCW.

13 ~~((+39+))~~ (38) "Public school" has the same meaning as in RCW  
14 28A.150.010.

15 ~~((+40+))~~ (39) "Repetitive domestic violence offense" means any:

16 (a)(i) Domestic violence assault that is not a felony offense under  
17 RCW 9A.36.041;

18 (ii) Domestic violence violation of a no-contact order under  
19 chapter 10.99 RCW that is not a felony offense;

20 (iii) Domestic violence violation of a protection order under  
21 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

22 (iv) Domestic violence harassment offense under RCW 9A.46.020 that  
23 is not a felony offense; or

24 (v) Domestic violence stalking offense under RCW 9A.46.110 that is  
25 not a felony offense; or

26 (b) Any federal, out-of-state, tribal court, military, county, or  
27 municipal conviction for an offense that under the laws of this state  
28 would be classified as a repetitive domestic violence offense under (a)  
29 of this subsection.

30 ~~((+41+))~~ (40) "Restitution" means a specific sum of money ordered  
31 by the sentencing court to be paid by the offender to the court over a  
32 specified period of time as payment of damages. The sum may include  
33 both public and private costs.

34 ~~((+42+))~~ (41) "Risk assessment" means the application of the risk  
35 instrument recommended to the department by the Washington state  
36 institute for public policy as having the highest degree of predictive  
37 accuracy for assessing an offender's risk of reoffense.

38 ~~((+43+))~~ (42) "Serious traffic offense" means:

1 (a) Nonfelony driving while under the influence of intoxicating  
2 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
3 while under the influence of intoxicating liquor or any drug (RCW  
4 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
5 attended vehicle (RCW 46.52.020(5)); or

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

9 (~~(44)~~) (43) "Serious violent offense" is a subcategory of violent  
10 offense and means:

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

12 (ii) Homicide by abuse;

13 (iii) Murder in the second degree;

14 (iv) Manslaughter in the first degree;

15 (v) Assault in the first degree;

16 (vi) Kidnapping in the first degree;

17 (vii) Rape in the first degree;

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

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

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

24 (~~(45)~~) (44) "Sex offense" means:

25 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than  
26 RCW 9A.44.132;

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

28 (iii) A felony that is a violation of chapter 9.68A RCW other than  
29 RCW 9.68A.080;

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

32 (v) A felony violation of RCW 9A.44.132(1) (failure to register) if  
33 the person has been convicted of violating RCW 9A.44.132(1) (failure to  
34 register) on at least one prior occasion;

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

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

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

6 ~~((46))~~ (45) "Sexual motivation" means that one of the purposes  
7 for which the defendant committed the crime was for the purpose of his  
8 or her sexual gratification.

9 ~~((47))~~ (46) "Standard sentence range" means the sentencing  
10 court's discretionary range in imposing a nonappealable sentence.

11 ~~((48))~~ (47) "Statutory maximum sentence" means the maximum length  
12 of time for which an offender may be confined as punishment for a crime  
13 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining  
14 the crime, or other statute defining the maximum penalty for a crime.

15 ~~((49))~~ (48) "Stranger" means that the victim did not know the  
16 offender twenty-four hours before the offense.

17 ~~((50))~~ (49) "Total confinement" means confinement inside the  
18 physical boundaries of a facility or institution operated or utilized  
19 under contract by the state or any other unit of government for twenty-  
20 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

21 ~~((51))~~ (50) "Transition training" means written and verbal  
22 instructions and assistance provided by the department to the offender  
23 during the two weeks prior to the offender's successful completion of  
24 the work ethic camp program. The transition training shall include  
25 instructions in the offender's requirements and obligations during the  
26 offender's period of community custody.

27 ~~((52))~~ (51) "Victim" means any person who has sustained  
28 emotional, psychological, physical, or financial injury to person or  
29 property as a direct result of the crime charged.

30 ~~((53))~~ (52) "Violent offense" means:

31 (a) Any of the following felonies:

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

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

36 (iii) Manslaughter in the first degree;

37 (iv) Manslaughter in the second degree;

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

1 (vi) Kidnapping in the second degree;  
2 (vii) Arson in the second degree;  
3 (viii) Assault in the second degree;  
4 (ix) Assault of a child in the second degree;  
5 (x) Extortion in the first degree;  
6 (xi) Robbery in the second degree;  
7 (xii) Drive-by shooting;  
8 (xiii) Vehicular assault, when caused by the operation or driving  
9 of a vehicle by a person while under the influence of intoxicating  
10 liquor or any drug or by the operation or driving of a vehicle in a  
11 reckless manner; and

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

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

22 ~~((+54+))~~ (53) "Work crew" means a program of partial confinement  
23 consisting of civic improvement tasks for the benefit of the community  
24 that complies with RCW 9.94A.725.

25 ~~((+55+))~~ (54) "Work ethic camp" means an alternative incarceration  
26 program as provided in RCW 9.94A.690 designed to reduce recidivism and  
27 lower the cost of corrections by requiring offenders to complete a  
28 comprehensive array of real-world job and vocational experiences,  
29 character-building work ethics training, life management skills  
30 development, substance abuse rehabilitation, counseling, literacy  
31 training, and basic adult education.

32 ~~((+56+))~~ (55) "Work release" means a program of partial confinement  
33 available to offenders who are employed or engaged as a student in a  
34 regular course of study at school.

35 **Sec. 20.** RCW 9.94A.74501 and 2001 c 35 s 3 are each amended to  
36 read as follows:

37 (1) The ~~((sentencing guidelines commission))~~ department of

1 corrections shall serve as the state council for interstate adult  
2 offender supervision as required under article IV of RCW 9.94A.745, the  
3 interstate compact for adult offender supervision. (~~To assist the~~  
4 ~~commission in performing its functions as the state council,~~) The  
5 department of corrections shall provide staffing and support services.  
6 The (~~commission~~) department of corrections may form a subcommittee,  
7 including members representing the legislative, judicial, and executive  
8 branches of state government, and victims' groups (~~, and the secretary~~  
9 ~~of corrections,~~) to perform the functions of the state council. Any  
10 such subcommittee shall include representation of both houses and at  
11 least two of the four largest political caucuses in the legislature.

12 (2) The (~~commission,~~) department or a subcommittee if formed for  
13 that purpose, shall:

14 (a) Review department operations and procedures under RCW  
15 9.94A.745, and recommend policies to the compact administrator,  
16 including policies to be pursued in the administrator's capacity as the  
17 state's representative on the interstate commission created under  
18 article III of RCW 9.94A.745;

19 (b) Report annually to the legislature on interstate supervision  
20 operations and procedures under RCW 9.94A.745, including  
21 recommendations for policy changes; and

22 (c) Not later than December 1, 2004, report to the legislature on  
23 the effectiveness of its functioning as the state council under article  
24 IV of RCW 9.94A.745, and recommend any legislation it deems  
25 appropriate.

26 (3) The (~~commission, or a subcommittee if formed for that~~  
27 ~~purpose,~~) secretary shall appoint (~~one of its members, or~~)  
28 an employee of the department (~~designated by the secretary~~), or a  
29 subcommittee if formed for that purpose shall appoint one of its  
30 members, to represent the state at meetings of the interstate  
31 commission created under article III of RCW 9.94A.745 when the compact  
32 administrator cannot attend.

33 **Sec. 21.** RCW 9.94A.855 and 2005 c 282 s 20 are each amended to  
34 read as follows:

35 The (~~commission~~) department shall appoint a research staff of  
36 sufficient size and with sufficient resources to accomplish its duties.  
37 The (~~commission~~) department may request from (~~the office of~~

1 ~~financial management, the indeterminate sentence review board,))~~ the  
2 administrative office of the courts, the department of corrections, and  
3 the department of social and health services such data, information,  
4 and data processing assistance as it may need to accomplish its duties,  
5 and such services shall be provided without cost to the ((commission))  
6 department. ((The commission shall adopt its own bylaws.

7 ~~The salary for a full-time executive officer, if any, shall be~~  
8 ~~fixed by the governor pursuant to RCW 43.03.040.))~~

9 **Sec. 22.** RCW 9.94A.870 and 1999 c 143 s 13 are each amended to  
10 read as follows:

11 If the governor finds that an emergency exists in that the  
12 population of a state residential correctional facility exceeds its  
13 reasonable, maximum capacity, then the governor may ((do any one or))  
14 ~~more of the following:~~

15 ~~(1) Call the sentencing guidelines commission into an emergency~~  
16 ~~meeting for the purpose of evaluating the standard ranges and other~~  
17 ~~standards. The commission may adopt any revision or amendment to the~~  
18 ~~standard ranges or other standards that it believes appropriate to deal~~  
19 ~~with the emergency situation. The revision or amendment shall be~~  
20 ~~adopted in conformity with chapter 34.05 RCW and shall take effect on~~  
21 ~~the date prescribed by the commission. The legislature shall approve~~  
22 ~~or modify the commission's revision or amendment at the next~~  
23 ~~legislative session after the revision or amendment takes effect.~~  
24 ~~Failure of the legislature to act shall be deemed as approval of the~~  
25 ~~revision or amendment;~~

26 ~~(2) call the clemency and pardons board into an emergency meeting~~  
27 ~~for the purpose of recommending whether the governor's commutation or~~  
28 ~~pardon power should be exercised to meet the present emergency.~~

29 **Sec. 23.** RCW 9.94A.875 and 1984 c 209 s 9 are each amended to read  
30 as follows:

31 If the governor finds that an emergency exists in that the  
32 populations of county jails exceed their reasonable, maximum capacity  
33 in a significant manner as a result of increases in the sentenced felon  
34 population due to implementation of chapter 9.94A RCW, the governor may  
35 ((do any one or more of the following:

1       ~~(1) Call the sentencing guidelines commission into an emergency~~  
2 ~~meeting for the purpose of evaluating the standard ranges and other~~  
3 ~~standards. The commission may adopt any revision or amendment to the~~  
4 ~~standard ranges or other standards that it believes appropriate to deal~~  
5 ~~with the emergency situation. The revision or amendment shall be~~  
6 ~~adopted in conformity with chapter 34.05 RCW and shall take effect on~~  
7 ~~the date prescribed by the commission. The legislature shall approve~~  
8 ~~or modify the commission's revision or amendment at the next~~  
9 ~~legislative session after the revision or amendment takes effect.~~  
10 ~~Failure of the legislature to act shall be deemed as approval of the~~  
11 ~~revision or amendment. The commission shall also analyze how~~  
12 ~~alternatives to total confinement are being provided and used and may~~  
13 ~~recommend other emergency measures that may relieve the overcrowding.~~

14       (2)) call the clemency and pardons board into an emergency meeting  
15 for the purpose of recommending whether the governor's commutation or  
16 pardon power should be exercised to meet the present emergency.

17       **Sec. 24.** RCW 9A.52.025 and 1989 2nd ex.s. c 1 s 1 are each amended  
18 to read as follows:

19       (1) A person is guilty of residential burglary if, with intent to  
20 commit a crime against a person or property therein, the person enters  
21 or remains unlawfully in a dwelling other than a vehicle.

22       (2) Residential burglary is a class B felony. In establishing  
23 sentencing guidelines and disposition standards, (~~the sentencing~~  
24 ~~guidelines commission and~~) the juvenile disposition standards  
25 commission shall consider residential burglary as a more serious  
26 offense than second degree burglary.

27       **Sec. 25.** RCW 10.98.140 and 1987 c 462 s 4 are each amended to read  
28 as follows:

29       (1) The section, the department, and the office of financial  
30 management shall be the primary sources of information for criminal  
31 justice forecasting. The information maintained by these agencies  
32 shall be complete, accurate, and sufficiently timely to support state  
33 criminal justice forecasting.

34       (2) The office of financial management shall be the official state  
35 agency for the sentenced felon jail forecast. This forecast shall  
36 provide at least a six-year projection and shall be published by

1 December 1 of every even-numbered year beginning with 1986. The office  
2 of financial management shall seek advice regarding the assumptions in  
3 the forecast from criminal justice agencies and associations.

4 (3) The (~~sentencing guidelines commission~~) department of  
5 corrections shall keep records on all sentencings above or below the  
6 standard range defined by chapter 9.94A RCW. As a minimum, the records  
7 shall include the name of the offender, the crimes for which the  
8 offender was sentenced, the name and county of the sentencing judge,  
9 and the deviation from the standard range. Such records shall be made  
10 available to public officials upon request.

11 **Sec. 26.** RCW 10.98.160 and 2005 c 282 s 25 are each amended to  
12 read as follows:

13 In the development and modification of the procedures, definitions,  
14 and reporting capabilities of the section, the department, the office  
15 of financial management, and the responsible agencies and persons shall  
16 consider the needs of other criminal justice agencies such as the  
17 administrative office of the courts, local law enforcement agencies,  
18 local jails, (~~the sentencing guidelines commission,~~) the  
19 indeterminate sentence review board, the clemency board, prosecuting  
20 attorneys, and affected state agencies such as the office of financial  
21 management and legislative committees dealing with criminal justice  
22 issues. The Washington integrated justice information board shall  
23 review and provide recommendations to state justice agencies and the  
24 courts for development and modification of the statewide justice  
25 information network.

26 **Sec. 27.** RCW 70.96A.350 and 2009 c 479 s 50 and 2009 c 445 s 1 are  
27 each reenacted and amended to read as follows:

28 (1) The criminal justice treatment account is created in the state  
29 treasury. Moneys in the account may be expended solely for: (a)  
30 Substance abuse treatment and treatment support services for offenders  
31 with an addiction or a substance abuse problem that, if not treated,  
32 would result in addiction, against whom charges are filed by a  
33 prosecuting attorney in Washington state; (b) the provision of drug and  
34 alcohol treatment services and treatment support services for  
35 nonviolent offenders within a drug court program; (c) the  
36 administrative and overhead costs associated with the operation of a



1 drug court; and (d) during the 2007-2009 biennium, operation of the  
2 integrated crisis response and intensive case management pilots  
3 contracted with the department of social and health services division  
4 of alcohol and substance abuse. Moneys in the account may be spent  
5 only after appropriation.

6 (2) For purposes of this section:

7 (a) "Treatment" means services that are critical to a participant's  
8 successful completion of his or her substance abuse treatment program,  
9 but does not include the following services: Housing other than that  
10 provided as part of an inpatient substance abuse treatment program,  
11 vocational training, and mental health counseling; and

12 (b) "Treatment support" means transportation to or from inpatient  
13 or outpatient treatment services when no viable alternative exists, and  
14 child care services that are necessary to ensure a participant's  
15 ability to attend outpatient treatment sessions.

16 (3) Revenues to the criminal justice treatment account consist of:

17 (a) Funds transferred to the account pursuant to this section; and (b)  
18 any other revenues appropriated to or deposited in the account.

19 (4)(a) For the fiscal biennium beginning July 1, 2003, the state  
20 treasurer shall transfer eight million nine hundred fifty thousand  
21 dollars from the general fund into the criminal justice treatment  
22 account, divided into eight equal quarterly payments. For the fiscal  
23 year beginning July 1, 2005, and each subsequent fiscal year, the state  
24 treasurer shall transfer eight million two hundred fifty thousand  
25 dollars from the general fund to the criminal justice treatment  
26 account, divided into four equal quarterly payments. For the fiscal  
27 year beginning July 1, 2006, and each subsequent fiscal year, the  
28 amount transferred shall be increased on an annual basis by the  
29 implicit price deflator as published by the federal bureau of labor  
30 statistics.

31 (b) In each odd-numbered year, the legislature shall appropriate  
32 the amount transferred to the criminal justice treatment account in (a)  
33 of this subsection to the division of alcohol and substance abuse for  
34 the purposes of subsection (5) of this section.

35 (5) Moneys appropriated to the division of alcohol and substance  
36 abuse from the criminal justice treatment account shall be distributed  
37 as specified in this subsection. The department shall serve as the  
38 fiscal agent for purposes of distribution. Until July 1, 2004, the

1 department may not use moneys appropriated from the criminal justice  
2 treatment account for administrative expenses and shall distribute all  
3 amounts appropriated under subsection (4)(b) of this section in  
4 accordance with this subsection. Beginning in July 1, 2004, the  
5 department may retain up to three percent of the amount appropriated  
6 under subsection (4)(b) of this section for its administrative costs.

7 (a) Seventy percent of amounts appropriated to the division from  
8 the account shall be distributed to counties pursuant to the  
9 distribution formula adopted under this section. The division of  
10 alcohol and substance abuse, in consultation with the department of  
11 corrections, (~~the sentencing guidelines commission,~~) the Washington  
12 state association of counties, the Washington state association of drug  
13 court professionals, the superior court judges' association, the  
14 Washington association of prosecuting attorneys, representatives of the  
15 criminal defense bar, representatives of substance abuse treatment  
16 providers, and any other person deemed by the division to be necessary,  
17 shall establish a fair and reasonable methodology for distribution to  
18 counties of moneys in the criminal justice treatment account. County  
19 or regional plans submitted for the expenditure of formula funds must  
20 be approved by the panel established in (b) of this subsection.

21 (b) Thirty percent of the amounts appropriated to the division from  
22 the account shall be distributed as grants for purposes of treating  
23 offenders against whom charges are filed by a county prosecuting  
24 attorney. The division shall appoint a panel of representatives from  
25 the Washington association of prosecuting attorneys, the Washington  
26 association of sheriffs and police chiefs, the superior court judges'  
27 association, the Washington state association of counties, the  
28 Washington defender's association or the Washington association of  
29 criminal defense lawyers, the department of corrections, the Washington  
30 state association of drug court professionals, substance abuse  
31 treatment providers, and the division. The panel shall review county  
32 or regional plans for funding under (a) of this subsection and grants  
33 approved under this subsection. The panel shall attempt to ensure that  
34 treatment as funded by the grants is available to offenders statewide.

35 (6) The county alcohol and drug coordinator, county prosecutor,  
36 county sheriff, county superior court, a substance abuse treatment  
37 provider appointed by the county legislative authority, a member of the  
38 criminal defense bar appointed by the county legislative authority,

1 and, in counties with a drug court, a representative of the drug court  
2 shall jointly submit a plan, approved by the county legislative  
3 authority or authorities, to the panel established in subsection (5)(b)  
4 of this section, for disposition of all the funds provided from the  
5 criminal justice treatment account within that county. The funds shall  
6 be used solely to provide approved alcohol and substance abuse  
7 treatment pursuant to RCW 70.96A.090, treatment support services, and  
8 for the administrative and overhead costs associated with the operation  
9 of a drug court.

10 (a) No more than ten percent of the total moneys received under  
11 subsections (4) and (5) of this section by a county or group of  
12 counties participating in a regional agreement shall be spent on the  
13 administrative and overhead costs associated with the operation of a  
14 drug court.

15 (b) No more than ten percent of the total moneys received under  
16 subsections (4) and (5) of this section by a county or group of  
17 counties participating in a regional agreement shall be spent for  
18 treatment support services.

19 (7) Counties are encouraged to consider regional agreements and  
20 submit regional plans for the efficient delivery of treatment under  
21 this section.

22 (8) Moneys allocated under this section shall be used to  
23 supplement, not supplant, other federal, state, and local funds used  
24 for substance abuse treatment.

25 (9) Counties must meet the criteria established in RCW  
26 2.28.170(3)(b).

27 (10) The authority under this section to use funds from the  
28 criminal justice treatment account for the administrative and overhead  
29 costs associated with the operation of a drug court expires June 30,  
30 2013.

31 **Sec. 28.** RCW 72.09.350 and 1993 c 459 s 1 are each amended to read  
32 as follows:

33 (1) The department of corrections and the University of Washington  
34 may enter into a collaborative arrangement to provide improved services  
35 for (~~mentally ill~~) offenders with mental illness with a focus on  
36 prevention, treatment, and reintegration into society. The  
37 participants in the collaborative arrangement may develop a strategic

1 plan within sixty days after May 17, 1993, to address the management of  
2 (~~mentally ill~~) offenders with mental illness within the correctional  
3 system, facilitating their reentry into the community and the mental  
4 health system, and preventing the inappropriate incarceration of  
5 (~~mentally ill~~) individuals with mental illness. The collaborative  
6 arrangement may also specify the establishment and maintenance of a  
7 corrections mental health center located at McNeil Island corrections  
8 center. The collaborative arrangement shall require that an advisory  
9 panel of key stakeholders be established and consulted throughout the  
10 development and implementation of the center. The stakeholders  
11 advisory panel shall include a broad array of interest groups drawn  
12 from representatives of mental health, criminal justice, and  
13 correctional systems. The stakeholders advisory panel shall include,  
14 but is not limited to, membership from: The department of corrections,  
15 the department of social and health services mental health division and  
16 division of juvenile rehabilitation, regional support networks, local  
17 and regional law enforcement agencies, (~~the sentencing guidelines~~  
18 ~~commission,~~) county and city jails, mental health advocacy groups for  
19 (~~the mentally ill, developmentally disabled~~) individuals with mental  
20 illness, individuals with developmental disabilities, and traumatically  
21 brain-injured, and the general public. The center established by the  
22 department of corrections and University of Washington, in consultation  
23 with the stakeholder advisory groups, shall have the authority to:

24 (a) Develop new and innovative treatment approaches for corrections  
25 mental health clients;

26 (b) Improve the quality of mental health services within the  
27 department and throughout the corrections system;

28 (c) Facilitate mental health staff recruitment and training to meet  
29 departmental, county, and municipal needs;

30 (d) Expand research activities within the department in the area of  
31 treatment services, the design of delivery systems, the development of  
32 organizational models, and training for corrections mental health care  
33 professionals;

34 (e) Improve the work environment for correctional employees by  
35 developing the skills, knowledge, and understanding of how to work with  
36 offenders with special chronic mental health challenges;

37 (f) Establish a more positive rehabilitative environment for  
38 offenders;

1 (g) Strengthen multidisciplinary mental health collaboration  
2 between the University of Washington, other groups committed to the  
3 intent of this section, and the department of corrections;

4 (h) Strengthen department linkages between institutions of higher  
5 education, public sector mental health systems, and county and  
6 municipal corrections;

7 (i) Assist in the continued formulation of corrections mental  
8 health policies;

9 (j) Develop innovative and effective recruitment and training  
10 programs for correctional personnel working with (~~mentally ill~~)  
11 offenders with mental illness;

12 (k) Assist in the development of a coordinated continuum of mental  
13 health care capable of providing services from corrections entry to  
14 community return; and

15 (l) Evaluate all current and innovative approaches developed within  
16 this center in terms of their effective and efficient achievement of  
17 improved mental health of inmates, development and utilization of  
18 personnel, the impact of these approaches on the functioning of  
19 correctional institutions, and the relationship of the corrections  
20 system to mental health and criminal justice systems. Specific  
21 attention should be paid to evaluating the effects of programs on the  
22 reintegration of (~~mentally ill~~) offenders with mental illness into  
23 the community and the prevention of inappropriate incarceration of  
24 (~~mentally ill~~) persons with mental illness.

25 (2) The corrections mental health center may conduct research,  
26 training, and treatment activities for the (~~mentally ill~~) offender  
27 with mental illness within selected sites operated by the department.  
28 The department shall provide support services for the center such as  
29 food services, maintenance, perimeter security, classification,  
30 offender supervision, and living unit functions. The University of  
31 Washington may develop, implement, and evaluate the clinical,  
32 treatment, research, and evaluation components of the mentally ill  
33 offender center. The institute of (~~for~~) for public policy and  
34 management may be consulted regarding the development of the center and  
35 in the recommendations regarding public policy. As resources permit,  
36 training within the center shall be available to state, county, and  
37 municipal agencies requiring the services. Other state colleges, state  
38 universities, and mental health providers may be involved in activities

1 as required on a subcontract basis. Community mental health  
2 organizations, research groups, and community advocacy groups may be  
3 critical components of the center's operations and involved as  
4 appropriate to annual objectives. (~~Mentally ill~~) Clients with mental  
5 illness may be drawn from throughout the department's population and  
6 transferred to the center as clinical need, available services, and  
7 department jurisdiction permits.

8 (3) The department shall prepare a report of the center's progress  
9 toward the attainment of stated goals and provide the report to the  
10 legislature annually.

11 **Sec. 29.** RCW 72.66.016 and 1983 c 255 s 8 are each amended to read  
12 as follows:

13 (1) A furlough shall not be granted to a resident if the furlough  
14 would commence prior to the time the resident has served the minimum  
15 amounts of time provided under this section:

16 (a) If his or her minimum term of imprisonment is longer than  
17 twelve months, he or she shall have served at least six months of the  
18 term;

19 (b) If his or her minimum term of imprisonment is less than twelve  
20 months, he or she shall have served at least ninety days and shall have  
21 no longer than six months left to serve on his or her minimum term;

22 (c) If he or she is serving a mandatory minimum term of  
23 confinement, he or she shall have served all but the last six months of  
24 such term.

25 (2) A person convicted and sentenced for a violent offense as  
26 defined in RCW 9.94A.030 is not eligible for furlough until the person  
27 has served at least one-half of the minimum term (~~as established by~~  
28 ~~the board of prison terms and paroles or the sentencing guidelines~~  
29 ~~commission~~)).

30 **Sec. 30.** RCW 43.15.020 and 2010 1st sp.s. c 7 s 136 and 2010 c 271  
31 s 704 are each reenacted and amended to read as follows:

32 The lieutenant governor serves as president of the senate and is  
33 responsible for making appointments to, and serving on, the committees  
34 and boards as set forth in this section.

35 (1) The lieutenant governor serves on the following boards and  
36 committees:

1 (a) Capitol furnishings preservation committee, RCW 27.48.040;  
2 (b) Washington higher education facilities authority, RCW  
3 28B.07.030;  
4 (c) Productivity board, also known as the employee involvement and  
5 recognition board, RCW 41.60.015;  
6 (d) State finance committee, RCW 43.33.010;  
7 (e) State capitol committee, RCW 43.34.010;  
8 (f) Washington health care facilities authority, RCW 70.37.030;  
9 (g) State medal of merit nominating committee, RCW 1.40.020;  
10 (h) Medal of valor committee, RCW 1.60.020; and  
11 (i) Association of Washington generals, RCW 43.15.030.  
12 (2) The lieutenant governor, and when serving as president of the  
13 senate, appoints members to the following boards and committees:  
14 (a) Civil legal aid oversight committee, RCW 2.53.010;  
15 (b) Office of public defense advisory committee, RCW 2.70.030;  
16 (c) Washington state gambling commission, RCW 9.46.040;  
17 (~~(d) Sentencing guidelines commission, RCW 9.94A.860;~~  
18 ~~(e)~~) State building code council, RCW 19.27.070;  
19 (~~(f)~~) (e) Financial education public-private partnership, RCW  
20 28A.300.450;  
21 (~~(g)~~) (f) Joint administrative rules review committee, RCW  
22 34.05.610;  
23 (~~(h)~~) (g) Capital projects advisory review board, RCW 39.10.220;  
24 (~~(i)~~) (h) Select committee on pension policy, RCW 41.04.276;  
25 (~~(j)~~) (i) Legislative ethics board, RCW 42.52.310;  
26 (~~(k)~~) (j) Washington citizens' commission on salaries, RCW  
27 43.03.305;  
28 (~~(l)~~) (k) Legislative oral history committee, RCW 44.04.325;  
29 (~~(m)~~) (l) State council on aging, RCW 43.20A.685;  
30 (~~(n)~~) (m) State investment board, RCW 43.33A.020;  
31 (~~(o)~~) (n) Capitol campus design advisory committee, RCW  
32 43.34.080;  
33 (~~(p)~~) (o) Washington state arts commission, RCW 43.46.015;  
34 (~~(q)~~) (p) Information services board, RCW 43.105.032;  
35 (~~(r)~~) (q) Council for children and families, RCW 43.121.020;  
36 (~~(s)~~) (r) PNWER-Net working subgroup under chapter 43.147 RCW;  
37 (~~(t)~~) (s) Community economic revitalization board, RCW  
38 43.160.030;

1        (~~(u)~~) (t) Washington economic development finance authority, RCW  
2 43.163.020;  
3        (~~(v)~~) (u) Life sciences discovery fund authority, RCW 43.350.020;  
4        (~~(w)~~) (v) Legislative children's oversight committee, RCW  
5 44.04.220;  
6        (~~(x)~~) (w) Joint legislative audit and review committee, RCW  
7 44.28.010;  
8        (~~(y)~~) (x) Joint committee on energy supply and energy  
9 conservation, RCW 44.39.015;  
10       (~~(z)~~) (y) Legislative evaluation and accountability program  
11 committee, RCW 44.48.010;  
12       (~~(aa)~~) (z) Agency council on coordinated transportation, RCW  
13 47.06B.020;  
14       (~~(bb)~~) (aa) Manufactured housing task force, RCW 59.22.090;  
15       (~~(cc)~~) (bb) Washington horse racing commission, RCW 67.16.014;  
16       (~~(dd)~~) (cc) Correctional industries board of directors, RCW  
17 72.09.080;  
18       (~~(ee)~~) (dd) Joint committee on veterans' and military affairs,  
19 RCW 73.04.150;  
20       (~~(ff)~~) (ee) Joint legislative committee on water supply during  
21 drought, RCW 90.86.020;  
22       (~~(gg)~~) (ff) Statute law committee, RCW 1.08.001; and  
23       (~~(hh)~~) (gg) Joint legislative oversight committee on trade  
24 policy, RCW 44.55.020.

25        NEW SECTION.   **Sec. 31.** This act is necessary for the immediate  
26 preservation of the public peace, health, or safety, or support of the  
27 state government and its existing public institutions, and takes effect  
28 July 1, 2011."

**SB 5790** - S AMD  
By Senator Hargrove

**NOT CONSIDERED 05/25/2011**

29        On page 1, line 1 of the title, after "commissions;" strike the



1 remainder of the title and insert "amending RCW 9.94A.8673, 9.95.003,  
2 9.95.005, 9.95.007, 9.95.140, 9.95.280, 9.95.300, 9.96.050, 71.05.385,  
3 72.09.585, 9.94A.850, 9.94A.480, 9.94A.863, 13.50.010, 9.94A.74501,  
4 9.94A.855, 9.94A.870, 9.94A.875, 9A.52.025, 10.98.140, 10.98.160,  
5 72.09.350, and 72.66.016; reenacting and amending RCW 9.94A.030,  
6 70.96A.350, and 43.15.020; adding a new section to chapter 9.94A RCW;  
7 creating a new section; decodifying RCW 4.24.5502; repealing RCW  
8 13.40.005, 9.94A.860, 9.94A.8671, 9.94A.8672, 9.94A.8674, 9.94A.8675,  
9 9.94A.8676, 9.94A.8677, 9.94A.8678, 43.131.411, and 43.131.412;  
10 providing an effective date; and declaring an emergency."

EFFECT: The Sex Offender Policy Board is established within the Office of Financial Management as a dormant entity that may be convened at the request of the governor or legislature. Language is added to ensure the transfer of ISRB property and employees to DOC. The Sentencing Guidelines Commission is restored as a dormant commission within the Office of Financial Management. The SGC data functions are transferred to the Department of Corrections rather than the Office of Financial Management. The effective date is changed to July 1, 2011.

--- END ---