

1 (1) A term of confinement ordered in a sentence pursuant to this
2 chapter shall be tolled by any period of time during which the offender
3 has absented himself or herself from confinement without the prior
4 approval of the entity in whose custody the offender has been placed.
5 A term of partial confinement shall be tolled during any period of time
6 spent in total confinement pursuant to a new conviction (~~or pursuant~~
7 ~~to sanctions for violation of sentence conditions on a separate felony~~
8 ~~conviction~~)).

9 (2) Any term of community custody shall be tolled by any period of
10 time during which the offender has absented himself or herself from
11 supervision without prior approval of the entity under whose
12 supervision the offender has been placed.

13 (3)(a) For offenders other than sex offenders serving a sentence
14 for a sex offense as defined in RCW 9.94A.030, any period of community
15 custody shall be tolled during any period of time the offender is in
16 confinement for any reason(~~(. However, if an~~)) unless the offender is
17 detained pursuant to RCW 9.94A.740 or 9.94A.631 (~~and is later found~~
18 not to have violated a condition or requirement of community custody,
19 time spent in confinement due to such detention shall not toll the
20 period of community custody)) for the period of time prior to the
21 hearing or for confinement pursuant to sanctions imposed for violation
22 of sentence conditions, in which case, the period of community custody
23 shall not toll. However, sanctions that result in the imposition of
24 the remaining sentence or the original sentence will continue to toll
25 the period of community custody. In addition, inpatient treatment
26 ordered by the court in lieu of jail time shall not toll the period of
27 community custody.

28 (b) For sex offenders serving a sentence for a sex offense as
29 defined in RCW 9.94A.030, any period of community custody shall be
30 tolled during any period of time the sex offender is in confinement for
31 any reason.

32 (4) For terms of confinement or community custody, the date for the
33 tolling of the sentence shall be established by the entity responsible
34 for the confinement or supervision.

35 (5) For the purposes of this section, "tolling" means the period of
36 time in which community custody or confinement time is paused and for
37 which the offender does not receive credit towards the term ordered.

1 **Sec. 2.** RCW 9.94A.501 and 2010 c 267 s 10 and 2010 c 224 s 3 are
2 each reenacted and amended to read as follows:

3 (1) The department shall supervise up to one year every offender
4 (~~((convicted of a misdemeanor or gross misdemeanor offense who is))~~)
5 sentenced to probation in superior court, pursuant to RCW 9.92.060,
6 9.95.204, or 9.95.210, (~~((for an offense included in (a) and (b) of this~~
7 ~~subsection. The superior court shall order probation for:~~

8 ~~(a) Offenders convicted of fourth degree assault, violation of a~~
9 ~~domestic violence court order pursuant to RCW 10.99.040, 10.99.050,~~
10 ~~26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145,~~
11 ~~and who also have a prior conviction for one or more of the following:~~

12 ~~(i) A violent offense;~~

13 ~~(ii) A sex offense;~~

14 ~~(iii) A crime against a person as provided in RCW 9.94A.411;~~

15 ~~(iv) Fourth degree assault; or~~

16 ~~(v) Violation of a domestic violence court order; and~~

17 ~~(b) Offenders convicted of:~~

18 ~~(i) Sexual misconduct with a minor second degree;~~

19 ~~(ii) Custodial sexual misconduct second degree;~~

20 ~~(iii) Communication with a minor for immoral purposes; and~~

21 ~~(iv) Violation of RCW 9A.44.132(2) (failure to register))~~ and who

22 has:

23 (a) A current conviction for a repetitive domestic violence offense
24 where domestic violence has been plead and proven after August 1, 2011;

25 and

26 (b) A prior conviction for a repetitive domestic violence offense
27 or domestic violence felony offense where domestic violence has been
28 plead and proven after August 1, 2011.

29 (2) Misdemeanor and gross misdemeanor offenders supervised by the
30 department pursuant to this section shall be placed on community
31 custody.

32 (3) The department shall supervise every felony offender sentenced
33 to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk
34 assessment(~~(, conducted pursuant to subsection (6) of this section,)~~)
35 classifies the offender as one who is at a high risk to reoffend.

36 (4) The department shall supervise every felony offender sentenced
37 to community custody pursuant to RCW 9.94A.702 whose risk assessment

1 classifies the offender as one who is at a high risk to reoffend for a
2 violent offense.

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

6 (a) Has a current conviction for a sex offense or a serious violent
7 offense (~~(as defined in RCW 9.94A.030)~~) and was sentenced to a term of
8 community custody pursuant to RCW 9.94A.701 or 9.94A.507;

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

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

13 (d) Has a current conviction for violating RCW 9A.44.132(1)
14 (failure to register) and was sentenced to a term of community custody
15 pursuant to RCW 9.94A.701;

16 (e) Has a current conviction for a domestic violence felony offense
17 where domestic violence has been plead and proven after August 1, 2011,
18 and a prior conviction for a repetitive domestic violence offense or
19 domestic violence felony offense where domestic violence has been plead
20 and proven after August 1, 2011;

21 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or
22 9.94A.670; or

23 ~~((+f))~~ (g) Is subject to supervision pursuant to RCW 9.94A.745.

24 ~~((+5))~~ (6) The department is not authorized to, and may not,
25 supervise any offender sentenced to a term of community custody or any
26 probationer unless the offender or probationer is one for whom
27 supervision is required under ~~((subsection (1), (2), (3), or (4) of))~~
28 this section or section 3 of this act.

29 ~~((+6))~~ (7) The department shall conduct a risk assessment for
30 every felony offender sentenced to a term of community custody who may
31 be subject to supervision under this section or section 3 of this act.

32 NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW
33 to read as follows:

34 (1) The department shall supervise every offender convicted prior
35 to August 2, 2011, of a misdemeanor or gross misdemeanor offense who is
36 sentenced to probation in superior court, pursuant to RCW 9.92.060,

1 9.95.204, or 9.95.210, for an offense as provided in this subsection.

2 The superior court shall order probation for offenders who have:

3 (a) A current conviction for fourth degree assault or violation of
4 a domestic violence court order pursuant to RCW 10.99.040, 10.99.050,
5 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145;
6 and

7 (b) A prior conviction for one or more of the following:

8 (i) A violent offense;

9 (ii) A sex offense;

10 (iii) A crime against a person as provided in RCW 9.94A.411;

11 (iv) Fourth degree assault; or

12 (v) Violation of a domestic violence court order.

13 (2) The department shall supervise every felony offender convicted
14 prior to August 2, 2011, who:

15 (a) Has a current conviction for assault or violation of a domestic
16 violence court order pursuant to RCW 10.99.040, 10.99.050, 26.09.300,
17 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145;

18 (b) Has a prior conviction for one or more of the following:

19 (i) A violent offense;

20 (ii) A sex offense;

21 (iii) A crime against a person as provided in RCW 9.94A.411;

22 (iv) Fourth degree assault; or

23 (v) Violation of a domestic violence court order.

24 (c) Is sentenced to community custody pursuant to RCW 9.94A.702;

25 and

26 (d) Is classified as an offender who is at a high risk to reoffend.

27 (3) This section expires August 1, 2014.

28 **Sec. 4.** RCW 9.94A.729 and 2010 c 224 s 7 are each amended to read
29 as follows:

30 (1)(a) The term of the sentence of an offender committed to a
31 correctional facility operated by the department may be reduced by
32 earned release time in accordance with procedures that shall be
33 developed and adopted by the correctional agency having jurisdiction in
34 which the offender is confined. The earned release time shall be for
35 good behavior and good performance, as determined by the correctional
36 agency having jurisdiction. The correctional agency shall not credit

1 the offender with earned release credits in advance of the offender
2 actually earning the credits.

3 (b) Any program established pursuant to this section shall allow an
4 offender to earn early release credits for presentence incarceration.
5 If an offender is transferred from a county jail to the department, the
6 administrator of a county jail facility shall certify to the department
7 the amount of time spent in custody at the facility and the amount of
8 earned release time. The department may approve a jail certification
9 from a correctional agency that calculates earned release time based on
10 the actual amount of confinement time served by the offender before
11 sentencing when an erroneous calculation of confinement time served by
12 the offender before sentencing appears on the judgment and sentence.

13 (2) An offender who has been convicted of a felony committed after
14 July 23, 1995, that involves any applicable deadly weapon enhancements
15 under RCW 9.94A.533 (3) or (4), or both, shall not receive any good
16 time credits or earned release time for that portion of his or her
17 sentence that results from any deadly weapon enhancements.

18 (3) An offender may earn early release time as follows:

19 (a) In the case of an offender convicted of a serious violent
20 offense, or a sex offense that is a class A felony, committed on or
21 after July 1, 1990, and before July 1, 2003, the aggregate earned
22 release time may not exceed fifteen percent of the sentence.

23 (b) In the case of an offender convicted of a serious violent
24 offense, or a sex offense that is a class A felony, committed on or
25 after July 1, 2003, the aggregate earned release time may not exceed
26 ten percent of the sentence.

27 (c) An offender is qualified to earn up to fifty percent of
28 aggregate earned release time if he or she:

29 (i) Is not classified as an offender who is at a high risk to
30 reoffend as provided in subsection (4) of this section;

31 (ii) Is not confined pursuant to a sentence for:

32 (A) A sex offense;

33 (B) A violent offense;

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

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

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

37 (F) A violation of, or an attempt, solicitation, or conspiracy to

1 violate, RCW 69.50.401 by manufacture or delivery or possession with
2 intent to deliver methamphetamine; or

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

5 (iii) Has no prior conviction for the offenses listed in (c)(ii) of
6 this subsection;

7 (iv) Participates in programming or activities as directed by the
8 offender's individual reentry plan as provided under RCW 72.09.270 to
9 the extent that such programming or activities are made available by
10 the department; and

11 (v) Has not committed a new felony after July 22, 2007, while under
12 community custody.

13 (d) In no other case shall the aggregate earned release time exceed
14 one-third of the total sentence.

15 (4) The department shall perform a risk assessment of each offender
16 who may qualify for earned early release under subsection (3)(c) of
17 this section utilizing the risk assessment tool recommended by the
18 Washington state institute for public policy. Subsection (3)(c) of
19 this section does not apply to offenders convicted after July 1, 2010.

20 (5)(a) A person who is eligible for earned early release as
21 provided in this section and who (~~is convicted of a sex offense, a~~
22 ~~violent offense, any crime against persons under RCW 9.94A.411(2), or~~
23 ~~a felony offense under chapter 69.50 or 69.52 RCW)) will be supervised
24 by the department pursuant to RCW 9.94A.501 or section 3 of this act,
25 shall be transferred to community custody in lieu of earned release
26 time;~~

27 (b) The department shall, as a part of its program for release to
28 the community in lieu of earned release, require the offender to
29 propose a release plan that includes an approved residence and living
30 arrangement. All offenders with community custody terms eligible for
31 release to community custody in lieu of earned release shall provide an
32 approved residence and living arrangement prior to release to the
33 community;

34 (c) The department may deny transfer to community custody in lieu
35 of earned release time if the department determines an offender's
36 release plan, including proposed residence location and living
37 arrangements, may violate the conditions of the sentence or conditions
38 of supervision, place the offender at risk to violate the conditions of

1 the sentence, place the offender at risk to reoffend, or present a risk
2 to victim safety or community safety. The department's authority under
3 this section is independent of any court-ordered condition of sentence
4 or statutory provision regarding conditions for community custody;

5 (d) If the department is unable to approve the offender's release
6 plan, the department may do one or more of the following:

7 (i) Transfer an offender to partial confinement in lieu of earned
8 early release for a period not to exceed three months. The three
9 months in partial confinement is in addition to that portion of the
10 offender's term of confinement that may be served in partial
11 confinement as provided in RCW 9.94A.728(5);

12 (ii) Provide rental vouchers to the offender for a period not to
13 exceed three months if rental assistance will result in an approved
14 release plan. The voucher must be provided in conjunction with
15 additional transition support programming or services that enable an
16 offender to participate in services including, but not limited to,
17 substance abuse treatment, mental health treatment, sex offender
18 treatment, educational programming, or employment programming;

19 (e) For each offender who is the recipient of a rental voucher, the
20 department shall include, concurrent with the data that the department
21 otherwise obtains and records, the housing status of the offender for
22 the duration of the offender's supervision.

23 (6) An offender serving a term of confinement imposed under RCW
24 9.94A.670(5)(a) is not eligible for earned release credits under this
25 section.

26 **Sec. 5.** RCW 9.92.060 and 2005 c 362 s 2 are each amended to read
27 as follows:

28 (1) Whenever any person is convicted of any crime except murder,
29 burglary in the first degree, arson in the first degree, robbery, rape
30 of a child, or rape, the superior court may, in its discretion, at the
31 time of imposing sentence upon such person, direct that such sentence
32 be stayed and suspended until otherwise ordered by the superior court,
33 and, upon such terms as the superior court may determine, that the
34 sentenced person be placed under the charge of:

35 (a) A community corrections officer employed by the department of
36 corrections, if the person is subject to supervision under RCW

1 9.94A.501 or section 3 of this act; or ((if the county elects to assume
2 responsibility for the supervision of all superior court misdemeanor
3 probationers))

4 (b) A probation officer employed or contracted for by the county,
5 ((upon such terms as the superior court may determine)) if the county
6 has elected to assume responsibility for the supervision of superior
7 court misdemeanor probationers.

8 (2) As a condition to suspension of sentence, the superior court
9 shall require the payment of the penalty assessment required by RCW
10 7.68.035. In addition, the superior court may require the convicted
11 person to make such monetary payments, on such terms as the superior
12 court deems appropriate under the circumstances, as are necessary: (a)
13 To comply with any order of the court for the payment of family
14 support; (b) to make restitution to any person or persons who may have
15 suffered loss or damage by reason of the commission of the crime in
16 question or when the offender pleads guilty to a lesser offense or
17 fewer offenses and agrees with the prosecutor's recommendation that the
18 offender be required to pay restitution to a victim of an offense or
19 offenses which are not prosecuted pursuant to a plea agreement; (c) to
20 pay any fine imposed and not suspended and the court or other costs
21 incurred in the prosecution of the case, including reimbursement of the
22 state for costs of extradition if return to this state by extradition
23 was required; and (d) to contribute to a county or interlocal drug
24 fund.

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

37 (4) If restitution to the victim has been ordered under subsection
38 (2)(b) of this section and the superior court has ordered supervision,

1 the officer supervising the probationer shall make a reasonable effort
2 to ascertain whether restitution has been made as ordered. If the
3 superior court has ordered supervision and restitution has not been
4 made, the officer shall inform the prosecutor of that violation of the
5 terms of the suspended sentence not less than three months prior to the
6 termination of the suspended sentence.

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

9 **Sec. 6.** RCW 9.95.204 and 2005 c 400 s 2 and 2005 c 362 s 3 are
10 each reenacted and amended to read as follows:

11 (1) When a superior court places a defendant convicted of a
12 misdemeanor or gross misdemeanor on probation and orders supervision
13 under RCW 9.92.060 or 9.95.210, the department of corrections has
14 ~~((initial))~~ responsibility for supervision of ~~((that))~~ defendants
15 pursuant to RCW 9.94A.501 and section 3 of this act.

16 (2) A county legislative authority may assume responsibility for
17 the supervision of ~~((all))~~ defendants within its jurisdiction who have
18 been convicted of a misdemeanor or gross misdemeanor and sentenced to
19 probation by a superior court. If a county legislative authority
20 chooses to assume responsibility for defendants supervised by the
21 department, the assumption of responsibility shall be made by contract
22 with the department of corrections on a biennial basis.

23 ~~((If a county assumes supervision responsibility, the county
24 shall supervise all superior court misdemeanant probationers within
25 that county for the duration of the biennium, as set forth in the
26 contract with the department of corrections.~~

27 (4) ~~A contract between a county legislative authority and the
28 department of corrections for the transfer of supervision
29 responsibility must include, at a minimum, the following provisions:~~

30 ~~(a) The county's agreement to supervise all misdemeanant
31 probationers who are sentenced by a superior court within that county
32 and who reside within that county;~~

33 ~~(b) A reciprocal agreement regarding the supervision of superior
34 court misdemeanant probationers sentenced in one county but who reside
35 in another county;~~

36 ~~(c) The county's agreement to comply with the minimum standards for~~

1 ~~classification and supervision of offenders as required under RCW~~
2 ~~9.95.206;~~

3 ~~(d) The amount of funds available from the department of~~
4 ~~corrections to the county for supervision of superior court~~
5 ~~misdemeanant probationers, calculated according to a formula~~
6 ~~established by the department of corrections;~~

7 ~~(e) A method for the payment of funds by the department of~~
8 ~~corrections to the county;~~

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

12 ~~(g) The county's agreement to account to the department of~~
13 ~~corrections for the expenditure of all funds received under the~~
14 ~~contract and to submit to audits for compliance with the supervision~~
15 ~~standards and financial requirements of this section;~~

16 ~~(h) Provisions regarding rights and remedies in the event of a~~
17 ~~possible breach of contract or default by either party; and~~

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

20 ~~(5) If the contract between the county and the department of~~
21 ~~corrections is terminated for any reason, the department of corrections~~
22 ~~shall reassume responsibility for supervision of superior court~~
23 ~~misdemeanant probationers within that county. In such an event, the~~
24 ~~department of corrections retains any and all rights and remedies~~
25 ~~available by law and under the contract.~~

26 ~~(6))~~ The state of Washington, the department of corrections and
27 its employees, community corrections officers, and volunteers who
28 assist community corrections officers are not liable for any harm
29 caused by the actions of a superior court misdemeanor probationer who
30 is under the supervision of a county. A county, its probation
31 department and employees, probation officers, and volunteers who assist
32 probation officers are not liable for any harm caused by the actions of
33 a superior court misdemeanor probationer who is under the supervision
34 of the department of corrections. ~~((This subsection applies regardless~~
35 ~~of whether the supervising entity is in compliance with the standards~~
36 ~~of supervision at the time of the misdemeanor probationer's actions.~~

37 ~~(7))~~ (4) The state of Washington, the department of corrections
38 and its employees, community corrections officers, any county ~~((under~~

1 ~~contract with the department of corrections))~~ providing supervision
2 services pursuant to this section and its employees, probation
3 officers, and volunteers who assist community corrections officers and
4 probation officers in the superior court misdemeanor probation program
5 are not liable for civil damages resulting from any act or omission in
6 the rendering of superior court misdemeanor probation activities
7 unless the act or omission constitutes gross negligence. For purposes
8 of this section, "volunteers" is defined according to RCW 51.12.035.

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

11 ~~(9))~~ (5)(a) If a misdemeanor probationer requests permission to
12 travel or transfer to another state, the assigned probation officer
13 employed or contracted for by the county shall determine whether such
14 request is subject to RCW 9.94A.745, the interstate compact for adult
15 offender supervision. If such request is subject to the compact, the
16 probation officer shall:

17 (i) Notify the department of corrections of the probationer's
18 request;

19 (ii) Provide the department of corrections with the supporting
20 documentation it requests for processing an application for transfer;

21 (iii) Notify the probationer of the fee due to the department of
22 corrections for processing an application under the compact;

23 (iv) Cease supervision of the probationer while another state
24 supervises the probationer pursuant to the compact;

25 (v) Resume supervision if the probationer returns to this state
26 before the term of probation expires.

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

29 **Sec. 7.** RCW 9.95.210 and 2005 c 362 s 4 are each amended to read
30 as follows:

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

36 (2) In the order granting probation and as a condition thereof, the
37 superior court may in its discretion imprison the defendant in the

1 county jail for a period not exceeding one year and may fine the
2 defendant any sum not exceeding the statutory limit for the offense
3 committed, and court costs. As a condition of probation, the superior
4 court shall require the payment of the penalty assessment required by
5 RCW 7.68.035. The superior court may also require the defendant to
6 make such monetary payments, on such terms as it deems appropriate
7 under the circumstances, as are necessary: (a) To comply with any
8 order of the court for the payment of family support; (b) to make
9 restitution to any person or persons who may have suffered loss or
10 damage by reason of the commission of the crime in question or when the
11 offender pleads guilty to a lesser offense or fewer offenses and agrees
12 with the prosecutor's recommendation that the offender be required to
13 pay restitution to a victim of an offense or offenses which are not
14 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
15 imposed and court costs, including reimbursement of the state for costs
16 of extradition if return to this state by extradition was required; (d)
17 following consideration of the financial condition of the person
18 subject to possible electronic monitoring, to pay for the costs of
19 electronic monitoring if that monitoring was required by the court as
20 a condition of release from custody or as a condition of probation; (e)
21 to contribute to a county or interlocal drug fund; and (f) to make
22 restitution to a public agency for the costs of an emergency response
23 under RCW 38.52.430, and may require bonds for the faithful observance
24 of any and all conditions imposed in the probation.

25 (3) The superior court shall order restitution in all cases where
26 the victim is entitled to benefits under the crime victims'
27 compensation act, chapter 7.68 RCW. If the superior court does not
28 order restitution and the victim of the crime has been determined to be
29 entitled to benefits under the crime victims' compensation act, the
30 department of labor and industries, as administrator of the crime
31 victims' compensation program, may petition the superior court within
32 one year of imposition of the sentence for entry of a restitution
33 order. Upon receipt of a petition from the department of labor and
34 industries, the superior court shall hold a restitution hearing and
35 shall enter a restitution order.

36 (4) In granting probation, the superior court may order the
37 probationer to report to the secretary of corrections or such officer
38 as the secretary may designate and as a condition of the probation to

1 follow the instructions of the secretary. If the county legislative
2 authority has elected to assume responsibility for the supervision of
3 superior court misdemeanor probationers within its jurisdiction, the
4 superior court misdemeanor probationer shall report to a probation
5 officer employed or contracted for by the county. In cases where a
6 superior court misdemeanor probationer is sentenced in one county, but
7 resides within another county, there must be provisions for the
8 probationer to report to the agency having supervision responsibility
9 for the probationer's county of residence.

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

23 (6) The provisions of RCW 9.94A.501 and section 3 of this act apply
24 to sentences imposed under this section.

25 **Sec. 8.** RCW 9.94A.030 and 2010 c 274 s 401, 2010 c 267 s 9, 2010
26 c 227 s 11, and 2010 c 224 s 1 are each reenacted and amended to read
27 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (c) To exact revenge or retribution for the gang or any member of
34 the gang;

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

37 (e) To directly or indirectly cause any benefit, aggrandizement,

1 gain, profit, or other advantage for the gang, its reputation,
2 influence, or membership; or

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

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

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

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

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

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

1 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
2 or Title 74 RCW.

3 (20) "Domestic violence" has the same meaning as defined in RCW
4 10.99.020 and 26.50.010.

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

9 (22) "Drug offense" means:

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

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

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

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

21 (24) "Escape" means:

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

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

31 (25) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

32 (a) Any felony defined under any law as a class A felony or
33 criminal solicitation of or criminal conspiracy to commit a class A
34 felony;

35 (b) Assault in the second degree;

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

37 (d) Child molestation in the second degree;

38 (e) Controlled substance homicide;

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

1 included in the definition of indecent liberties under RCW
2 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
3 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
4 through July 27, 1997;

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

11 (32) "Nonviolent offense" means an offense which is not a violent
12 offense.

13 (33) "Offender" means a person who has committed a felony
14 established by state law and is eighteen years of age or older or is
15 less than eighteen years of age but whose case is under superior court
16 jurisdiction under RCW 13.04.030 or has been transferred by the
17 appropriate juvenile court to a criminal court pursuant to RCW
18 13.40.110. In addition, for the purpose of community custody
19 requirements under this chapter, "offender" also means a (~~misdemeanor~~
20 ~~or gross misdemeanor~~) misdemeanant or gross misdemeanant probationer
21 (~~convicted of an offense included in RCW 9.94A.501(1) and~~) ordered by
22 a superior court to probation (~~under the supervision of the~~
23 ~~department~~) pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
24 supervised by the department pursuant to RCW 9.94A.501 and section 3 of
25 this act. Throughout this chapter, the terms "offender" and
26 "defendant" are used interchangeably.

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

36 (35) "Pattern of criminal street gang activity" means:

37 (a) The commission, attempt, conspiracy, or solicitation of, or any

1 prior juvenile adjudication of or adult conviction of, two or more of
2 the following criminal street gang-related offenses:

- 3 (i) Any "serious violent" felony offense as defined in this
4 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
5 Child 1 (RCW 9A.36.120);
- 6 (ii) Any "violent" offense as defined by this section, excluding
7 Assault of a Child 2 (RCW 9A.36.130);
- 8 (iii) Deliver or Possession with Intent to Deliver a Controlled
9 Substance (chapter 69.50 RCW);
- 10 (iv) Any violation of the firearms and dangerous weapon act
11 (chapter 9.41 RCW);
- 12 (v) Theft of a Firearm (RCW 9A.56.300);
- 13 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);
- 14 (vii) Malicious Harassment (RCW 9A.36.080);
- 15 (viii) Harassment where a subsequent violation or deadly threat is
16 made (RCW 9A.46.020(2)(b));
- 17 (ix) Criminal Gang Intimidation (RCW 9A.46.120);
- 18 (x) Any felony conviction by a person eighteen years of age or
19 older with a special finding of involving a juvenile in a felony
20 offense under RCW 9.94A.833;
- 21 (xi) Residential Burglary (RCW 9A.52.025);
- 22 (xii) Burglary 2 (RCW 9A.52.030);
- 23 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
- 24 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
- 25 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
- 26 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
- 27 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);
- 28 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
29 9A.56.075);
- 30 (xix) Extortion 1 (RCW 9A.56.120);
- 31 (xx) Extortion 2 (RCW 9A.56.130);
- 32 (xxi) Intimidating a Witness (RCW 9A.72.110);
- 33 (xxii) Tampering with a Witness (RCW 9A.72.120);
- 34 (xxiii) Reckless Endangerment (RCW 9A.36.050);
- 35 (xxiv) Coercion (RCW 9A.36.070);
- 36 (xxv) Harassment (RCW 9A.46.020); or
- 37 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

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

3 (c) That the most recent committed offense listed in (a) of this
4 subsection occurred within three years of a prior offense listed in (a)
5 of this subsection; and

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

9 (36) "Persistent offender" is an offender who:

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

12 (ii) Has, before the commission of the offense under (a) of this
13 subsection, been convicted as an offender on at least two separate
14 occasions, whether in this state or elsewhere, of felonies that under
15 the laws of this state would be considered most serious offenses and
16 would be included in the offender score under RCW 9.94A.525; provided
17 that of the two or more previous convictions, at least one conviction
18 must have occurred before the commission of any of the other most
19 serious offenses for which the offender was previously convicted; or

20 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
21 of a child in the first degree, child molestation in the first degree,
22 rape in the second degree, rape of a child in the second degree, or
23 indecent liberties by forcible compulsion; (B) any of the following
24 offenses with a finding of sexual motivation: Murder in the first
25 degree, murder in the second degree, homicide by abuse, kidnapping in
26 the first degree, kidnapping in the second degree, assault in the first
27 degree, assault in the second degree, assault of a child in the first
28 degree, assault of a child in the second degree, or burglary in the
29 first degree; or (C) an attempt to commit any crime listed in this
30 subsection (36)(b)(i); and

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

1 offender committed the offense. A conviction for rape of a child in
2 the second degree constitutes a conviction under (b)(i) of this
3 subsection only when the offender was eighteen years of age or older
4 when the offender committed the offense.

5 (37) "Predatory" means: (a) The perpetrator of the crime was a
6 stranger to the victim, as defined in this section; (b) the perpetrator
7 established or promoted a relationship with the victim prior to the
8 offense and the victimization of the victim was a significant reason
9 the perpetrator established or promoted the relationship; or (c) the
10 perpetrator was: (i) A teacher, counselor, volunteer, or other person
11 in authority in any public or private school and the victim was a
12 student of the school under his or her authority or supervision. For
13 purposes of this subsection, "school" does not include home-based
14 instruction as defined in RCW 28A.225.010; (ii) a coach, trainer,
15 volunteer, or other person in authority in any recreational activity
16 and the victim was a participant in the activity under his or her
17 authority or supervision; (iii) a pastor, elder, volunteer, or other
18 person in authority in any church or religious organization, and the
19 victim was a member or participant of the organization under his or her
20 authority; or (iv) a teacher, counselor, volunteer, or other person in
21 authority providing home-based instruction and the victim was a student
22 receiving home-based instruction while under his or her authority or
23 supervision. For purposes of this subsection: (A) "Home-based
24 instruction" has the same meaning as defined in RCW 28A.225.010; and
25 (B) "teacher, counselor, volunteer, or other person in authority" does
26 not include the parent or legal guardian of the victim.

27 (38) "Private school" means a school regulated under chapter
28 28A.195 or 28A.205 RCW.

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

30 (40) "Repetitive domestic violence offense" means any:

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

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

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

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

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

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

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

11 (42) "Risk assessment" means the application of the risk instrument
12 recommended to the department by the Washington state institute for
13 public policy as having the highest degree of predictive accuracy for
14 assessing an offender's risk of reoffense.

15 (43) "Serious traffic offense" means:

16 (a) Nonfelony driving while under the influence of intoxicating
17 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
18 while under the influence of intoxicating liquor or any drug (RCW
19 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
20 attended vehicle (RCW 46.52.020(5)); or

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

24 (44) "Serious violent offense" is a subcategory of violent offense
25 and means:

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

27 (ii) Homicide by abuse;

28 (iii) Murder in the second degree;

29 (iv) Manslaughter in the first degree;

30 (v) Assault in the first degree;

31 (vi) Kidnapping in the first degree;

32 (vii) Rape in the first degree;

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

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

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

1 (45) "Sex offense" means:

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

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

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

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

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

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

15 (c) A felony with a finding of sexual motivation under RCW
16 9.94A.835 or 13.40.135; or

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

20 (46) "Sexual motivation" means that one of the purposes for which
21 the defendant committed the crime was for the purpose of his or her
22 sexual gratification.

23 (47) "Standard sentence range" means the sentencing court's
24 discretionary range in imposing a nonappealable sentence.

25 (48) "Statutory maximum sentence" means the maximum length of time
26 for which an offender may be confined as punishment for a crime as
27 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
28 crime, or other statute defining the maximum penalty for a crime.

29 (49) "Stranger" means that the victim did not know the offender
30 twenty-four hours before the offense.

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

35 (51) "Transition training" means written and verbal instructions
36 and assistance provided by the department to the offender during the
37 two weeks prior to the offender's successful completion of the work

1 ethic camp program. The transition training shall include instructions
2 in the offender's requirements and obligations during the offender's
3 period of community custody.

4 (52) "Victim" means any person who has sustained emotional,
5 psychological, physical, or financial injury to person or property as
6 a direct result of the crime charged.

7 (53) "Violent offense" means:

8 (a) Any of the following felonies:

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

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

13 (iii) Manslaughter in the first degree;

14 (iv) Manslaughter in the second degree;

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

16 (vi) Kidnapping in the second degree;

17 (vii) Arson in the second degree;

18 (viii) Assault in the second degree;

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

20 (x) Extortion in the first degree;

21 (xi) Robbery in the second degree;

22 (xii) Drive-by shooting;

23 (xiii) Vehicular assault, when caused by the operation or driving
24 of a vehicle by a person while under the influence of intoxicating
25 liquor or any drug or by the operation or driving of a vehicle in a
26 reckless manner; and

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

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

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

37 (54) "Work crew" means a program of partial confinement consisting

1 of civic improvement tasks for the benefit of the community that
2 complies with RCW 9.94A.725.

3 (55) "Work ethic camp" means an alternative incarceration program
4 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
5 the cost of corrections by requiring offenders to complete a
6 comprehensive array of real-world job and vocational experiences,
7 character-building work ethics training, life management skills
8 development, substance abuse rehabilitation, counseling, literacy
9 training, and basic adult education.

10 (56) "Work release" means a program of partial confinement
11 available to offenders who are employed or engaged as a student in a
12 regular course of study at school.

13 **Sec. 9.** RCW 9.94A.650 and 2008 c 231 s 29 are each amended to read
14 as follows:

15 (1) This section applies to offenders who have never been
16 previously convicted of a felony in this state, federal court, or
17 another state, and who have never participated in a program of deferred
18 prosecution for a felony, and who are convicted of a felony that is
19 not:

20 (a) Classified as a violent offense or a sex offense under this
21 chapter;

22 (b) Manufacture, delivery, or possession with intent to manufacture
23 or deliver a controlled substance classified in Schedule I or II that
24 is a narcotic drug or flunitrazepam classified in Schedule IV;

25 (c) Manufacture, delivery, or possession with intent to deliver a
26 methamphetamine, its salts, isomers, and salts of its isomers as
27 defined in RCW 69.50.206(d)(2);

28 (d) The selling for profit of any controlled substance or
29 counterfeit substance classified in Schedule I, RCW 69.50.204, except
30 leaves and flowering tops of marijuana; or

31 (e) Felony driving while under the influence of intoxicating liquor
32 or any drug or felony physical control of a vehicle while under the
33 influence of intoxicating liquor or any drug.

34 (2) In sentencing a first-time offender the court may waive the
35 imposition of a sentence within the standard sentence range and impose
36 a sentence which may include up to ninety days of confinement in a

1 facility operated or utilized under contract by the county and a
2 requirement that the offender refrain from committing new offenses.

3 (3) The court may impose up to (~~one year~~) six months of community
4 custody unless treatment is ordered, in which case the period of
5 community custody may include up to the period of treatment, but shall
6 not exceed (~~two years~~) one year.

7 (4) As a condition of community custody, in addition to any
8 conditions authorized in RCW 9.94A.703, the court may order the
9 offender to pay all court-ordered legal financial obligations and/or
10 perform community restitution work.

11 **PART II**

12 **Cost Of Supervision**

13 **Sec. 10.** RCW 9.94A.780 and 2008 c 231 s 37 are each amended to
14 read as follows:

15 (1) Whenever a punishment imposed under this chapter requires
16 supervision services to be provided, the offender shall pay to the
17 department of corrections the (~~monthly assessment~~) supervision intake
18 fee, prescribed under subsection (2) of this section, (~~which shall be~~
19 ~~for the duration of the terms of supervision and~~) which shall be
20 considered as payment or part payment of the cost of (~~providing~~)
21 establishing supervision to the offender. The department may exempt or
22 defer a person from the payment of all or any part of the
23 (~~assessment~~) intake fee based upon any of the following factors:

24 (a) The offender has diligently attempted but has been unable to
25 obtain employment that provides the offender sufficient income to make
26 such a payment(~~s~~).

27 (b) The offender is a student in a school, college, university, or
28 a course of vocational or technical training designed to fit the
29 student for gainful employment.

30 (c) The offender has an employment handicap, as determined by an
31 examination acceptable to or ordered by the department.

32 (d) The offender's age prevents him or her from obtaining
33 employment.

34 (e) The offender is responsible for the support of dependents and
35 the payment of the (~~assessment~~) intake fee constitutes an undue
36 hardship on the offender.

1 (f) Other extenuating circumstances as determined by the
2 department.

3 (2) The department of corrections shall adopt a rule prescribing
4 the amount of the assessment. The ~~((department may, if it finds it
5 appropriate, prescribe a schedule of assessments that shall vary in
6 accordance with the intensity or cost of the supervision. The
7 department may not prescribe any assessment that is less than ten
8 dollars nor more than fifty dollars))~~ supervision intake fee shall be
9 imposed after the determination of eligibility for supervision has been
10 completed. For offenders whose crime was committed on or after July 1,
11 2011, the intake fee prescribed shall be not less than four hundred
12 dollars or more than six hundred dollars, and shall be assessed for
13 each judgment and sentence imposed by the superior court in which
14 supervision by the department is required.

15 (3) For offenders whose offense date was before July 1, 2011, the
16 monthly rate shall be converted to a one-time fee. The amount due
17 shall be based upon the most recent monthly fee amount by the months of
18 supervision left to serve, but in no case shall exceed six hundred
19 dollars.

20 (4) Nothing in this act shall affect the amount or dates payments
21 are due for any prior balances owed by an offender for the cost of
22 supervision.

23 ~~((+3))~~ (5) All amounts required to be paid under this section
24 shall be collected by the department of corrections and deposited by
25 the department in the dedicated fund established pursuant to RCW
26 72.11.040.

27 ~~((+4))~~ (6) This section shall not apply to probation services
28 provided under an interstate compact pursuant to chapter 9.95 RCW or to
29 probation services provided for persons placed on probation prior to
30 June 10, 1982.

31 ~~((+5))~~ (7) If a county clerk assumes responsibility for collection
32 of unpaid legal financial obligations under RCW 9.94A.760, or under any
33 agreement with the department under that section, whether before or
34 after the completion of any period of community custody, the clerk may
35 impose a monthly or annual assessment for the cost of collections. The
36 amount of the assessment shall not exceed the actual cost of
37 collections. The county clerk may exempt or defer payment of all or
38 part of the assessment based upon any of the factors listed in

1 subsection (1) of this section. The offender shall pay the assessment
2 under this subsection to the county clerk who shall apply it to the
3 cost of collecting legal financial obligations under RCW 9.94A.760.

4 **Sec. 11.** RCW 9.95.214 and 2005 c 400 s 3 are each amended to read
5 as follows:

6 Whenever a defendant convicted of a misdemeanor or gross
7 misdemeanor is placed on probation under RCW 9.92.060 or 9.95.210, and
8 the defendant is supervised by (~~the department of corrections or~~) a
9 county probation department, the (~~department or~~) county probation
10 department may assess and collect from the defendant for the duration
11 of the term of supervision a monthly assessment not to exceed one
12 hundred dollars per month. Whenever a defendant convicted of a
13 misdemeanor or gross misdemeanor is placed on probation under RCW
14 9.92.060 or 9.95.210, and the defendant is supervised by the department
15 of corrections, the department may collect supervision intake fees
16 pursuant to RCW 9.94A.780. This assessment shall be paid to the agency
17 supervising the defendant and shall be applied, along with funds
18 appropriated by the legislature, toward the payment or part payment of
19 the cost of supervising the defendant. The (~~department or~~) county
20 probation department shall suspend such assessment while the defendant
21 is being supervised by another state pursuant to RCW 9.94A.745, the
22 interstate compact for adult offender supervision.

23 **Sec. 12.** RCW 72.04A.120 and 1991 c 104 s 2 are each amended to
24 read as follows:

25 (1) Any person placed on parole shall be required to pay the
26 (~~monthly assessment~~) supervision intake fee, prescribed under
27 (~~subsection (2) of this section, which shall be for the duration of~~
28 ~~the parole and which shall be considered as payment or part payment of~~
29 ~~the cost of providing parole supervision to the parolee~~) RCW
30 9.94A.780(3). The department may exempt a person from the payment of
31 all or any part of the assessment based upon any of the following
32 factors:

33 (a) The offender has diligently attempted but has been unable to
34 obtain employment which provides the offender sufficient income to make
35 such payments.

1 (b) The offender is a student in a school, college, university, or
2 a course of vocational or technical training designed to fit the
3 student for gainful employment.

4 (c) The offender has an employment handicap, as determined by an
5 examination acceptable to or ordered by the department.

6 (d) The offender's age prevents him from obtaining employment.

7 (e) The offender is responsible for the support of dependents and
8 the payment of the assessment constitutes an undue hardship on the
9 offender.

10 (f) Other extenuating circumstances as determined by the
11 department.

12 (2) The department of corrections shall adopt a rule prescribing
13 the amount of the assessment. ~~((The department may, if it finds it
14 appropriate, prescribe a schedule of assessments which shall vary in
15 accordance with the intensity or cost of the supervision. The
16 department may not prescribe any assessment which is less than ten
17 dollars nor more than fifty dollars.))~~

18 (3) Payment of the assessed amount shall constitute a condition of
19 parole for purposes of the application of RCW 72.04A.090.

20 (4) All amounts required to be paid under this section shall be
21 collected by the department of corrections and deposited by the
22 department in the dedicated fund established pursuant to RCW 72.11.040.

23 ~~((5) This section shall not apply to parole services provided
24 under an interstate compact pursuant to chapter 9.95 RCW or to parole
25 services provided for offenders paroled before June 10, 1982.))~~

26 **Sec. 13.** RCW 72.11.040 and 2005 c 518 s 943 are each amended to
27 read as follows:

28 The cost of supervision fund is created in the custody of the state
29 treasurer. All receipts from assessments made under RCW 9.94A.780,
30 9.94A.74504, and 72.04A.120 shall be deposited into the fund.
31 Expenditures from the fund may be used only to support the collection
32 of legal financial obligations. ~~((During the 2005-2007 biennium, funds
33 from the account may also be used for costs associated with the
34 department's supervision of the offenders in the community.))~~ Only the
35 secretary of the department of corrections or the secretary's designee
36 may authorize expenditures from the fund. The fund is subject to

1 allotment procedures under chapter 43.88 RCW, but no appropriation is
2 required for expenditures.

3 **Sec. 14.** RCW 9.94A.74504 and 2005 c 400 s 1 are each amended to
4 read as follows:

5 (1) The department may supervise nonfelony offenders transferred to
6 Washington pursuant to RCW 9.94A.745, the interstate compact for adult
7 offender supervision, and shall supervise these offenders according to
8 the provisions of this chapter.

9 (2) The department shall process applications for interstate
10 transfer of felony and nonfelony offenders requesting transfer of
11 supervision out-of-state pursuant to RCW 9.94A.745, the interstate
12 compact for adult offender supervision, and may charge offenders a
13 reasonable fee for processing the application.

14 (3) The department shall adopt a rule prescribing the amount of the
15 interstate transfer application fee.

16 PART III

17 Indeterminate Sentence Review Board

18 **Sec. 15.** RCW 9.95.003 and 2007 c 362 s 1 are each amended to read
19 as follows:

20 (1) The board is created within the department. The board shall
21 consist of a (~~chairman~~) chair and four other members, each of whom
22 shall be appointed by the governor with the consent of the senate.
23 Each member shall hold office for a term of five years, and until his
24 or her successor is appointed and qualified. The terms shall expire on
25 April 15th of the expiration year. Vacancies in the membership of the
26 board shall be filled by appointment by the governor with the consent
27 of the senate. In the event of the inability of any member to act, the
28 governor shall appoint some competent person to act in his stead during
29 the continuance of such inability. The members shall not be removable
30 during their respective terms except for cause determined by the
31 superior court of Thurston county. The governor in appointing the
32 members shall designate one of them to serve as (~~chairman~~) chair at
33 the governor's pleasure. The appointed (~~chairman~~) chair shall serve
34 as a fully participating board member (~~and as the director of the~~
35 ~~agency~~)).

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

5 (3) The members of the board and ((its officers and employees))
6 staff assigned to the board shall not engage in any other business or
7 profession or hold any other public office without the prior approval
8 of the executive ethics board indicating compliance with RCW 42.52.020,
9 42.52.030, 42.52.040 and 42.52.120; nor shall they, at the time of
10 appointment or employment or during their incumbency, serve as the
11 representative of any political party on an executive committee or
12 other governing body thereof, or as an executive officer or employee of
13 any political committee or association. The members of the board shall
14 each severally receive salaries fixed by the governor in accordance
15 with the provisions of RCW 43.03.040, and in addition shall receive
16 travel expenses incurred in the discharge of their official duties in
17 accordance with RCW 43.03.050 and 43.03.060.

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

22 NEW SECTION. Sec. 16. (1) The indeterminate sentence review board
23 is transferred to the department of corrections.

24 (2)(a) All reports, documents, surveys, books, records, files,
25 papers, or written materials in the possession of the indeterminate
26 sentence review board shall be delivered to the custody of the
27 department of corrections. All cabinets, furniture, office equipment,
28 motor vehicles, and other tangible property employed by the
29 indeterminate sentence review board shall be made available to the
30 department of corrections. All funds, credits, or other assets held by
31 the indeterminate sentence review board shall be assigned to the
32 department of corrections.

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

36 (c) If any question arises as to the transfer of any personnel,
37 funds, books, documents, records, papers, files, equipment, or other

1 tangible property used or held in the exercise of the powers and the
2 performance of the duties and functions transferred, the director of
3 financial management shall make a determination as to the proper
4 allocation and certify the same to the state agencies concerned.

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

12 (4) All rules and all pending business before the indeterminate
13 sentence review board shall be continued and acted upon by the
14 department of corrections. All existing contracts and obligations
15 shall remain in full force and shall be performed by the department of
16 corrections.

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

20 (6) If apportionments of budgeted funds are required because of the
21 transfers directed by this section, the director of financial
22 management shall certify the apportionments to the agencies affected,
23 the state auditor, and the state treasurer. Each of these shall make
24 the appropriate transfer and adjustments in funds and appropriation
25 accounts and equipment records in accordance with the certification.

26 (7) All classified employees of the indeterminate sentence review
27 board assigned to the department of corrections under this act whose
28 positions are within an existing bargaining unit description at the
29 department of corrections shall become a part of the existing
30 bargaining unit at the department of corrections and shall be
31 considered an appropriate inclusion or modification of the existing
32 bargaining unit under the provisions of chapter 41.80 RCW.

33 (8) Notwithstanding any provision of this act and despite the
34 transfer of the indeterminate sentence review board to the department
35 of corrections, the members of the indeterminate sentence review board
36 will possess and shall exercise independent judgment when making any
37 decisions concerning offenders. These decisions include, but are not

1 limited to, decisions concerning offenders' release, revocation,
2 reinstatement, or the imposition of conditions of supervision.

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

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

11 The superintendents of the different institutions shall provide
12 suitable quarters for the board (~~(and assistants)~~) while in the
13 discharge of their duties.

14 **Sec. 18.** RCW 9.95.007 and 1986 c 224 s 5 are each amended to read
15 as follows:

16 The board may meet and transact business in panels. Each board
17 panel shall consist of at least two members of the board. In all
18 matters concerning the internal affairs of the board and policy-making
19 decisions, a majority of the full board must concur in such matters.
20 The (~~(chairman)~~) chair of the board with the consent of a majority of
21 the board may designate any two members to exercise all the powers and
22 duties of the board in connection with any hearing before the board.
23 If the two members so designated cannot unanimously agree as to the
24 disposition of the hearing assigned to them, such hearing shall be
25 reheard by the full board. All actions of the full board shall be by
26 concurrence of a majority of the sitting board members.

27 **Sec. 19.** RCW 9.95.140 and 2009 c 28 s 29 are each amended to read
28 as follows:

29 (1) The board shall cause a complete record to be kept of every
30 prisoner under the jurisdiction of the board released on parole or
31 community custody. Such records shall be organized in accordance with
32 the most modern methods of filing and indexing so that there will be
33 always immediately available complete information about each such
34 prisoner. Subject to information sharing provisions related to
35 (~~(mentally ill)~~) offenders(~~(7)~~) with mental illness and the end of

1 sentence review committee, (~~and the department of corrections,~~) the
2 board may make rules as to the privacy of such records and their use by
3 others than the board and (~~its~~) the department staff assigned to
4 perform board-related duties. Sex offenders convicted of crimes
5 committed before July 1, 1984, who are under the board's jurisdiction
6 shall be subject to the determinations of the end of sentence review
7 committee regarding risk level and subject to sex offender registration
8 and community notification. The board and the department staff
9 assigned to perform board-related duties shall be immune from liability
10 for the release of information concerning sex offenders as provided in
11 RCW 4.24.550.

12 The superintendents of state correctional facilities and all
13 officers and employees thereof and all other public officials shall at
14 all times cooperate with the board and furnish to the board(~~(, its~~
15 ~~officers, and employees)~~) and staff assigned to perform board-related
16 duties such information as may be necessary to enable it to perform its
17 functions, and such superintendents and other employees shall at all
18 times give the members of the board(~~(, its officers, and employees)~~)
19 and staff assigned to perform board-related duties free access to all
20 prisoners confined in the state correctional facilities.

21 (2) Offenders sentenced under RCW 9.94A.507 shall be subject to the
22 determinations of the end of sentence review committee regarding risk
23 level and subject to sex offender registration and community
24 notification.

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

29 **Sec. 20.** RCW 9.95.280 and 2001 2nd sp.s. c 12 s 344 are each
30 amended to read as follows:

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

1 **Sec. 21.** RCW 9.95.300 and 2001 2nd sp.s. c 12 s 346 are each
2 amended to read as follows:

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

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

10 (1)(a) When an offender on parole has performed all obligations of
11 his or her release, including any and all legal financial obligations,
12 for such time as shall satisfy the indeterminate sentence review board
13 that his or her final release is not incompatible with the best
14 interests of society and the welfare of the paroled individual, the
15 board may make a final order of discharge and issue a certificate of
16 discharge to the offender.

17 (b) The board retains the jurisdiction to issue a certificate of
18 discharge after the expiration of the offender's or parolee's maximum
19 statutory sentence. If not earlier granted and any and all legal
20 financial obligations have been paid, the board shall issue a final
21 order of discharge three years from the date of parole unless the
22 parolee is on suspended or revoked status at the expiration of the
23 three years.

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

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

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

31 (2) (~~The board shall send to the department of corrections~~) A
32 copy of every signed certificate of discharge for offender sentences
33 under the authority of the department of corrections shall be placed in
34 the department's files.

35 (3) The discharge provided for in this section shall be considered
36 as a part of the sentence of the convicted person and shall not in any

1 manner be construed as affecting the powers of the governor to pardon
2 any such person.

3 **Sec. 23.** RCW 71.05.385 and 2009 c 320 s 2 are each amended to read
4 as follows:

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

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

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

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

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

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

20 Legal counsel may release such information to the persons
21 authorized under subsection (2) of this section on behalf of the mental
22 health service provider, provided that nothing in this subsection shall
23 require the disclosure of attorney work product or attorney-client
24 privileged information.

25 (2) The information subject to release under subsection (1) of this
26 section shall be released to law enforcement officers, personnel of a
27 county or city jail, designated mental health professionals, public
28 health officers, therapeutic court personnel, or personnel of the
29 department of corrections, (~~or personnel of~~) including the
30 indeterminate sentence review board and personnel assigned to perform
31 board-related duties, when such information is requested during the
32 course of business and for the purpose of carrying out the
33 responsibilities of the requesting person's office. No mental health
34 service provider or person employed by a mental health service
35 provider, or its legal counsel, shall be liable for information
36 released to or used under the provisions of this section or rules
37 adopted under this section except under RCW 71.05.440.

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

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

7 (i) Completing presentence investigations or risk assessment
8 reports;

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

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

12 (iv) Planning for and provision of supervision of an offender,
13 including decisions related to sanctions for violations of conditions
14 of community supervision; and

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

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

20 (i) Has engaged in activity indicating that a crime or a violation
21 of community custody or parole has been committed or, based upon his or
22 her current or recent past behavior, is likely to be committed in the
23 near future; or

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

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

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

35 (ii) Such information may be shared with a prosecuting attorney
36 acting in an advisory capacity for a person who receives information
37 under this section. A prosecuting attorney under this subsection shall

1 be subject to the same restrictions and confidentiality limitations as
2 the person who requested the information; and

3 (iii) As provided in RCW 72.09.585.

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

11 (5) In the event of an emergency situation that poses a significant
12 risk to the public or the offender, a mental health service provider,
13 or its legal counsel, shall release information related to mental
14 health services delivered to the offender and, if known, information
15 regarding where the offender is likely to be found to the department of
16 corrections or law enforcement upon request. The initial request may
17 be written or oral. All oral requests must be subsequently confirmed
18 in writing. Information released in response to an oral request is
19 limited to a statement as to whether the offender is or is not being
20 treated by the mental health service provider and the address or
21 information about the location or whereabouts of the offender.

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

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

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

33 (9) In collaboration with interested organizations, the department
34 shall develop a standard form for requests for information related to
35 mental health services made under this section and a standard format
36 for information provided in response to such requests. Consistent with
37 the goals of the health information privacy provisions of the federal
38 health insurance portability and accountability act, in developing the

1 standard form for responsive information, the department shall design
2 the form in such a way that the information disclosed is limited to the
3 minimum necessary to serve the purpose for which the information is
4 requested.

5 **Sec. 24.** RCW 72.09.585 and 2004 c 166 s 5 are each amended to read
6 as follows:

7 (1) When the department is determining an offender's risk
8 management level, the department shall inquire of the offender and
9 shall be told whether the offender is subject to court-ordered
10 treatment for mental health services or chemical dependency services.
11 The department shall request and the offender shall provide an
12 authorization to release information form that meets applicable state
13 and federal requirements and shall provide the offender with written
14 notice that the department will request the offender's mental health
15 and substance abuse treatment information. An offender's failure to
16 inform the department of court-ordered treatment is a violation of the
17 conditions of supervision if the offender is in the community and an
18 infraction if the offender is in confinement, and the violation or
19 infraction is subject to sanctions.

20 (2) When an offender discloses that he or she is subject to court-
21 ordered mental health services or chemical dependency treatment, the
22 department shall provide the mental health services provider or
23 chemical dependency treatment provider with a written request for
24 information and any necessary authorization to release information
25 forms. The written request shall comply with rules adopted by the
26 department of social and health services or protocols developed jointly
27 by the department and the department of social and health services. A
28 single request shall be valid for the duration of the offender's
29 supervision in the community. Disclosures of information related to
30 mental health services made pursuant to a department request shall not
31 require consent of the offender.

32 (3) The information received by the department under RCW 71.05.445
33 or ((~~71.34.225~~)) 71.34.345 may be released to the indeterminate
34 sentence review board as relevant to carry out its responsibility of
35 planning and ensuring community protection with respect to persons
36 under its jurisdiction. Further disclosure by the indeterminate
37 sentence review board is subject to the limitations set forth in

1 subsections (5) and (6) of this section and must be consistent with the
2 written policy of the indeterminate sentence review board. The
3 decision to disclose or not shall not result in civil liability for the
4 indeterminate sentence review board or (~~its employees~~) staff assigned
5 to perform board-related duties provided that the decision was reached
6 in good faith and without gross negligence.

7 (4) The information received by the department under RCW 71.05.445
8 or (~~71.34.225~~) 71.34.345 may be used to meet the statutory duties of
9 the department to provide evidence or report to the court. Disclosure
10 to the public of information provided to the court by the department
11 related to mental health services shall be limited in accordance with
12 RCW 9.94A.500 or this section.

13 (5) The information received by the department under RCW 71.05.445
14 or (~~71.34.225~~) 71.34.345 may be disclosed by the department to other
15 state and local agencies as relevant to plan for and provide offenders
16 transition, treatment, and supervision services, or as relevant and
17 necessary to protect the public and counteract the danger created by a
18 particular offender, and in a manner consistent with the written policy
19 established by the secretary. The decision to disclose or not shall
20 not result in civil liability for the department or its employees so
21 long as the decision was reached in good faith and without gross
22 negligence. The information received by a state or local agency from
23 the department shall remain confidential and subject to the limitations
24 on disclosure set forth in chapters 70.02, 71.05, and 71.34 RCW and,
25 subject to these limitations, may be released only as relevant and
26 necessary to counteract the danger created by a particular offender.

27 (6) The information received by the department under RCW 71.05.445
28 or (~~71.34.225~~) 71.34.345 may be disclosed by the department to
29 individuals only with respect to offenders who have been determined by
30 the department to have a high risk of reoffending by a risk assessment,
31 as defined in RCW 9.94A.030, only as relevant and necessary for those
32 individuals to take reasonable steps for the purpose of self-
33 protection, or as provided in RCW 72.09.370(2). The information may
34 not be disclosed for the purpose of engaging the public in a system of
35 supervision, monitoring, and reporting offender behavior to the
36 department. The department must limit the disclosure of information
37 related to mental health services to the public to descriptions of an
38 offender's behavior, risk he or she may present to the community, and

1 need for mental health treatment, including medications, and shall not
2 disclose or release to the public copies of treatment documents or
3 records, except as otherwise provided by law. All disclosure of
4 information to the public must be done in a manner consistent with the
5 written policy established by the secretary. The decision to disclose
6 or not shall not result in civil liability for the department or its
7 employees so long as the decision was reached in good faith and without
8 gross negligence. Nothing in this subsection prevents any person from
9 reporting to law enforcement or the department behavior that he or she
10 believes creates a public safety risk.

11 NEW SECTION. **Sec. 25.** RCW 4.24.5502 is decodified.

12 **PART IV**
13 **Sentencing Guidelines Commission and Related Duties**

14 NEW SECTION. **Sec. 26.** A new section is added to chapter 9.94A RCW
15 to read as follows:

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

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

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

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

32 **Sec. 27.** RCW 9.94A.480 and 2002 c 290 s 16 are each amended to
33 read as follows:

34 (1) A current, newly created or reworked judgment and sentence

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

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

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

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

20 ~~(c) Any felony with any deadly weapon special verdict under RCW~~
21 ~~9.94A.602;~~

22 ~~(d) Any felony with any deadly weapon enhancements under RCW~~
23 ~~9.94A.533 (3) or (4), or both; and/or~~

24 ~~(e) The felony crimes of possession of a machine gun, possessing a~~
25 ~~stolen firearm, drive by shooting, theft of a firearm, unlawful~~
26 ~~possession of a firearm in the first or second degree, and/or use of a~~
27 ~~machine gun in a felony.~~

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

1 ~~(4) Any and all felony sentences which are either above or below~~
2 ~~the standard or presumptive sentence range in subsection (3) of this~~
3 ~~section shall also mark whether the prosecuting attorney in the case~~
4 ~~also recommended a similar sentence, if any, which was either above or~~
5 ~~below the presumptive sentence range and shall also indicate if the~~
6 ~~sentence was in conjunction with an approved alternative sentencing~~
7 ~~option including a first-time offender waiver, sex offender sentencing~~
8 ~~alternative, or other prescribed sentencing option.~~

9 ~~(5))~~.

10 (3) If any completed judgment and sentence document as defined in
11 subsection (1) of this section is not sent to the ~~((sentencing~~
12 ~~guidelines commission))~~ caseload forecast council as required in
13 subsection (2) of this section, the ~~((sentencing—guidelines~~
14 ~~commission))~~ caseload forecast council shall have the authority and
15 shall undertake reasonable and necessary steps to assure that all past,
16 current, and future sentencing documents as defined in subsection (1)
17 of this section are received by the ~~((sentencing—guidelines~~
18 ~~commission))~~ caseload forecast council.

19 NEW SECTION. Sec. 28. A new section is added to chapter 9.94A RCW
20 to read as follows:

21 (1) The caseload forecast council shall develop and maintain a
22 computerized adult and juvenile sentencing information system
23 consisting of offender, offense, history, and sentence information
24 entered from the judgment and sentence forms for all adult felons.

25 (2) As part of its duties in maintaining the sentencing information
26 system, the caseload forecast council shall:

27 (a) On an annual basis, publish a statistical summary of adult
28 felony sentencing and juvenile dispositions;

29 (b) Publish and maintain an adult felony sentencing manual; and

30 (c) Publish and maintain a juvenile sentencing manual.

31 (3) The sentencing manuals are intended only as a guide to assist
32 practitioners in determining appropriate sentencing ranges. The
33 manuals are not a substitute for the actual statutes, which list the
34 sentencing ranges, or for any other information contained within this
35 chapter. The caseload forecast council is not liable for errors or
36 omissions in the manual, for sentences that may be inappropriately
37 calculated as a result of a practitioner's or court's reliance on the

1 manual, or for any other written or verbal information provided by the
2 caseload forecast council or its staff related to adult or juvenile
3 sentencing.

4 (4) In publishing materials required by this section, the caseload
5 forecast council shall make the materials available on its web site.
6 The caseload forecast council may charge a reasonable cost for
7 producing and distributing hard copies of any materials.

8 NEW SECTION. **Sec. 29.** A new section is added to chapter 43.88C
9 RCW to read as follows:

10 The caseload forecast council shall appoint a research staff of
11 sufficient size and with sufficient resources to accomplish its duties.
12 The caseload forecast council may request from the administrative
13 office of the courts and the department of social and health services
14 such data, information, and data processing assistance as it may need
15 to accomplish its duties, and such services shall be provided without
16 cost to the caseload forecast council.

17 **Sec. 30.** RCW 13.50.010 and 2010 c 150 s 3 are each amended to read
18 as follows:

19 (1) For purposes of this chapter:

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

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

31 (c) "Records" means the official juvenile court file, the social
32 file, and records of any other juvenile justice or care agency in the
33 case;

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

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

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

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

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

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

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

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

29 (6) A juvenile, or his or her parents, or any person who has
30 reasonable cause to believe information concerning that person is
31 included in the records of a juvenile justice or care agency may make
32 a motion to the court challenging the accuracy of any information
33 concerning the moving party in the record or challenging the continued
34 possession of the record by the agency. If the court grants the
35 motion, it shall order the record or information to be corrected or
36 destroyed.

37 (7) The person making a motion under subsection (5) or (6) of this

1 section shall give reasonable notice of the motion to all parties to
2 the original action and to any agency whose records will be affected by
3 the motion.

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

19 (9) Juvenile detention facilities shall release records to the
20 (~~sentencing guidelines commission under RCW 9.94A.850~~) caseload
21 forecast council upon request. The commission shall not disclose the
22 names of any juveniles or parents mentioned in the records without the
23 named individual's written permission.

24 (10) Requirements in this chapter relating to the court's authority
25 to compel disclosure shall not apply to the legislative children's
26 oversight committee or the office of the family and children's
27 ombudsman.

28 (11) For the purpose of research only, the administrative office of
29 the courts shall maintain an electronic research copy of all records in
30 the judicial information system related to juveniles. Access to the
31 research copy is restricted to the Washington state center for court
32 research. The Washington state center for court research shall
33 maintain the confidentiality of all confidential records and shall
34 preserve the anonymity of all persons identified in the research copy.
35 The research copy may not be subject to any records retention schedule
36 and must include records destroyed or removed from the judicial
37 information system pursuant to RCW 13.50.050 (17) and (18) and
38 13.50.100(3).

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

9 **Sec. 31.** RCW 9.94A.74501 and 2001 c 35 s 3 are each amended to
10 read as follows:

11 (1) The ~~((sentencing guidelines commission))~~ department of
12 corrections shall serve as the state council for interstate adult
13 offender supervision as required under article IV of RCW 9.94A.745, the
14 interstate compact for adult offender supervision. ~~((To assist the~~
15 ~~commission in performing its functions as the state council, the~~
16 ~~department of corrections shall provide staffing and support~~
17 ~~services.))~~ The ~~((commission))~~ department of corrections may form a
18 subcommittee, including members representing the legislative, judicial,
19 and executive branches of state government, and victims' groups~~((, and~~
20 ~~the secretary of corrections,))~~ to perform the functions of the state
21 council. Any such subcommittee shall include representation of both
22 houses and at least two of the four largest political caucuses in the
23 legislature.

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

26 (a) Review department operations and procedures under RCW
27 9.94A.745, and recommend policies to the compact administrator,
28 including policies to be pursued in the administrator's capacity as the
29 state's representative on the interstate commission created under
30 article III of RCW 9.94A.745; and

31 (b) Report annually to the legislature on interstate supervision
32 operations and procedures under RCW 9.94A.745, including
33 recommendations for policy changes~~((; and~~

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

1 (3) The ~~((commission, or a subcommittee if formed for that~~
2 ~~purpose,))~~ secretary shall appoint ~~((one of its members, or))~~ an
3 employee of the department ~~((designated by the secretary)), or a~~
4 subcommittee if formed for that purpose shall appoint one of its
5 members, to represent the state at meetings of the interstate
6 commission created under article III of RCW 9.94A.745 when the compact
7 administrator cannot attend.

8 **Sec. 32.** RCW 10.98.140 and 1987 c 462 s 4 are each amended to read
9 as follows:

10 (1) The section, the department, and the office of financial
11 management shall be the primary sources of information for criminal
12 justice forecasting. The information maintained by these agencies
13 shall be complete, accurate, and sufficiently timely to support state
14 criminal justice forecasting.

15 (2) The ~~((office of financial management shall be the official~~
16 ~~state agency for the sentenced felon jail forecast. This forecast~~
17 ~~shall provide at least a six year projection and shall be published by~~
18 ~~December 1 of every even numbered year beginning with 1986. The office~~
19 ~~of financial management shall seek advice regarding the assumptions in~~
20 ~~the forecast from criminal justice agencies and associations.~~

21 ~~(3) The sentencing guidelines commission))~~ caseload forecast
22 council shall keep records on all sentencings above or below the
23 standard range defined by chapter 9.94A RCW. As a minimum, the records
24 shall include the name of the offender, the crimes for which the
25 offender was sentenced, the name and county of the sentencing judge,
26 and the deviation from the standard range. Such records shall be made
27 available to public officials upon request.

28 **Sec. 33.** RCW 10.98.160 and 2005 c 282 s 25 are each amended to
29 read as follows:

30 In the development and modification of the procedures, definitions,
31 and reporting capabilities of the section, the department, the office
32 of financial management, and the responsible agencies and persons shall
33 consider the needs of other criminal justice agencies such as the
34 administrative office of the courts, local law enforcement agencies,
35 local jails, ~~((the sentencing guidelines commission,))~~ the
36 indeterminate sentence review board, the clemency board, prosecuting

1 attorneys, and affected state agencies such as the office of financial
2 management and legislative committees dealing with criminal justice
3 issues. The Washington integrated justice information board shall
4 review and provide recommendations to state justice agencies and the
5 courts for development and modification of the statewide justice
6 information network.

7 **Sec. 34.** RCW 70.96A.350 and 2009 c 479 s 50 and 2009 c 445 s 1 are
8 each reenacted and amended to read as follows:

9 (1) The criminal justice treatment account is created in the state
10 treasury. Moneys in the account may be expended solely for: (a)
11 Substance abuse treatment and treatment support services for offenders
12 with an addiction or a substance abuse problem that, if not treated,
13 would result in addiction, against whom charges are filed by a
14 prosecuting attorney in Washington state; (b) the provision of drug and
15 alcohol treatment services and treatment support services for
16 nonviolent offenders within a drug court program; (c) the
17 administrative and overhead costs associated with the operation of a
18 drug court; and (d) during the 2007-2009 biennium, operation of the
19 integrated crisis response and intensive case management pilots
20 contracted with the department of social and health services division
21 of alcohol and substance abuse. Moneys in the account may be spent
22 only after appropriation.

23 (2) For purposes of this section:

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

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

33 (3) Revenues to the criminal justice treatment account consist of:
34 (a) Funds transferred to the account pursuant to this section; and (b)
35 any other revenues appropriated to or deposited in the account.

36 (4)(a) For the fiscal biennium beginning July 1, 2003, the state
37 treasurer shall transfer eight million nine hundred fifty thousand

1 dollars from the general fund into the criminal justice treatment
2 account, divided into eight equal quarterly payments. For the fiscal
3 year beginning July 1, 2005, and each subsequent fiscal year, the state
4 treasurer shall transfer eight million two hundred fifty thousand
5 dollars from the general fund to the criminal justice treatment
6 account, divided into four equal quarterly payments. For the fiscal
7 year beginning July 1, 2006, and each subsequent fiscal year, the
8 amount transferred shall be increased on an annual basis by the
9 implicit price deflator as published by the federal bureau of labor
10 statistics.

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

15 (5) Moneys appropriated to the division of alcohol and substance
16 abuse from the criminal justice treatment account shall be distributed
17 as specified in this subsection. The department shall serve as the
18 fiscal agent for purposes of distribution. Until July 1, 2004, the
19 department may not use moneys appropriated from the criminal justice
20 treatment account for administrative expenses and shall distribute all
21 amounts appropriated under subsection (4)(b) of this section in
22 accordance with this subsection. Beginning in July 1, 2004, the
23 department may retain up to three percent of the amount appropriated
24 under subsection (4)(b) of this section for its administrative costs.

25 (a) Seventy percent of amounts appropriated to the division from
26 the account shall be distributed to counties pursuant to the
27 distribution formula adopted under this section. The division of
28 alcohol and substance abuse, in consultation with the department of
29 corrections, (~~the sentencing guidelines commission,~~) the Washington
30 state association of counties, the Washington state association of drug
31 court professionals, the superior court judges' association, the
32 Washington association of prosecuting attorneys, representatives of the
33 criminal defense bar, representatives of substance abuse treatment
34 providers, and any other person deemed by the division to be necessary,
35 shall establish a fair and reasonable methodology for distribution to
36 counties of moneys in the criminal justice treatment account. County
37 or regional plans submitted for the expenditure of formula funds must
38 be approved by the panel established in (b) of this subsection.

1 (b) Thirty percent of the amounts appropriated to the division from
2 the account shall be distributed as grants for purposes of treating
3 offenders against whom charges are filed by a county prosecuting
4 attorney. The division shall appoint a panel of representatives from
5 the Washington association of prosecuting attorneys, the Washington
6 association of sheriffs and police chiefs, the superior court judges'
7 association, the Washington state association of counties, the
8 Washington defender's association or the Washington association of
9 criminal defense lawyers, the department of corrections, the Washington
10 state association of drug court professionals, substance abuse
11 treatment providers, and the division. The panel shall review county
12 or regional plans for funding under (a) of this subsection and grants
13 approved under this subsection. The panel shall attempt to ensure that
14 treatment as funded by the grants is available to offenders statewide.

15 (6) The county alcohol and drug coordinator, county prosecutor,
16 county sheriff, county superior court, a substance abuse treatment
17 provider appointed by the county legislative authority, a member of the
18 criminal defense bar appointed by the county legislative authority,
19 and, in counties with a drug court, a representative of the drug court
20 shall jointly submit a plan, approved by the county legislative
21 authority or authorities, to the panel established in subsection (5)(b)
22 of this section, for disposition of all the funds provided from the
23 criminal justice treatment account within that county. The funds shall
24 be used solely to provide approved alcohol and substance abuse
25 treatment pursuant to RCW 70.96A.090, treatment support services, and
26 for the administrative and overhead costs associated with the operation
27 of a drug court.

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

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

37 (7) Counties are encouraged to consider regional agreements and

1 submit regional plans for the efficient delivery of treatment under
2 this section.

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

6 (9) Counties must meet the criteria established in RCW
7 2.28.170(3)(b).

8 (10) The authority under this section to use funds from the
9 criminal justice treatment account for the administrative and overhead
10 costs associated with the operation of a drug court expires June 30,
11 2013.

12 **Sec. 35.** RCW 72.66.016 and 1983 c 255 s 8 are each amended to read
13 as follows:

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

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

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

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

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

31 **Sec. 36.** RCW 9.94A.860 and 2001 2nd sp.s. c 12 s 311 are each
32 amended to read as follows:

33 (1) The sentencing guidelines commission is hereby created within
34 the office of financial management. Except as provided in RCW
35 9.94A.875, the commission shall serve to advise the governor and the

1 legislature as necessary on issues relating to adult and juvenile
2 sentencing. The commission may meet, as necessary, to accomplish these
3 purposes.

4 (2) The commission consists of twenty voting members, one of whom
5 the governor shall designate as chairperson. With the exception of ex
6 officio voting members, the voting members of the commission shall be
7 appointed by the governor, or his or her designee, subject to
8 confirmation by the senate.

9 ((+2)) (3) The voting membership consists of the following:

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

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

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

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

19 (e) Two prosecuting attorneys;

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

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

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

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

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

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

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

31 In making the appointments, the governor shall endeavor to assure
32 that the commission membership includes adequate representation and
33 expertise relating to both the adult criminal justice system and the
34 juvenile justice system. In making the appointments, the governor
35 shall seek the recommendations of Washington prosecutors in respect to
36 the prosecuting attorney members, of the Washington state bar
37 association in respect to the defense attorney members, of the
38 association of superior court judges in respect to the members who are

1 judges, of the Washington association of sheriffs and police chiefs in
2 respect to the member who is a law enforcement officer, of the
3 Washington state association of counties in respect to the member who
4 is a county official, of the association of Washington cities in
5 respect to the member who is a city official, of the office of crime
6 victims advocacy and other organizations of crime victims in respect to
7 the member who is a victim of crime or a crime victims' advocate, and
8 of the Washington association of juvenile court administrators in
9 respect to the member who is an administrator of juvenile court
10 services.

11 ~~((+3))~~ (4)(a) All voting members of the commission, except ex
12 officio voting members, shall serve terms of three years and until
13 their successors are appointed and confirmed.

14 (b) The governor shall stagger the terms of the members appointed
15 under subsection ~~((+2))~~ (3)(j), (k), and (l) of this section by
16 appointing one of them for a term of one year, one for a term of two
17 years, and one for a term of three years.

18 ~~((+4))~~ (5) The speaker of the house of representatives and the
19 president of the senate may each appoint two nonvoting members to the
20 commission, one from each of the two largest caucuses in each house.
21 The members so appointed shall serve two-year terms, or until they
22 cease to be members of the house from which they were appointed,
23 whichever occurs first.

24 ~~((+5))~~ (6) The members of the commission ~~((shall))~~ may be
25 reimbursed for travel expenses as provided in RCW 43.03.050 and
26 43.03.060. Legislative members ~~((shall))~~ may be reimbursed by their
27 respective houses as provided under RCW 44.04.120. Except for the
28 reimbursement of travel expenses, members shall not be compensated ~~((in~~
29 ~~accordance with RCW 43.03.250))~~.

30 **Sec. 37.** RCW 9.94A.8673 and 2008 c 249 s 3 are each amended to
31 read as follows:

32 (1) Within funds appropriated for this purpose, the sentencing
33 guidelines commission shall establish and maintain a sex offender
34 policy board.

35 (2)(a) The board shall serve to advise the governor and the
36 legislature as necessary on issues relating to adult and juvenile
37 sentencing.

1 (b) At such times as the governor or the legislature may request,
2 the sex offender policy board may be convened to:

3 (i) Undertake projects to assist policymakers in making informed
4 judgments about issues relating to sex offender policy; and

5 (ii) Conduct case reviews of sex offense incidents to understand
6 performance of Washington's sex offender prevention and response
7 systems.

8 (3) The sex offender policy board shall consist of thirteen voting
9 members(~~(. Unless the member is specifically named in this section,~~
10 ~~the following organizations shall designate a person to sit on the~~
11 ~~board.)) appointed by the governor, one of whom the governor shall~~
12 designate as chair. The voting membership shall consist of the
13 following:

14 (a) A representative of the Washington association of sheriffs and
15 police chiefs;

16 (b) A representative of the Washington association of prosecuting
17 attorneys;

18 (c) A representative of the Washington association of criminal
19 defense lawyers;

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

22 (e) A representative of the Washington association for the
23 treatment of sex abusers;

24 (f) The secretary of the department of corrections or his or her
25 designee;

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

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

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

32 (j) A representative of the Washington state association of
33 counties;

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

35 (l) A representative of the Washington association of sexual
36 assault programs; and

37 (m) The director of the special commitment center or his or her
38 designee.

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

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

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

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

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

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

13 ~~(6))~~ (4) As appropriate, the board shall consult with the criminal
14 justice division in the attorney general's office and the Washington
15 institute for public policy ((shall act as an advisor to the board)).

16 (5) Members of the board shall receive no compensation but may be
17 reimbursed for travel expenses as provided in RCW 43.03.050 and
18 43.03.060.

19 **Sec. 38.** RCW 9A.52.025 and 1989 2nd ex.s. c 1 s 1 are each amended
20 to read as follows:

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

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

29 NEW SECTION. **Sec. 39.** The following acts or parts of acts are
30 each repealed:

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

34 (2) RCW 9.94A.850 (Sentencing guidelines commission--Established--
35 Powers and duties) and 2009 c 375 s 8, 2009 c 28 s 17, & 2005 c 282 s
36 19;

1 (3) RCW 9.94A.855 (Sentencing guidelines commission--Research
2 staff--Data, information, assistance--Bylaws--Salary of executive
3 officer) and 2005 c 282 s 20, 1999 c 143 s 10, 1982 c 192 s 3, & 1981
4 c 137 s 5;

5 (4) RCW 9.94A.863 (Monetary threshold amounts of property crimes--
6 Review--Report) and 2009 c 431 s 2;

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

9 (6) RCW 9.94A.8672 (Sex offender policy board--Establishment) and
10 2008 c 249 s 2;

11 (7) RCW 9.94A.8674 (Sex offender policy board--Terms--Vacancies)
12 and 2008 c 249 s 4;

13 (8) RCW 9.94A.8675 (Sex offender policy board--Authority) and 2008
14 c 249 s 5;

15 (9) RCW 9.94A.8676 (Sex offender policy board--Duties) and 2008 c
16 249 s 6;

17 (10) RCW 9.94A.8677 (Sex offender policy board--Travel expenses)
18 and 2008 c 249 s 7;

19 (11) RCW 9.94A.8678 (Sex offender policy board--Meeting
20 attendance--Member replacement) and 2008 c 249 s 8;

21 (12) RCW 43.131.411 (Sex offender policy board--Termination) and
22 2008 c 249 s 9; and

23 (13) RCW 43.131.412 (Sex offender policy board--Repeal) and 2008 c
24 249 s 10.

25 **Sec. 40.** RCW 9.95.011 and 2009 c 28 s 21 are each amended to read
26 as follows:

27 (1) When the court commits a convicted person to the department of
28 corrections on or after July 1, 1986, for an offense committed before
29 July 1, 1984, the court shall, at the time of sentencing or revocation
30 of probation, fix the minimum term. The term so fixed shall not exceed
31 the maximum sentence provided by law for the offense of which the
32 person is convicted.

33 The court shall attempt to set the minimum term reasonably
34 consistent with the purposes, standards, and sentencing ranges
35 (~~(adopted under RCW 9.94A.850)~~) under chapter 9.94A RCW of the
36 sentencing reform act, but the court is subject to the same limitations
37 as those placed on the board under RCW 9.92.090, 9.95.040 (1) through

1 (4), 9.95.115, 9A.32.040, 9A.44.045, and chapter 69.50 RCW. The
2 court's minimum term decision is subject to review to the same extent
3 as a minimum term decision by the parole board before July 1, 1986.

4 Thereafter, the expiration of the minimum term set by the court
5 minus any time credits earned under RCW 9.95.070 and 9.95.110
6 constitutes the parole eligibility review date, at which time the board
7 may consider the convicted person for parole under RCW 9.95.100 and
8 9.95.110 and chapter 72.04A RCW. Nothing in this section affects the
9 board's authority to reduce or increase the minimum term, once set by
10 the court, under RCW 9.95.040, 9.95.052, 9.95.055, 9.95.070, 9.95.080,
11 9.95.100, 9.95.115, 9.95.125, or 9.95.047.

12 (2)(a) Except as provided in (b) of this subsection, not less than
13 ninety days prior to the expiration of the minimum term of a person
14 sentenced under RCW 9.94A.507, for a sex offense committed on or after
15 September 1, 2001, less any time credits permitted by statute, the
16 board shall review the person for conditional release to community
17 custody as provided in RCW 9.95.420. If the board does not release the
18 person, it shall set a new minimum term not to exceed an additional
19 five years. The board shall review the person again not less than
20 ninety days prior to the expiration of the new minimum term.

21 (b) If at the time a person sentenced under RCW 9.94A.507 for a sex
22 offense committed on or after September 1, 2001, arrives at a
23 department of corrections facility, the offender's minimum term has
24 expired or will expire within one hundred twenty days of the offender's
25 arrival, then no later than one hundred twenty days after the
26 offender's arrival at a department of corrections facility, but after
27 the board receives the results from the end of sentence review process
28 and the recommendations for additional or modified conditions of
29 community custody from the department, the board shall review the
30 person for conditional release to community custody as provided in RCW
31 9.95.420. If the board does not release the person, it shall set a new
32 minimum term not to exceed an additional five years. The board shall
33 review the person again not less than ninety days prior to the
34 expiration of the new minimum term.

35 (c) In setting a new minimum term, the board may consider the
36 length of time necessary for the offender to complete treatment and
37 programming as well as other factors that relate to the offender's

1 release under RCW 9.95.420. The board's rules shall permit an offender
2 to petition for an earlier review if circumstances change or the board
3 receives new information that would warrant an earlier review.

4 **Sec. 41.** RCW 9.95.009 and 1990 c 3 s 707 are each amended to read
5 as follows:

6 (1) On July 1, 1986, the board of prison terms and paroles shall be
7 redesignated as the indeterminate sentence review board. The board's
8 membership shall be reduced as follows: On July 1, 1986, and on July
9 1st of each year until 1998, the number of board members shall be
10 reduced in a manner commensurate with the board's remaining workload as
11 determined by the office of financial management based upon its
12 population forecast for the indeterminate sentencing system and in
13 conjunction with the budget process. To meet the statutory obligations
14 of the indeterminate sentence review board, the number of board members
15 shall not be reduced to fewer than three members, although the office
16 of financial management may designate some or all members as part-time
17 members and specify the extent to which they shall be less than full-
18 time members. Any reduction shall take place by the expiration, on
19 that date, of the term or terms having the least time left to serve.

20 (2) After July 1, 1984, the board shall continue its functions with
21 respect to persons convicted of crimes committed prior to July 1, 1984,
22 and committed to the department of corrections. When making decisions
23 on duration of confinement, including those relating to persons
24 committed under a mandatory life sentence, and parole release under RCW
25 9.95.100 and 9.95.110, the board shall consider the purposes,
26 standards, and sentencing ranges (~~(adopted pursuant to RCW 9.94A.850)~~)
27 under chapter 9.94A RCW of the sentencing reform act and the minimum
28 term recommendations of the sentencing judge and prosecuting attorney,
29 and shall attempt to make decisions reasonably consistent with those
30 ranges, standards, purposes, and recommendations: PROVIDED, That the
31 board and its successors shall give adequate written reasons whenever
32 a minimum term or parole release decision is made which is outside the
33 sentencing ranges (~~(adopted pursuant to RCW 9.94A.850)~~) under chapter
34 9.94A RCW of the sentencing reform act. In making such decisions, the
35 board and its successors shall consider the different charging and
36 disposition practices under the indeterminate sentencing system.

1 (3) Notwithstanding the provisions of subsection (2) of this
2 section, the indeterminate sentence review board shall give public
3 safety considerations the highest priority when making all
4 discretionary decisions on the remaining indeterminate population
5 regarding the ability for parole, parole release, and conditions of
6 parole.

7 **PART V**
8 **Miscellaneous**

9 NEW SECTION. **Sec. 42.** (1) Except as otherwise provided in this
10 section, the provisions of this act apply to persons convicted before,
11 on, or after the effective date of this section.

12 (2) By January 1, 2012, consistent with RCW 9.94A.171, 9.94A.501,
13 and section 3 of this act, the department of corrections shall
14 recalculate the term of community custody for offenders currently in
15 confinement or serving a term of community custody. The department of
16 corrections shall reset the date that community custody will end for
17 those offenders. The recalculation shall not extend a term of
18 community custody beyond that to which an offender is currently
19 subject.

20 (3) By January 1, 2012, consistent with the provisions of RCW
21 9.94A.650, the department of corrections shall recalculate the term of
22 community custody for each offender sentenced to a first-time offender
23 waiver under RCW 9.94A.650 and currently in confinement or serving a
24 term of community custody. The department of corrections shall reset
25 the date that community custody will end for those offenders. The
26 recalculation shall not extend a term of community custody beyond that
27 to which an offender is currently subject.

28 NEW SECTION. **Sec. 43.** 2011 c 96 s 11 is repealed.

29 NEW SECTION. **Sec. 44.** Sections 1 through 9 and 42 of this act are
30 necessary for the immediate preservation of the public peace, health,
31 or safety, or support of the state government and its existing public
32 institutions, and take effect immediately.

1 NEW SECTION. **Sec. 45.** Section 43 of this act is necessary for the
2 immediate preservation of the public peace, health, or safety, or
3 support of the state government and its existing public institutions,
4 and takes effect July 1, 2011.

--- END ---