

2SSB 5064 - H COMM AMD  
By Committee on Public Safety

ADOPTED 03/07/2014

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

3 "Sec. 1. RCW 9.94A.510 and 2002 c 290 s 10 are each amended to  
4 read as follows:  
5

6 TABLE 1  
7 Sentencing Grid

SERIOUSNESS LEVEL	OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
<u>XVI Life sentence without parole/death penalty for offenders at or over the age of eighteen.</u>										
<u>For offenders under the age of eighteen, a term of twenty-five years to life.</u>										
XV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
	320	333	347	361	374	388	416	450	493	548
XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	220	234	244	254	265	275	295	316	357	397
XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	164	178	192	205	219	233	260	288	342	397
XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
	93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
	123	136	147	160	171	184	216	236	277	318
XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
	78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
	102	114	125	136	147	158	194	211	245	280
X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
	51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
	68	75	82	89	96	102	130	144	171	198
IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m

	31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
	41	48	54	61	68	75	102	116	144	171
VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
	21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
	27	34	41	48	54	61	89	102	116	144
VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
	15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
	20	27	34	41	48	54	75	89	102	116
VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
	12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
	14	20	27	34	41	48	61	75	89	102
V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
	6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
	12	14	17	20	29	43	54	68	82	96
IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
	3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
	9	12	14	17	20	29	43	57	70	84
III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
	1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
	3	8	12	12	16	22	29	43	57	68
II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
	Days	6	9	12	14	18	22	29	43	57
I			3m	4m	5m	8m	13m	16m	20m	2y2m
	0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
	Days	Days	5	6	8	12	14	18	22	29

27 Numbers in the first horizontal row of each seriousness category  
28 represent sentencing midpoints in years(y) and months(m). Numbers in  
29 the second and third rows represent standard sentence ranges in months,  
30 or in days if so designated. 12+ equals one year and one day.

31 **Sec. 2.** RCW 9.94A.540 and 2005 c 437 s 2 are each amended to read  
32 as follows:

33 (1) Except to the extent provided in subsection (3) of this  
34 section, the following minimum terms of total confinement are mandatory  
35 and shall not be varied or modified under RCW 9.94A.535:

36 (a) An offender convicted of the crime of murder in the first  
37 degree shall be sentenced to a term of total confinement not less than  
38 twenty years.

39 (b) An offender convicted of the crime of assault in the first  
40 degree or assault of a child in the first degree where the offender

1 used force or means likely to result in death or intended to kill the  
2 victim shall be sentenced to a term of total confinement not less than  
3 five years.

4 (c) An offender convicted of the crime of rape in the first degree  
5 shall be sentenced to a term of total confinement not less than five  
6 years.

7 (d) An offender convicted of the crime of sexually violent predator  
8 escape shall be sentenced to a minimum term of total confinement not  
9 less than sixty months.

10 (e) An offender convicted of the crime of aggravated first degree  
11 murder for a murder that was committed prior to the offender's  
12 eighteenth birthday shall be sentenced to a term of total confinement  
13 not less than twenty-five years.

14 (2) During such minimum terms of total confinement, no offender  
15 subject to the provisions of this section is eligible for community  
16 custody, earned release time, furlough, home detention, partial  
17 confinement, work crew, work release, or any other form of early  
18 release authorized under RCW 9.94A.728, or any other form of authorized  
19 leave of absence from the correctional facility while not in the direct  
20 custody of a corrections officer. The provisions of this subsection  
21 shall not apply: (a) In the case of an offender in need of emergency  
22 medical treatment; (b) for the purpose of commitment to an inpatient  
23 treatment facility in the case of an offender convicted of the crime of  
24 rape in the first degree; or (c) for an extraordinary medical placement  
25 when authorized under RCW 9.94A.728(~~(+4)~~) (3).

26 (3)(a) Subsection (1)(a) through (d) of this section shall not be  
27 applied in sentencing of juveniles tried as adults pursuant to RCW  
28 13.04.030(1)(e)(i).

29 (b) This subsection (3) applies only to crimes committed on or  
30 after July 24, 2005.

31 **Sec. 3.** RCW 9.94A.6332 and 2010 c 224 s 11 are each amended to  
32 read as follows:

33 The procedure for imposing sanctions for violations of sentence  
34 conditions or requirements is as follows:

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

1 (2) If the offender was sentenced under the special sex offender  
2 sentencing alternative, any sanctions shall be imposed by the  
3 department or the court pursuant to RCW 9.94A.670.

4 (3) If the offender was sentenced under the parenting sentencing  
5 alternative, any sanctions shall be imposed by the department or by the  
6 court pursuant to RCW 9.94A.655.

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

9 (5) If the offender was released pursuant to section 10 of this  
10 act, any sanctions shall be imposed by the board pursuant to RCW  
11 9.95.435.

12 (6) If the offender was sentenced pursuant to RCW 10.95.030(3) or  
13 section 11 of this act, any sanctions shall be imposed by the board  
14 pursuant to RCW 9.95.435.

15 (7) In any other case, if the offender is being supervised by the  
16 department, any sanctions shall be imposed by the department pursuant  
17 to RCW 9.94A.737. If a probationer is being supervised by the  
18 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon  
19 receipt of a violation hearing report from the department, the court  
20 retains any authority that those statutes provide to respond to a  
21 probationer's violation of conditions.

22 ~~((6))~~ (8) If the offender is not being supervised by the  
23 department, any sanctions shall be imposed by the court pursuant to RCW  
24 9.94A.6333.

25 **Sec. 4.** RCW 9.94A.729 and 2013 2nd sp.s. c 14 s 2 and 2013 c 266  
26 s 1 are each reenacted and amended to read as follows:

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

36 (b) Any program established pursuant to this section shall allow an  
37 offender to earn early release credits for presentence incarceration.

1 If an offender is transferred from a county jail to the department, the  
2 administrator of a county jail facility shall certify to the department  
3 the amount of time spent in custody at the facility and the number of  
4 days of early release credits lost or not earned. The department may  
5 approve a jail certification from a correctional agency that calculates  
6 early release time based on the actual amount of confinement time  
7 served by the offender before sentencing when an erroneous calculation  
8 of confinement time served by the offender before sentencing appears on  
9 the judgment and sentence. The department must adjust an offender's  
10 rate of early release listed on the jail certification to be consistent  
11 with the rate applicable to offenders in the department's facilities.  
12 However, the department is not authorized to adjust the number of  
13 presentence early release days that the jail has certified as lost or  
14 not earned.

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

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

21 (a) In the case of an offender sentenced pursuant to RCW  
22 10.95.030(3) or section 11 of this act, the aggregate earned release  
23 time may not exceed ten percent of the sentence.

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

28 ((+b+)) (c) In the case of an offender convicted of a serious  
29 violent offense, or a sex offense that is a class A felony, committed  
30 on or after July 1, 2003, the aggregate earned release time may not  
31 exceed ten percent of the sentence.

32 ((+e+)) (d) An offender is qualified to earn up to fifty percent of  
33 aggregate earned release time if he or she:

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

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

37 (A) A sex offense;

38 (B) A violent offense;

1 (C) A crime against persons as defined in RCW 9.94A.411;  
2 (D) A felony that is domestic violence as defined in RCW 10.99.020;  
3 (E) A violation of RCW 9A.52.025 (residential burglary);  
4 (F) A violation of, or an attempt, solicitation, or conspiracy to  
5 violate, RCW 69.50.401 by manufacture or delivery or possession with  
6 intent to deliver methamphetamine; or  
7 (G) A violation of, or an attempt, solicitation, or conspiracy to  
8 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);  
9 (iii) Has no prior conviction for the offenses listed in ~~((e))~~  
10 (d)(ii) of this subsection;  
11 (iv) Participates in programming or activities as directed by the  
12 offender's individual reentry plan as provided under RCW 72.09.270 to  
13 the extent that such programming or activities are made available by  
14 the department; and  
15 (v) Has not committed a new felony after July 22, 2007, while under  
16 community custody.  
17 ~~((d))~~ (e) In no other case shall the aggregate earned release  
18 time exceed one-third of the total sentence.  
19 (4) The department shall perform a risk assessment of each offender  
20 who may qualify for earned early release under subsection (3)~~((e))~~  
21 (d) of this section utilizing the risk assessment tool recommended by  
22 the Washington state institute for public policy. Subsection  
23 (3)~~((e))~~ (d) of this section does not apply to offenders convicted  
24 after July 1, 2010.  
25 (5)(a) A person who is eligible for earned early release as  
26 provided in this section and who will be supervised by the department  
27 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to  
28 community custody in lieu of earned release time;  
29 (b) The department shall, as a part of its program for release to  
30 the community in lieu of earned release, require the offender to  
31 propose a release plan that includes an approved residence and living  
32 arrangement. All offenders with community custody terms eligible for  
33 release to community custody in lieu of earned release shall provide an  
34 approved residence and living arrangement prior to release to the  
35 community;  
36 (c) The department may deny transfer to community custody in lieu  
37 of earned release time if the department determines an offender's  
38 release plan, including proposed residence location and living

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

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

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

14 (ii) Provide rental vouchers to the offender for a period not to  
15 exceed three months if rental assistance will result in an approved  
16 release plan.

17 A voucher must be provided in conjunction with additional  
18 transition support programming or services that enable an offender to  
19 participate in services including, but not limited to, substance abuse  
20 treatment, mental health treatment, sex offender treatment, educational  
21 programming, or employment programming;

22 (e) The department shall maintain a list of housing providers that  
23 meets the requirements of RCW 72.09.285. If more than two voucher  
24 recipients will be residing per dwelling unit, as defined in RCW  
25 59.18.030, rental vouchers for those recipients may only be paid to a  
26 housing provider on the department's list;

27 (f) For each offender who is the recipient of a rental voucher, the  
28 department shall gather data as recommended by the Washington state  
29 institute for public policy in order to best demonstrate whether rental  
30 vouchers are effective in reducing recidivism.

31 (6) An offender serving a term of confinement imposed under RCW  
32 9.94A.670(5)(a) is not eligible for earned release credits under this  
33 section.

34 **Sec. 5.** RCW 9.95.425 and 2009 c 28 s 30 are each amended to read  
35 as follows:

36 (1) Whenever the board or a community corrections officer of this  
37 state has reason to believe an offender released under RCW 9.95.420,

1 10.95.030(3), or section 10 of this act has violated a condition of  
2 community custody or the laws of this state, any community corrections  
3 officer may arrest or cause the arrest and detention of the offender  
4 pending a determination by the board whether sanctions should be  
5 imposed or the offender's community custody should be revoked. The  
6 community corrections officer shall report all facts and circumstances  
7 surrounding the alleged violation to the board, with recommendations.

8 (2) If the board or the department causes the arrest or detention  
9 of an offender for a violation that does not amount to a new crime and  
10 the offender is arrested or detained by local law enforcement or in a  
11 local jail, the board or department, whichever caused the arrest or  
12 detention, shall be financially responsible for local costs. Jail bed  
13 costs shall be allocated at the rate established under RCW 9.94A.740.

14 **Sec. 6.** RCW 9.95.430 and 2001 2nd sp.s. c 12 s 308 are each  
15 amended to read as follows:

16 Any offender released under RCW 9.95.420, 10.95.030(3), or section  
17 10 of this act who is arrested and detained in physical custody by the  
18 authority of a community corrections officer, or upon the written order  
19 of the board, shall not be released from custody on bail or personal  
20 recognizance, except upon approval of the board and the issuance by the  
21 board of an order reinstating the offender's release on the same or  
22 modified conditions. All chiefs of police, marshals of cities and  
23 towns, sheriffs of counties, and all police, prison, and peace officers  
24 and constables shall execute any such order in the same manner as any  
25 ordinary criminal process.

26 **Sec. 7.** RCW 9.95.435 and 2007 c 363 s 3 are each amended to read  
27 as follows:

28 (1) If an offender released by the board under RCW 9.95.420,  
29 10.95.030(3), or section 10 of this act violates any condition or  
30 requirement of community custody, the board may transfer the offender  
31 to a more restrictive confinement status to serve up to the remaining  
32 portion of the sentence, less credit for any period actually spent in  
33 community custody or in detention awaiting disposition of an alleged  
34 violation and subject to the limitations of subsection (2) of this  
35 section.



1 (2) Following the hearing specified in subsection (3) of this  
2 section, the board may impose sanctions such as work release, home  
3 detention with electronic monitoring, work crew, community restitution,  
4 inpatient treatment, daily reporting, curfew, educational or counseling  
5 sessions, supervision enhanced through electronic monitoring, or any  
6 other sanctions available in the community, or may suspend the release  
7 and sanction up to sixty days' confinement in a local correctional  
8 facility for each violation, or revoke the release to community custody  
9 whenever an offender released by the board under RCW 9.95.420,  
10 10.95.030(3), or section 10 of this act violates any condition or  
11 requirement of community custody.

12 (3) If an offender released by the board under RCW 9.95.420,  
13 10.95.030(3), or section 10 of this act is accused of violating any  
14 condition or requirement of community custody, he or she is entitled to  
15 a hearing before the board or a designee of the board prior to the  
16 imposition of sanctions. The hearing shall be considered as offender  
17 disciplinary proceedings and shall not be subject to chapter 34.05 RCW.  
18 The board shall develop hearing procedures and a structure of graduated  
19 sanctions consistent with the hearing procedures and graduated  
20 sanctions developed pursuant to RCW 9.94A.737. The board may suspend  
21 the offender's release to community custody and confine the offender in  
22 a correctional institution owned, operated by, or operated under  
23 contract with the state prior to the hearing unless the offender has  
24 been arrested and confined for a new criminal offense.

25 (4) The hearing procedures required under subsection (3) of this  
26 section shall be developed by rule and include the following:

27 (a) Hearings shall be conducted by members or designees of the  
28 board unless the board enters into an agreement with the department to  
29 use the hearing officers established under RCW 9.94A.737;

30 (b) The board shall provide the offender with findings and  
31 conclusions which include the evidence relied upon, and the reasons the  
32 particular sanction was imposed. The board shall notify the offender  
33 of the right to appeal the sanction and the right to file a personal  
34 restraint petition under court rules after the final decision of the  
35 board;

36 (c) The hearing shall be held unless waived by the offender, and  
37 shall be electronically recorded. For offenders not in total  
38 confinement, the hearing shall be held within thirty days of service of

1 notice of the violation, but not less than twenty-four hours after  
2 notice of the violation. For offenders in total confinement, the  
3 hearing shall be held within thirty days of service of notice of the  
4 violation, but not less than twenty-four hours after notice of the  
5 violation. The board or its designee shall make a determination  
6 whether probable cause exists to believe the violation or violations  
7 occurred. The determination shall be made within forty-eight hours of  
8 receipt of the allegation;

9 (d) The offender shall have the right to: (i) Be present at the  
10 hearing; (ii) have the assistance of a person qualified to assist the  
11 offender in the hearing, appointed by the presiding hearing officer if  
12 the offender has a language or communications barrier; (iii) testify or  
13 remain silent; (iv) call witnesses and present documentary evidence;  
14 (v) question witnesses who appear and testify; and (vi) be represented  
15 by counsel if revocation of the release to community custody upon a  
16 finding of violation is a probable sanction for the violation. The  
17 board may not revoke the release to community custody of any offender  
18 who was not represented by counsel at the hearing, unless the offender  
19 has waived the right to counsel; and

20 (e) The sanction shall take effect if affirmed by the presiding  
21 hearing officer.

22 (5) Within seven days after the presiding hearing officer's  
23 decision, the offender may appeal the decision to the full board or to  
24 a panel of three reviewing examiners designated by the chair of the  
25 board or by the chair's designee. The sanction shall be reversed or  
26 modified if a majority of the panel finds that the sanction was not  
27 reasonably related to any of the following: (a) The crime of  
28 conviction; (b) the violation committed; (c) the offender's risk of  
29 reoffending; or (d) the safety of the community.

30 (6) For purposes of this section, no finding of a violation of  
31 conditions may be based on unconfirmed or unconfirmable allegations.

32 **Sec. 8.** RCW 9.95.440 and 2008 c 231 s 45 are each amended to read  
33 as follows:

34 In the event the board suspends the release status of an offender  
35 released under RCW 9.95.420, 10.95.030(3), or section 10 of this act by  
36 reason of an alleged violation of a condition of release, or pending  
37 disposition of a new criminal charge, the board may nullify the

1 suspension order and reinstate release under previous conditions or any  
2 new conditions the board determines advisable under RCW 9.94A.704.  
3 Before the board may nullify a suspension order and reinstate release,  
4 it shall determine that the best interests of society and the offender  
5 shall be served by such reinstatement rather than return to  
6 confinement.

7 **Sec. 9.** RCW 10.95.030 and 2010 c 94 s 3 are each amended to read  
8 as follows:

9 (1) Except as provided in subsections (2) and (3) of this section,  
10 any person convicted of the crime of aggravated first degree murder  
11 shall be sentenced to life imprisonment without possibility of release  
12 or parole. A person sentenced to life imprisonment under this section  
13 shall not have that sentence suspended, deferred, or commuted by any  
14 judicial officer and the indeterminate sentence review board or its  
15 successor may not parole such prisoner nor reduce the period of  
16 confinement in any manner whatsoever including but not limited to any  
17 sort of good-time calculation. The department of social and health  
18 services or its successor or any executive official may not permit such  
19 prisoner to participate in any sort of release or furlough program.

20 (2) If, pursuant to a special sentencing proceeding held under RCW  
21 10.95.050, the trier of fact finds that there are not sufficient  
22 mitigating circumstances to merit leniency, the sentence shall be  
23 death. In no case, however, shall a person be sentenced to death if  
24 the person had an intellectual disability at the time the crime was  
25 committed, under the definition of intellectual disability set forth in  
26 (a) of this subsection. A diagnosis of intellectual disability shall  
27 be documented by a licensed psychiatrist or licensed psychologist  
28 designated by the court, who is an expert in the diagnosis and  
29 evaluation of intellectual disabilities. The defense must establish an  
30 intellectual disability by a preponderance of the evidence and the  
31 court must make a finding as to the existence of an intellectual  
32 disability.

33 (a) "Intellectual disability" means the individual has: (i)  
34 Significantly subaverage general intellectual functioning; (ii)  
35 existing concurrently with deficits in adaptive behavior; and (iii)  
36 both significantly subaverage general intellectual functioning and

1 deficits in adaptive behavior were manifested during the developmental  
2 period.

3 (b) "General intellectual functioning" means the results obtained  
4 by assessment with one or more of the individually administered general  
5 intelligence tests developed for the purpose of assessing intellectual  
6 functioning.

7 (c) "Significantly subaverage general intellectual functioning"  
8 means intelligence quotient seventy or below.

9 (d) "Adaptive behavior" means the effectiveness or degree with  
10 which individuals meet the standards of personal independence and  
11 social responsibility expected for his or her age.

12 (e) "Developmental period" means the period of time between  
13 conception and the eighteenth birthday.

14 (3)(a)(i) Any person convicted of the crime of aggravated first  
15 degree murder for an offense committed prior to the person's sixteenth  
16 birthday shall be sentenced to a maximum term of life imprisonment and  
17 a minimum term of total confinement of twenty-five years.

18 (ii) Any person convicted of the crime of aggravated first degree  
19 murder for an offense committed when the person is at least sixteen  
20 years old but less than eighteen years old shall be sentenced to a  
21 maximum term of life imprisonment and a minimum term of total  
22 confinement of no less than twenty-five years. A minimum term of life  
23 may be imposed, in which case the person will be ineligible for parole  
24 or early release.

25 (b) In setting a minimum term, the court must take into account  
26 mitigating factors that account for the diminished culpability of youth  
27 as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but  
28 not limited to, the age of the individual, the youth's childhood and  
29 life experience, the degree of responsibility the youth was capable of  
30 exercising, and the youth's chances of becoming rehabilitated.

31 (c) A person sentenced under this subsection shall serve the  
32 sentence in a facility or institution operated, or utilized under  
33 contract, by the state. During the minimum term of total confinement,  
34 the person shall not be eligible for community custody, earned release  
35 time, furlough, home detention, partial confinement, work crew, work  
36 release, or any other form of early release authorized under RCW  
37 9.94A.728, or any other form of authorized leave or absence from the  
38 correctional facility while not in the direct custody of a corrections

1 officer. The provisions of this subsection shall not apply: (i) In  
2 the case of an offender in need of emergency medical treatment; or (ii)  
3 for an extraordinary medical placement when authorized under RCW  
4 9.94A.728(3).

5 (d) Any person sentenced pursuant to this subsection shall be  
6 subject to community custody under the supervision of the department of  
7 corrections and the authority of the indeterminate sentence review  
8 board. As part of any sentence under this subsection, the court shall  
9 require the person to comply with any conditions imposed by the board.

10 (e) No later than five years prior to the expiration of the  
11 person's minimum term, the department of corrections shall conduct an  
12 assessment of the offender and identify programming and services that  
13 would be appropriate to prepare the offender for return to the  
14 community. To the extent possible, the department shall make  
15 programming available as identified by the assessment.

16 (f) No later than one hundred eighty days prior to the expiration  
17 of the person's minimum term, the department of corrections shall  
18 conduct, and the offender shall participate in, an examination of the  
19 person, incorporating methodologies that are recognized by experts in  
20 the prediction of dangerousness, and including a prediction of the  
21 probability that the person will engage in future criminal behavior if  
22 released on conditions to be set by the board. The board may consider  
23 a person's failure to participate in an evaluation under this  
24 subsection in determining whether to release the person. The board  
25 shall order the person released, under such affirmative and other  
26 conditions as the board determines appropriate, unless the board  
27 determines by a preponderance of the evidence that, despite such  
28 conditions, it is more likely than not that the person will commit new  
29 criminal law violations if released. If the board does not order the  
30 person released, the board shall set a new minimum term not to exceed  
31 five additional years. The board shall give public safety  
32 considerations the highest priority when making all discretionary  
33 decisions regarding the ability for release and conditions of release.

34 (g) In a hearing conducted under (f) of this subsection, the board  
35 shall provide opportunities for victims and survivors of victims of any  
36 crimes for which the offender has been convicted to present statements  
37 as set forth in RCW 7.69.032. The procedures for victim and survivor  
38 of victim input shall be developed by rule. To facilitate victim and

1 survivor of victim involvement, county prosecutor's offices shall  
2 ensure that any victim impact statements and known contact information  
3 for victims of record and survivors of victims are forwarded as part of  
4 the judgment and sentence.

5 (h) An offender released by the board is subject to the supervision  
6 of the department of corrections for a period of time to be determined  
7 by the board. The department shall monitor the offender's compliance  
8 with conditions of community custody imposed by the court, department,  
9 or board, and promptly report any violations to the board. Any  
10 violation of conditions of community custody established or modified by  
11 the board are subject to the provisions of RCW 9.95.425 through  
12 9.95.440.

13 NEW SECTION. Sec. 10. A new section is added to chapter 9.94A RCW  
14 to read as follows:

15 (1) Notwithstanding any other provision of this chapter, any person  
16 convicted of one or more crimes committed prior to the person's  
17 eighteenth birthday may petition the indeterminate sentence review  
18 board for early release after serving no less than twenty years of  
19 total confinement, provided the person has not been convicted for any  
20 crime committed subsequent to the person's eighteenth birthday, the  
21 person has not committed a major violation in the twelve months prior  
22 to filing the petition for early release, and the current sentence was  
23 not imposed under RCW 10.95.030 or 9.94A.507.

24 (2) When an offender who will be eligible to petition under this  
25 section has served fifteen years, the department shall conduct an  
26 assessment of the offender and identify programming and services that  
27 would be appropriate to prepare the offender for return to the  
28 community. To the extent possible, the department shall make  
29 programming available as identified by the assessment.

30 (3) No later than one hundred eighty days from receipt of the  
31 petition for early release, the department shall conduct, and the  
32 offender shall participate in, an examination of the person,  
33 incorporating methodologies that are recognized by experts in the  
34 prediction of dangerousness, and including a prediction of the  
35 probability that the person will engage in future criminal behavior if  
36 released on conditions to be set by the board. The board may consider  
37 a person's failure to participate in an evaluation under this

1 subsection in determining whether to release the person. The board  
2 shall order the person released under such affirmative and other  
3 conditions as the board determines appropriate, unless the board  
4 determines by a preponderance of the evidence that, despite such  
5 conditions, it is more likely than not that the person will commit new  
6 criminal law violations if released. The board shall give public  
7 safety considerations the highest priority when making all  
8 discretionary decisions regarding the ability for release and  
9 conditions of release.

10 (4) In a hearing conducted under subsection (3) of this section,  
11 the board shall provide opportunities for victims and survivors of  
12 victims of any crimes for which the offender has been convicted to  
13 present statements as set forth in RCW 7.69.032. The procedures for  
14 victim and survivor of victim input shall be developed by rule. To  
15 facilitate victim and survivor of victim involvement, county  
16 prosecutor's offices shall ensure that any victim impact statements and  
17 known contact information for victims of record and survivors of  
18 victims are forwarded as part of the judgment and sentence.

19 (5) An offender released by the board is subject to the supervision  
20 of the department for a period of time to be determined by the board.  
21 The department shall monitor the offender's compliance with conditions  
22 of community custody imposed by the court, department, or board, and  
23 promptly report any violations to the board. Any violation of  
24 conditions of community custody established or modified by the board  
25 are subject to the provisions of RCW 9.95.425 through 9.95.440.

26 (6) An offender whose petition for release is denied may file a new  
27 petition for release five years from the date of denial or at an  
28 earlier date as may be set by the board.

29 NEW SECTION. **Sec. 11.** A new section is added to chapter 10.95 RCW  
30 to read as follows:

31 (1) A person, who was sentenced prior to June 1, 2014, to a term of  
32 life without the possibility of parole for an offense committed prior  
33 to their eighteenth birthday, shall be returned to the sentencing court  
34 or the sentencing court's successor for sentencing consistent with RCW  
35 10.95.030. Release and supervision of a person who receives a minimum  
36 term of less than life will be governed by RCW 10.95.030.

1 (2) The court shall provide an opportunity for victims and  
2 survivors of victims of any crimes for which the offender has been  
3 convicted to present a statement personally or by representation.

4 (3) The court's order setting a minimum term is subject to review  
5 to the same extent as a minimum term decision by the parole board  
6 before July 1, 1986.

7 (4) A resentencing under this section shall not reopen the  
8 defendant's conviction to challenges that would otherwise be barred by  
9 RCW 10.73.090, 10.73.100, 10.73.140, or other procedural barriers.

10 NEW SECTION. **Sec. 12.** A new section is added to chapter 10.95 RCW  
11 to read as follows:

12 Sections 1 through 9 of this act apply to all sentencing hearings  
13 conducted on or after June 1, 2014, regardless of the date of an  
14 offender's underlying offense.

15 NEW SECTION. **Sec. 13.** (1) The legislature shall convene a task  
16 force to examine juvenile sentencing reform, with the following voting  
17 members:

18 (a) The president of the senate shall appoint one member from each  
19 of the two largest caucuses of the senate;

20 (b) The speaker of the house of representatives shall appoint one  
21 member from each of the two largest caucuses in the house of  
22 representatives;

23 (c) A representative from the governor's office;

24 (d) The assistant secretary of the department of social and health  
25 services overseeing the juvenile justice and rehabilitation  
26 administration or his or her designee;

27 (e) The secretary of the department of corrections or his or her  
28 designee;

29 (f) A superior court judge from the superior court judges  
30 association family and juvenile law subcommittee, who is familiar with  
31 cases involving the transfer of youth to the adult criminal justice  
32 system and sentencing of youth in the adult criminal justice system;

33 (g) A representative of the Washington association of prosecuting  
34 attorneys;

35 (h) A representative of the Washington association of criminal  
36 defense lawyers or the Washington defender association;



1 (i) A representative from the Washington coalition of crime victim  
2 advocates;

3 (j) A representative from the juvenile court administrator's  
4 association;

5 (k) A representative from the Washington association of sheriffs  
6 and police chiefs;

7 (l) A representative from law enforcement who works with juveniles;  
8 and

9 (m) A representative from the sentencing guidelines commission.

10 (2) The task force shall choose two cochairs from among its  
11 legislative members.

12 (3) The task force shall undertake a thorough review of juvenile  
13 sentencing as it relates to the intersection of the adult and juvenile  
14 justice systems and make recommendations for reform that promote  
15 improved outcomes for youth, public safety, and taxpayer resources.  
16 The review shall include, but is not limited to:

17 (a) The process and circumstances for transferring a juvenile to  
18 adult jurisdiction, including discretionary and mandatory decline  
19 hearings and automatic transfer to adult jurisdiction;

20 (b) Sentencing standards, term lengths, sentencing enhancements,  
21 and stacking provisions that apply once a juvenile is transferred to  
22 adult jurisdiction; and

23 (c) The appropriate custody, treatment, and resources for declined  
24 youth who will complete their term of confinement prior to reaching age  
25 twenty-one.

26 (4) Staff support for the task force must be provided by the senate  
27 committee services and the house of representatives office of program  
28 research.

29 (5) Legislative members of the task force may be reimbursed for  
30 travel expenses in accordance with RCW 44.04.120. Nonlegislative  
31 members, except those representing an employer or organization, are  
32 entitled to be reimbursed for travel expenses as provided in RCW  
33 43.03.050 and 43.03.060.

34 (6) The expenses of the task force shall be paid jointly by the  
35 senate and the house of representatives. Task force expenditures are  
36 subject to approval by the senate facilities and operations committee  
37 and the house executive rules committee, or their successor committees.

1 (7) The task force shall report its findings and recommendations to  
2 the governor and the appropriate committees of the legislature by  
3 December 1, 2014.

4 NEW SECTION. **Sec. 14.** Section 13 of this act expires June 1,  
5 2015.

6 NEW SECTION. **Sec. 15.** If any provision of this act or its  
7 application to any person or circumstance is held invalid, the  
8 remainder of the act or the application of the provision to other  
9 persons or circumstances is not affected.

10 NEW SECTION. **Sec. 16.** This act is necessary for the immediate  
11 preservation of the public peace, health, or safety, or support of the  
12 state government and its existing public institutions, and takes effect  
13 June 1, 2014."

14 Correct the title.

EFFECT: (1) Reduces the period of supervision for an offender  
released early under the bill to a period as determined by the ISRB;  
(2) Removes any bars to a collateral attack of a resentencing under  
this act, which would not otherwise be barred by law;  
(3) Clarifies that the act does not open the initial conviction up  
to new collateral attack; and  
(4) Creates a task force to review juvenile sentencing as it  
relates to the intersection of the adult and juvenile justice systems  
and make recommendations for reform that promote improved outcomes for  
youth, public safety, and taxpayer resources.

--- END ---