
HOUSE BILL 1842

State of Washington

63rd Legislature

2013 Regular Session

By Representative Goodman

Read first time 02/12/13. Referred to Committee on Public Safety.

1 AN ACT Relating to partial and total confinement options for
2 offenders; amending RCW 9.94A.030, 9.94A.190, 9.94A.704, 9.94A.728,
3 9.94A.731, and 72.65.010; adding new sections to chapter 72.65 RCW; and
4 repealing RCW 9.94A.734.

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

6 **Sec. 1.** RCW 9.94A.030 and 2012 c 143 s 1 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

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

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

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

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

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

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

14 (7) "Community restitution" means compulsory service, without
15 compensation, performed for the benefit of the community by the
16 offender.

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

18 (9) "Conviction" means an adjudication of guilt pursuant to Title
19 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
20 acceptance of a plea of guilty.

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

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

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

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

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

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

16 (13) "Criminal street gang associate or member" means any person
17 who actively participates in any criminal street gang and who
18 intentionally promotes, furthers, or assists in any criminal act by the
19 criminal street gang.

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

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

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

29 (c) To exact revenge or retribution for the gang or any member of
30 the gang;

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

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

36 (f) To provide the gang with any advantage in, or any control or
37 dominance over any criminal market sector, including, but not limited
38 to, manufacturing, delivering, or selling any controlled substance

1 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
2 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
3 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
4 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
5 9.68 RCW).

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

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

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

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

24 (19) "Disposable earnings" means that part of the earnings of an
25 offender remaining after the deduction from those earnings of any
26 amount required by law to be withheld. For the purposes of this
27 definition, "earnings" means compensation paid or payable for personal
28 services, whether denominated as wages, salary, commission, bonuses, or
29 otherwise, and, notwithstanding any other provision of law making the
30 payments exempt from garnishment, attachment, or other process to
31 satisfy a court-ordered legal financial obligation, specifically
32 includes periodic payments pursuant to pension or retirement programs,
33 or insurance policies of any type, but does not include payments made
34 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
35 or Title 74 RCW.

36 (20) "Domestic violence" has the same meaning as defined in RCW
37 10.99.020 and 26.50.010.

1 (21) "Drug offender sentencing alternative" is a sentencing option
2 available to persons convicted of a felony offense other than a violent
3 offense or a sex offense and who are eligible for the option under RCW
4 9.94A.660.

5 (22) "Drug offense" means:

6 (a) Any felony violation of chapter 69.50 RCW except possession of
7 a controlled substance (RCW 69.50.4013) or forged prescription for a
8 controlled substance (RCW 69.50.403);

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

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

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

17 (24) "Electronic monitoring" means the monitoring of an offender
18 using an electronic offender tracking system including, but not limited
19 to, a system using radio frequency or active or passive global
20 positioning system technology.

21 (25) "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+)) (26) "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+))~~ (27) "Fine" means a specific sum of money ordered by the
5 sentencing court to be paid by the offender to the court over a
6 specific period of time.

7 ~~((+27+))~~ (28) "First-time offender" means any person who has no
8 prior convictions for a felony and is eligible for the first-time
9 offender waiver under RCW 9.94A.650.

10 ~~((+28+))~~ (29) "Home detention" means a program of partial
11 confinement available to offenders wherein the offender is subject to
12 electronic monitoring and confined in a private residence (~~(subject to~~
13 ~~electronic surveillance))~~ or other facility utilized under contract by
14 the state.

15 ~~((+29+))~~ (30) "Homelessness" or "homeless" means a condition where
16 an individual lacks a fixed, regular, and adequate nighttime residence
17 and who has a primary nighttime residence that is:

18 (a) A supervised, publicly or privately operated shelter designed
19 to provide temporary living accommodations;

20 (b) A public or private place not designed for, or ordinarily used
21 as, a regular sleeping accommodation for human beings; or

22 (c) A private residence where the individual stays as a transient
23 invitee.

24 ~~((+30+))~~ (31) "Legal financial obligation" means a sum of money
25 that is ordered by a superior court of the state of Washington for
26 legal financial obligations which may include restitution to the
27 victim, statutorily imposed crime victims' compensation fees as
28 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
29 drug funds, court-appointed attorneys' fees, and costs of defense,
30 fines, and any other financial obligation that is assessed to the
31 offender as a result of a felony conviction. Upon conviction for
32 vehicular assault while under the influence of intoxicating liquor or
33 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
34 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
35 legal financial obligations may also include payment to a public agency
36 of the expense of an emergency response to the incident resulting in
37 the conviction, subject to RCW 38.52.430.

1 (~~(31)~~) (32) "Minor child" means a biological or adopted child of
2 the offender who is under age eighteen at the time of the offender's
3 current offense.

4 (~~(32)~~) (33) "Most serious offense" means any of the following
5 felonies or a felony attempt to commit any of the following felonies:

6 (a) Any felony defined under any law as a class A felony or
7 criminal solicitation of or criminal conspiracy to commit a class A
8 felony;

9 (b) Assault in the second degree;

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

11 (d) Child molestation in the second degree;

12 (e) Controlled substance homicide;

13 (f) Extortion in the first degree;

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

15 (h) Indecent liberties;

16 (i) Kidnapping in the second degree;

17 (j) Leading organized crime;

18 (k) Manslaughter in the first degree;

19 (l) Manslaughter in the second degree;

20 (m) Promoting prostitution in the first degree;

21 (n) Rape in the third degree;

22 (o) Robbery in the second degree;

23 (p) Sexual exploitation;

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

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

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

34 (t) Any other felony with a deadly weapon verdict under RCW
35 9.94A.825;

36 (u) Any felony offense in effect at any time prior to December 2,
37 1993, that is comparable to a most serious offense under this

1 subsection, or any federal or out-of-state conviction for an offense
2 that under the laws of this state would be a felony classified as a
3 most serious offense under this subsection;

4 (v)(i) A prior conviction for indecent liberties under RCW
5 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
6 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
7 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
8 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

9 (ii) A prior conviction for indecent liberties under RCW
10 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
11 if: (A) The crime was committed against a child under the age of
12 fourteen; or (B) the relationship between the victim and perpetrator is
13 included in the definition of indecent liberties under RCW
14 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
15 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
16 through July 27, 1997;

17 (w) Any out-of-state conviction for a felony offense with a finding
18 of sexual motivation if the minimum sentence imposed was ten years or
19 more; provided that the out-of-state felony offense must be comparable
20 to a felony offense under this title and Title 9A RCW and the out-of-
21 state definition of sexual motivation must be comparable to the
22 definition of sexual motivation contained in this section.

23 ~~((+33+))~~ (34) "Nonviolent offense" means an offense which is not a
24 violent offense.

25 ~~((+34+))~~ (35) "Offender" means a person who has committed a felony
26 established by state law and is eighteen years of age or older or is
27 less than eighteen years of age but whose case is under superior court
28 jurisdiction under RCW 13.04.030 or has been transferred by the
29 appropriate juvenile court to a criminal court pursuant to RCW
30 13.40.110. In addition, for the purpose of community custody
31 requirements under this chapter, "offender" also means a misdemeanor
32 or gross misdemeanor probationer ordered by a superior court to
33 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
34 supervised by the department pursuant to RCW 9.94A.501 and 9.94A.5011.
35 Throughout this chapter, the terms "offender" and "defendant" are used
36 interchangeably.

37 ~~((+35+))~~ (36) "Partial confinement" means confinement for ~~((no more~~
38 ~~than one year in a facility or institution operated or utilized under~~

1 ~~contract by the state or any other unit of government, or, if)) a~~
2 substantial portion of each day in an approved residence, institution,
3 or facility utilized under contract by the state with the balance of
4 the day spent in the community. Partial confinement may include:

5 (a) Home detention or work crew ((has been)) ordered by the court
6 ((or));

7 (b) Home detention ((has been)) ordered by the department as part
8 of the parenting program(, in an approved residence, for a substantial
9 portion of each day with the balance of the day spent in the community.
10 Partial confinement includes)); and

11 (c) Work release, ((home detention,)) work crew, ((and a)) home
12 detention, or any combination ((of work crew and home detention))
13 thereof, ordered by the department and consistent with the provisions
14 of this chapter and chapter 72.65 RCW.

15 ~~((+36))~~ (37) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
2 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
3 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
4 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
5 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW 9A.56.070);
6 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
7 9A.56.075);
8 (xix) Extortion 1 (RCW 9A.56.120);
9 (xx) Extortion 2 (RCW 9A.56.130);
10 (xxi) Intimidating a Witness (RCW 9A.72.110);
11 (xxii) Tampering with a Witness (RCW 9A.72.120);
12 (xxiii) Reckless Endangerment (RCW 9A.36.050);
13 (xxiv) Coercion (RCW 9A.36.070);
14 (xxv) Harassment (RCW 9A.46.020); or
15 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

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

18 (c) That the most recent committed offense listed in (a) of this
19 subsection occurred within three years of a prior offense listed in (a)
20 of this subsection; and

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

24 (~~(+37)~~) (38) "Persistent offender" is an offender who:

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

27 (ii) Has, before the commission of the offense under (a) of this
28 subsection, been convicted as an offender on at least two separate
29 occasions, whether in this state or elsewhere, of felonies that under
30 the laws of this state would be considered most serious offenses and
31 would be included in the offender score under RCW 9.94A.525; provided
32 that of the two or more previous convictions, at least one conviction
33 must have occurred before the commission of any of the other most
34 serious offenses for which the offender was previously convicted; or

35 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
36 of a child in the first degree, child molestation in the first degree,
37 rape in the second degree, rape of a child in the second degree, or
38 indecent liberties by forcible compulsion; (B) any of the following

1 offenses with a finding of sexual motivation: Murder in the first
2 degree, murder in the second degree, homicide by abuse, kidnapping in
3 the first degree, kidnapping in the second degree, assault in the first
4 degree, assault in the second degree, assault of a child in the first
5 degree, assault of a child in the second degree, or burglary in the
6 first degree; or (C) an attempt to commit any crime listed in this
7 subsection (~~(+37+)~~) (38)(b)(i); and

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

20 (~~(+38+)~~) (39) "Predatory" means: (a) The perpetrator of the crime
21 was a stranger to the victim, as defined in this section; (b) the
22 perpetrator established or promoted a relationship with the victim
23 prior to the offense and the victimization of the victim was a
24 significant reason the perpetrator established or promoted the
25 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
26 volunteer, or other person in authority in any public or private school
27 and the victim was a student of the school under his or her authority
28 or supervision. For purposes of this subsection, "school" does not
29 include home-based instruction as defined in RCW 28A.225.010; (ii) a
30 coach, trainer, volunteer, or other person in authority in any
31 recreational activity and the victim was a participant in the activity
32 under his or her authority or supervision; (iii) a pastor, elder,
33 volunteer, or other person in authority in any church or religious
34 organization, and the victim was a member or participant of the
35 organization under his or her authority; or (iv) a teacher, counselor,
36 volunteer, or other person in authority providing home-based
37 instruction and the victim was a student receiving home-based
38 instruction while under his or her authority or supervision. For

1 purposes of this subsection: (A) "Home-based instruction" has the same
2 meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor,
3 volunteer, or other person in authority" does not include the parent or
4 legal guardian of the victim.

5 ~~((+39+))~~ (40) "Private school" means a school regulated under
6 chapter 28A.195 or 28A.205 RCW.

7 ~~((+40+))~~ (41) "Public school" has the same meaning as in RCW
8 28A.150.010.

9 ~~((+41+))~~ (42) "Repetitive domestic violence offense" means any:

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

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

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

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

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

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

24 ~~((+42+))~~ (43) "Restitution" means a specific sum of money ordered
25 by the sentencing court to be paid by the offender to the court over a
26 specified period of time as payment of damages. The sum may include
27 both public and private costs.

28 ~~((+43+))~~ (44) "Risk assessment" means the application of the risk
29 instrument recommended to the department by the Washington state
30 institute for public policy as having the highest degree of predictive
31 accuracy for assessing an offender's risk of reoffense.

32 ~~((+44+))~~ (45) "Serious traffic offense" means:

33 (a) Nonfelony driving while under the influence of intoxicating
34 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
35 while under the influence of intoxicating liquor or any drug (RCW
36 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
37 attended vehicle (RCW 46.52.020(5)); or

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

4 (~~(45)~~) (46) "Serious violent offense" is a subcategory of violent
5 offense and means:

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

7 (ii) Homicide by abuse;

8 (iii) Murder in the second degree;

9 (iv) Manslaughter in the first degree;

10 (v) Assault in the first degree;

11 (vi) Kidnapping in the first degree;

12 (vii) Rape in the first degree;

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

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

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

19 (~~(46)~~) (47) "Sex offense" means:

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

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

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

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

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

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

33 (c) A felony with a finding of sexual motivation under RCW
34 9.94A.835 or 13.40.135; or

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

1 ~~((47))~~ (48) "Sexual motivation" means that one of the purposes
2 for which the defendant committed the crime was for the purpose of his
3 or her sexual gratification.

4 ~~((48))~~ (49) "Standard sentence range" means the sentencing
5 court's discretionary range in imposing a nonappealable sentence.

6 ~~((49))~~ (50) "Statutory maximum sentence" means the maximum length
7 of time for which an offender may be confined as punishment for a crime
8 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining
9 the crime, or other statute defining the maximum penalty for a crime.

10 ~~((50))~~ (51) "Stranger" means that the victim did not know the
11 offender twenty-four hours before the offense.

12 ~~((51))~~ (52) "Total confinement" means confinement inside the
13 physical boundaries of a facility or institution operated or utilized
14 under contract by the state or any other unit of government for twenty-
15 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

16 ~~((52))~~ (53) "Transition training" means written and verbal
17 instructions and assistance provided by the department to the offender
18 during the two weeks prior to the offender's successful completion of
19 the work ethic camp program. The transition training shall include
20 instructions in the offender's requirements and obligations during the
21 offender's period of community custody.

22 ~~((53))~~ (54) "Victim" means any person who has sustained
23 emotional, psychological, physical, or financial injury to person or
24 property as a direct result of the crime charged.

25 ~~((54))~~ (55) "Violent offense" means:

26 (a) Any of the following felonies:

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

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

31 (iii) Manslaughter in the first degree;

32 (iv) Manslaughter in the second degree;

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

34 (vi) Kidnapping in the second degree;

35 (vii) Arson in the second degree;

36 (viii) Assault in the second degree;

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

38 (x) Extortion in the first degree;

1 (xi) Robbery in the second degree;
2 (xii) Drive-by shooting;
3 (xiii) Vehicular assault, when caused by the operation or driving
4 of a vehicle by a person while under the influence of intoxicating
5 liquor or any drug or by the operation or driving of a vehicle in a
6 reckless manner; and

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

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

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

17 ((+55+)) (56) "Work crew" means a program of partial confinement
18 consisting of civic improvement tasks for the benefit of the community
19 that complies with RCW 9.94A.725.

20 ((+56+)) (57) "Work ethic camp" means an alternative incarceration
21 program as provided in RCW 9.94A.690 designed to reduce recidivism and
22 lower the cost of corrections by requiring offenders to complete a
23 comprehensive array of real-world job and vocational experiences,
24 character-building work ethics training, life management skills
25 development, substance abuse rehabilitation, counseling, literacy
26 training, and basic adult education.

27 ((+57+)) (58) "Work release" means a program of partial confinement
28 available to offenders who are employed or engaged as a student in a
29 regular course of study at school.

30 **Sec. 2.** RCW 9.94A.190 and 2010 c 224 s 10 are each amended to read
31 as follows:

32 (1) A sentence that includes a term or terms of confinement
33 totaling more than one year shall be served in a facility or
34 institution operated, or utilized under contract, by the state, or in
35 home detention pursuant to RCW 9.94A.6551. Except as provided in
36 subsection (3) or ((+5+)) (6) of this section, a sentence of not more
37 than one year of confinement shall be served in a facility operated,

1 licensed, or utilized under contract, by the county, or if home
2 detention or work crew has been ordered by the court, in the residence
3 of either the offender or a member of the offender's immediate family.

4 (2) If a county uses a state partial confinement facility for the
5 partial confinement of a person sentenced to confinement for not more
6 than one year, the county shall reimburse the state for the use of the
7 facility as provided in this subsection. The office of financial
8 management shall set the rate of reimbursement based upon the average
9 per diem cost per offender in the facility. The office of financial
10 management shall determine to what extent, if any, reimbursement shall
11 be reduced or eliminated because of funds provided by the legislature
12 to the department for the purpose of covering the cost of county use of
13 state partial confinement facilities. The office of financial
14 management shall reestablish reimbursement rates each even-numbered
15 year.

16 (3) A person who is sentenced for a felony to a term of not more
17 than one year, and who is committed or returned to incarceration in a
18 state facility on another felony conviction, either under the
19 indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter
20 shall serve all terms of confinement, including a sentence of not more
21 than one year, in a facility or institution operated, or utilized under
22 contract, by the state, consistent with the provisions of RCW
23 9.94A.589.

24 (4) If an offender has less than one hundred twenty days to serve
25 of his or her sentence at the time when the offender would otherwise be
26 transferred to a state correctional facility, the offender shall serve
27 the remainder of his or her sentence in the local correctional
28 facility.

29 (a) The department may make an exception if the offender has a
30 medical condition that would best be served in a state correctional
31 facility.

32 (b) The department shall compensate the local jurisdiction at the
33 office of financial management's adjudicated rate in accordance with
34 RCW 70.48.440 for the time period the offender would have served in a
35 state correctional facility.

36 (5) Notwithstanding any other provision of this section, a sentence
37 imposed pursuant to RCW 9.94A.660 which has a standard sentence range

1 of over one year, regardless of length, shall be served in a facility
2 or institution operated, or utilized under contract, by the state.

3 ~~((+5+))~~ (6) Sentences imposed pursuant to RCW 9.94A.507 shall be
4 served in a facility or institution operated, or utilized under
5 contract, by the state.

6 **Sec. 3.** RCW 9.94A.704 and 2012 1st sp.s. c 6 s 3 are each amended
7 to read as follows:

8 (1) Every person who is sentenced to a period of community custody
9 shall report to and be placed under the supervision of the department,
10 subject to RCW 9.94A.501.

11 (2)(a) The department shall assess the offender's risk of reoffense
12 and may establish and modify additional conditions of community custody
13 based upon the risk to community safety.

14 (b) Within the funds available for community custody, the
15 department shall determine conditions on the basis of risk to community
16 safety, and shall supervise offenders during community custody on the
17 basis of risk to community safety and conditions imposed by the court.
18 The secretary shall adopt rules to implement the provisions of this
19 subsection (2)(b).

20 (3) If the offender is supervised by the department, the department
21 shall at a minimum instruct the offender to:

- 22 (a) Report as directed to a community corrections officer;
- 23 (b) Remain within prescribed geographical boundaries;
- 24 (c) Notify the community corrections officer of any change in the
25 offender's address or employment;
- 26 (d) Pay the supervision fee assessment; and
- 27 (e) Disclose the fact of supervision to any mental health or
28 chemical dependency treatment provider, as required by RCW 9.94A.722.

29 (4) The department may require the offender to participate in
30 rehabilitative programs, or otherwise perform affirmative conduct, and
31 to obey all laws.

32 (5) If the offender was sentenced pursuant to a conviction for a
33 sex offense, the department may impose electronic monitoring. Within
34 the resources made available by the department for this purpose, the
35 department shall carry out any electronic monitoring using the most
36 appropriate technology given the individual circumstances of the
37 offender. ~~((As used in this section, "electronic monitoring" means the~~

1 ~~monitoring of an offender using an electronic offender tracking system~~
2 ~~including, but not limited to, a system using radio frequency or active~~
3 ~~or passive global positioning system technology.))~~

4 (6) The department may not impose conditions that are contrary to
5 those ordered by the court and may not contravene or decrease court-
6 imposed conditions.

7 (7)(a) The department shall notify the offender in writing of any
8 additional conditions or modifications.

9 (b) By the close of the next business day after receiving notice of
10 a condition imposed or modified by the department, an offender may
11 request an administrative review under rules adopted by the department.
12 The condition shall remain in effect unless the reviewing officer finds
13 that it is not reasonably related to the crime of conviction, the
14 offender's risk of reoffending, or the safety of the community.

15 (8) The department shall notify the offender in writing upon
16 community custody intake of the department's violation process.

17 (9) The department may require offenders to pay for special
18 services rendered including electronic monitoring, day reporting, and
19 telephone reporting, dependent on the offender's ability to pay. The
20 department may pay for these services for offenders who are not able to
21 pay.

22 (10)(a) When a sex offender has been sentenced pursuant to RCW
23 9.94A.507, the department shall assess the offender's risk of
24 recidivism and shall recommend to the board any additional or modified
25 conditions based upon the offender's risk to community safety and may
26 recommend affirmative conduct or electronic monitoring consistent with
27 subsections (4) through (6) of this section.

28 (b) The board may impose conditions in addition to court-ordered
29 conditions. The board must consider and may impose department-
30 recommended conditions.

31 (c) By the close of the next business day, after receiving notice
32 of a condition imposed by the board or the department, an offender may
33 request an administrative hearing under rules adopted by the board.
34 The condition shall remain in effect unless the hearing examiner finds
35 that it is not reasonably related to any of the following:

- 36 (i) The crime of conviction;
37 (ii) The offender's risk of reoffending;
38 (iii) The safety of the community.

1 (d) If the department finds that an emergency exists requiring the
2 immediate imposition of additional conditions in order to prevent the
3 offender from committing a crime, the department may impose such
4 conditions. The department may not impose conditions that are contrary
5 to those set by the board or the court and may not contravene or
6 decrease court-imposed or board-imposed conditions. Conditions imposed
7 under this subsection shall take effect immediately after notice to the
8 offender by personal service, but shall not remain in effect longer
9 than seven working days unless approved by the board.

10 (11) In setting, modifying, and enforcing conditions of community
11 custody, the department shall be deemed to be performing a
12 quasi-judicial function.

13 **Sec. 4.** RCW 9.94A.728 and 2010 c 224 s 6 are each amended to read
14 as follows:

15 No person serving a sentence imposed pursuant to this chapter and
16 committed to the custody of the department shall leave the confines of
17 the correctional facility or be released prior to the expiration of the
18 sentence except as follows:

19 (1) An offender may earn early release time as authorized by RCW
20 9.94A.729;

21 (2) An offender may leave a correctional facility pursuant to an
22 authorized furlough or leave of absence. In addition, offenders may
23 leave a correctional facility when in the custody of a corrections
24 officer or officers;

25 (3)(a) The secretary may authorize an extraordinary medical
26 placement for an offender when all of the following conditions exist:

27 (i) The offender has a medical condition that is serious and is
28 expected to require costly care or treatment;

29 (ii) The offender poses a low risk to the community because he or
30 she is currently physically incapacitated due to age or the medical
31 condition or is expected to be so at the time of release; and

32 (iii) It is expected that granting the extraordinary medical
33 placement will result in a cost savings to the state.

34 (b) An offender sentenced to death or to life imprisonment without
35 the possibility of release or parole is not eligible for an
36 extraordinary medical placement.

1 (c) The secretary shall require electronic monitoring for all
2 offenders in extraordinary medical placement unless the electronic
3 monitoring equipment interferes with the function of the offender's
4 medical equipment or results in the loss of funding for the offender's
5 medical care, in which case, an alternative type of monitoring shall be
6 utilized. The secretary shall specify who shall provide the monitoring
7 services and the terms under which the monitoring shall be performed.

8 (d) The secretary may revoke an extraordinary medical placement
9 under this subsection at any time.

10 (e) Persistent offenders are not eligible for extraordinary medical
11 placement;

12 (4) The governor, upon recommendation from the clemency and pardons
13 board, may grant an extraordinary release for reasons of serious health
14 problems, senility, advanced age, extraordinary meritorious acts, or
15 other extraordinary circumstances;

16 (5) No more than the final ((~~six~~)) twelve months of the offender's
17 term of confinement may be served in partial confinement ((~~designed to~~
18 ~~aid the offender in finding work and reestablishing himself or herself~~
19 ~~in the community or no more than the final twelve months of the~~
20 ~~offender's term of confinement may be served in partial confinement as~~
21 ~~part of the parenting program in RCW 9.94A.6551. This is in addition~~
22 ~~to that period of earned early release time that may be exchanged for~~
23 ~~partial confinement pursuant to RCW 9.94A.729(5)(d))));~~

24 (6) The governor may pardon any offender;

25 (7) The department may release an offender from confinement any
26 time within ten days before a release date calculated under this
27 section;

28 (8) An offender may leave a correctional facility prior to
29 completion of his or her sentence if the sentence has been reduced as
30 provided in RCW 9.94A.870; and

31 (9) Notwithstanding any other provisions of this section, an
32 offender sentenced for a felony crime listed in RCW 9.94A.540 as
33 subject to a mandatory minimum sentence of total confinement shall not
34 be released from total confinement before the completion of the listed
35 mandatory minimum sentence for that felony crime of conviction unless
36 allowed under RCW 9.94A.540.

1 **Sec. 5.** RCW 9.94A.731 and 2009 c 28 s 13 are each amended to read
2 as follows:

3 (1) An offender (~~(sentenced to)~~) serving a term of partial
4 confinement shall be confined in (~~(the)~~) a facility, institution, or
5 residence for at least eight hours per day (~~(or, if serving a work crew~~
6 ~~sentence shall comply with the conditions of that sentence as set forth~~
7 ~~in RCW 9.94A.030 and 9.94A.725)~~). The offender shall be required as a
8 condition of partial confinement to report to the facility,
9 institution, or residence at designated times. During the period of
10 partial confinement, an offender may be required to comply with crime-
11 related prohibitions and affirmative conditions imposed by the court or
12 the department pursuant to this chapter.

13 (2) (~~An offender in a county jail ordered to serve all or part of~~
14 ~~a term of less than one year in work release, work crew, or a program~~
15 ~~of home detention who violates the rules of the work release facility,~~
16 ~~work crew, or program of home detention or fails to remain employed or~~
17 ~~enrolled in school may be transferred to the appropriate county~~
18 ~~detention facility without further court order but shall, upon request,~~
19 ~~be notified of the right to request an administrative hearing on the~~
20 ~~issue of whether or not the offender failed to comply with the order~~
21 ~~and relevant conditions. Pending such hearing, or in the absence of a~~
22 ~~request for the hearing, the offender shall serve the remainder of the~~
23 ~~term of confinement as total confinement. This subsection shall not~~
24 ~~affect transfer or placement of offenders committed to the department.~~

25 ~~(3))~~ Participation in work release shall be conditioned upon the
26 offender attending work or school at regularly defined hours and
27 abiding by the rules of the work release facility.

28 (3) An offender on home detention shall be placed on electronic
29 monitoring and must participate in programming and treatment that the
30 department determines is needed. The department shall assign a
31 community corrections officer who will monitor the offender's
32 compliance with conditions of partial confinement and programming
33 requirements.

34 (4) The department has the authority to return any offender serving
35 partial confinement to total confinement if the offender is not
36 complying with sentence requirements.

37 (5) An offender in a county jail ordered to serve all or part of a
38 term of less than one year in work release, work crew, or a program of

1 home detention who violates the rules of the work release facility,
2 work crew, or program of home detention or fails to remain employed or
3 enrolled in school may be transferred to the appropriate county
4 detention facility without further court order but shall, upon request,
5 be notified of the right to request an administrative hearing on the
6 issue of whether or not the offender failed to comply with the order
7 and relevant conditions. Pending the hearing, or in the absence of a
8 request for the hearing, the offender shall serve the remainder of the
9 term of confinement as total confinement. This subsection does not
10 affect transfer or placement of offenders committed to the department.

11 **Sec. 6.** RCW 72.65.010 and 1992 c 7 s 56 are each amended to read
12 as follows:

13 As used in this chapter, the following terms shall have the
14 following meanings:

15 (1) "Department" shall mean the department of corrections.

16 (2) "Secretary" shall mean the secretary of corrections.

17 (3) "State correctional institutions" shall mean and include all
18 state adult correctional facilities established pursuant to law under
19 the jurisdiction of the department for the treatment of convicted
20 felons sentenced to a term of confinement.

21 (4) "Prisoner" shall mean a person either male or female, convicted
22 of a felony and sentenced by the superior court to a term of
23 confinement and treatment in a state correctional institution under the
24 jurisdiction of the department.

25 (5) "Superintendent" shall mean the superintendent of a state
26 correctional institution, camp or other facility now or hereafter
27 established under the jurisdiction of the department pursuant to law.

28 (6) "Partial confinement" has the same meaning as provided in RCW
29 9.94A.030.

30 (7) "Transitional housing facility" means a facility utilized under
31 contract by the department to provide housing exclusively to offenders
32 on partial confinement under the provisions of this chapter.

33 NEW SECTION. **Sec. 7.** A new section is added to chapter 72.65 RCW
34 to read as follows:

35 (1) Within amounts appropriated for this purpose, the department is

1 authorized to enter into contracts with private or public entities to
2 provide transitional housing facilities for offenders who may be
3 transferred to partial confinement.

4 (2) The entity must be able to provide transition support that
5 enables an offender to participate in evidence-based programming or
6 other promising practices identified by the Washington state institute
7 for public policy including, but not limited to, substance abuse
8 treatment, mental health treatment, sex offender treatment, educational
9 programming, or employment programming.

10 (3) Contracts for transitional housing facilities shall provide
11 for:

12 (a) Physical housing standards to ensure safe and quality housing;

13 (b) Procedures for facilitated communication between the entity and
14 the assigned community corrections officer for offenders housed in the
15 facility; and

16 (c) Annual examinations to be conducted by the department to ensure
17 compliance with contractual standards.

18 (4) The secretary may contract for the payment of the cost of
19 feeding and other expenses of participants in the transitional housing
20 program.

21 (5) Contracts may include any other terms and conditions as may be
22 appropriate for the implementation of the transitional housing program.

23 (6) An entity that provides a transitional housing facility is not
24 liable for civil damages arising from the criminal conduct of an
25 offender to any greater extent than a regular tenant, and no special
26 duties are created under this section.

27 (7) The location of transitional housing facilities is subject to
28 the zoning laws of the city or county in which they may be situated and
29 the siting provisions under this chapter.

30 (8) All state agencies shall cooperate with the department in the
31 administration of the transitional housing program as provided by this
32 chapter.

33 NEW SECTION. **Sec. 8.** A new section is added to chapter 72.65 RCW
34 to read as follows:

35 (1) The department shall establish, by rule, inmate eligibility
36 standards for participation in the transitional housing program.

1 (2) In addition, the department shall: (a) Supervise and consult
2 with transitional housing program participants;

3 (b) Establish a written treatment plan best suited to the
4 participant's needs, cost, and the relationship of community
5 corrections officers to a system of case management;

6 (c) Place each participant on electronic monitoring; and

7 (d) Assist participants in locating available employment or
8 vocational training opportunities and require participants to attend
9 work or school at regularly defined hours.

10 (3) The department may:

11 (a) Provide participants, as necessary, with transportation,
12 suitable clothing and supplies, and a periodic stipend for the cost of
13 food and other incidentals;

14 (b) Advance costs for an offender's participation in vocational
15 training.

16 (4) Participants of the transitional housing program are required
17 to reimburse the department the per capita cost of subsistence and
18 lodging, and expenditures pursuant to subsection (3) of this section in
19 accordance with the provisions and in the priority established by
20 section 9 of this act.

21 NEW SECTION. **Sec. 9.** A new section is added to chapter 72.65 RCW
22 to read as follows:

23 (1) A participant of the transitional housing program who is
24 employed shall surrender to the secretary, or to the superintendent of
25 such state correctional institution as shall be designated by the
26 secretary, his or her total earnings, less payroll deductions required
27 by law, or such payroll deductions as may reasonably be required by the
28 nature of the employment and less such amount the department determines
29 is needed to help meet his or her personal needs, including costs
30 necessary for travel, meals, clothing, tools, and other incidentals.
31 The secretary or the superintendent of the state correctional
32 institution shall deduct from the earnings, and make payments from the
33 participant's earnings in the following order of priority:

34 (a) Reimbursement to the department for any expenses advanced for
35 participation in the transitional housing program pursuant to section
36 7 of this act;

37 (b) Payment of board and room charges for the participant;

1 (c) Payments for the necessary support of the participant's
2 dependents, if any;

3 (d) Ten percent for payment of legal financial obligations for all
4 participants who have legal financial obligations owing in any
5 Washington state superior court;

6 (e) Payments to creditors of the participant, which may be made at
7 his or her discretion and request, upon proper proof of personal
8 indebtedness; and

9 (f) Payments to the participant himself or herself upon discharge,
10 or for deposit in his or her personal account if returned to a state
11 correctional institution for confinement and treatment.

12 (2) The earnings of a transitional housing program participant are
13 not subject to garnishment, attachment, or execution while such
14 earnings are either in the possession of the employer or any state
15 officer authorized to hold such funds, except for payment of a court-
16 ordered legal financial obligation as that term is defined in RCW
17 72.11.010.

18 NEW SECTION. **Sec. 10.** RCW 9.94A.734 (Home detention--Conditions)
19 and 2010 c 224 s 9, 2007 c 199 s 9, 2003 c 53 s 62, 2000 c 28 s 30, &
20 1995 c 108 s 2 are each repealed.

--- END ---