

SENATE BILL 5064

State of Washington 63rd Legislature 2013 Regular Session

By Senators Hargrove and Kline

Read first time 01/16/13. Referred to Committee on Law & Justice .

1 AN ACT Relating to persons sentenced for offenses committed prior
2 to reaching eighteen years of age; amending RCW 9.94A.510, 9.94A.540,
3 9.94A.6332, 9.94A.729, 9.95.425, 9.95.430, 9.95.435, 9.95.440, and
4 10.95.030; adding a new section to chapter 9.94A RCW; adding new
5 sections to chapter 10.95 RCW; prescribing penalties; providing an
6 effective date; and declaring an emergency.

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

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

11 TABLE 1
12 Sentencing Grid

Table with 2 main columns: SERIOUSNESS LEVEL and OFFENDER SCORE. Offender score ranges from 0 to 8, with a final category '9 or more'.

XVI Life sentence without parole/death penalty for offenders over the age of eighteen. For offenders under the age of eighteen, a term of thirty years to life.

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

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

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

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

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

13 (b) An offender convicted of the crime of assault in the first  
14 degree or assault of a child in the first degree where the offender  
15 used force or means likely to result in death or intended to kill the  
16 victim shall be sentenced to a term of total confinement not less than  
17 five years.

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

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

24 (e) An offender convicted of the crime of aggravated first degree  
25 murder for a murder that was committed prior to the offender's  
26 eighteenth birthday shall be sentenced to a term of total confinement  
27 not less than thirty years.

28 (2) During such minimum terms of total confinement, no offender  
29 subject to the provisions of this section is eligible for community  
30 custody, earned release time, furlough, home detention, partial  
31 confinement, work crew, work release, or any other form of early  
32 release authorized under RCW 9.94A.728, or any other form of authorized  
33 leave of absence from the correctional facility while not in the direct  
34 custody of a corrections officer. The provisions of this subsection  
35 shall not apply: (a) In the case of an offender in need of emergency  
36 medical treatment; (b) for the purpose of commitment to an inpatient

1 treatment facility in the case of an offender convicted of the crime of  
2 rape in the first degree; or (c) for an extraordinary medical placement  
3 when authorized under RCW 9.94A.728(~~(+4)~~) (3).

4 (3)(a) Subsection (1)(a) through (d) of this section shall not be  
5 applied in sentencing of juveniles tried as adults pursuant to RCW  
6 13.04.030(1)(e)(i).

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

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

11 The procedure for imposing sanctions for violations of sentence  
12 conditions or requirements is as follows:

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

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

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

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

24 (5) If the offender was released pursuant to section 10 of this  
25 act, any sanctions shall be imposed by the board pursuant to RCW  
26 9.95.435.

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

30 (7) In any other case, if the offender is being supervised by the  
31 department, any sanctions shall be imposed by the department pursuant  
32 to RCW 9.94A.737. If a probationer is being supervised by the  
33 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon  
34 receipt of a violation hearing report from the department, the court  
35 retains any authority that those statutes provide to respond to a  
36 probationer's violation of conditions.

1 ((+6)) (8) If the offender is not being supervised by the  
2 department, any sanctions shall be imposed by the court pursuant to RCW  
3 9.94A.6333.

4 **Sec. 4.** RCW 9.94A.729 and 2011 1st sp.s. c 40 s 4 are each amended  
5 to read as follows:

6 (1)(a) The term of the sentence of an offender committed to a  
7 correctional facility operated by the department may be reduced by  
8 earned release time in accordance with procedures that shall be  
9 developed and adopted by the correctional agency having jurisdiction in  
10 which the offender is confined. The earned release time shall be for  
11 good behavior and good performance, as determined by the correctional  
12 agency having jurisdiction. The correctional agency shall not credit  
13 the offender with earned release credits in advance of the offender  
14 actually earning the credits.

15 (b) Any program established pursuant to this section shall allow an  
16 offender to earn early release credits for presentence incarceration.  
17 If an offender is transferred from a county jail to the department, the  
18 administrator of a county jail facility shall certify to the department  
19 the amount of time spent in custody at the facility and the amount of  
20 earned release time. The department may approve a jail certification  
21 from a correctional agency that calculates earned release time based on  
22 the actual amount of confinement time served by the offender before  
23 sentencing when an erroneous calculation of confinement time served by  
24 the offender before sentencing appears on the judgment and sentence.

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

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

31 (a) In the case of an offender sentenced pursuant to RCW  
32 10.95.030(3) or section 11 of this act, the aggregate earned release  
33 time may not exceed ten percent of the sentence.

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

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

5       (~~(e)~~) (d) An offender is qualified to earn up to fifty percent of  
6 aggregate earned release time if he or she:

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

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

10       (A) A sex offense;

11       (B) A violent offense;

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

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

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

15       (F) A violation of, or an attempt, solicitation, or conspiracy to  
16 violate, RCW 69.50.401 by manufacture or delivery or possession with  
17 intent to deliver methamphetamine; or

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

20       (iii) Has no prior conviction for the offenses listed in (~~(e)~~)  
21 (d)(ii) of this subsection;

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

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

28       (~~(d)~~) (e) In no other case shall the aggregate earned release  
29 time exceed one-third of the total sentence.

30       (4) The department shall perform a risk assessment of each offender  
31 who may qualify for earned early release under subsection (3)(~~(e)~~)  
32 (d) of this section utilizing the risk assessment tool recommended by  
33 the Washington state institute for public policy. Subsection  
34 (3)(~~(e)~~) (d) of this section does not apply to offenders convicted  
35 after July 1, 2010.

36       (5)(a) A person who is eligible for earned early release as  
37 provided in this section and who will be supervised by the department

1 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to  
2 community custody in lieu of earned release time;

3 (b) The department shall, as a part of its program for release to  
4 the community in lieu of earned release, require the offender to  
5 propose a release plan that includes an approved residence and living  
6 arrangement. All offenders with community custody terms eligible for  
7 release to community custody in lieu of earned release shall provide an  
8 approved residence and living arrangement prior to release to the  
9 community;

10 (c) The department may deny transfer to community custody in lieu  
11 of earned release time if the department determines an offender's  
12 release plan, including proposed residence location and living  
13 arrangements, may violate the conditions of the sentence or conditions  
14 of supervision, place the offender at risk to violate the conditions of  
15 the sentence, place the offender at risk to reoffend, or present a risk  
16 to victim safety or community safety. The department's authority under  
17 this section is independent of any court-ordered condition of sentence  
18 or statutory provision regarding conditions for community custody;

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

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

26 (ii) Provide rental vouchers to the offender for a period not to  
27 exceed three months if rental assistance will result in an approved  
28 release plan. The voucher must be provided in conjunction with  
29 additional transition support programming or services that enable an  
30 offender to participate in services including, but not limited to,  
31 substance abuse treatment, mental health treatment, sex offender  
32 treatment, educational programming, or employment programming;

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

37 (6) An offender serving a term of confinement imposed under RCW

1 9.94A.670(5)(a) is not eligible for earned release credits under this  
2 section.

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

5 (1) Whenever the board or a community corrections officer of this  
6 state has reason to believe an offender released under RCW 9.95.420,  
7 10.95.030(3), or section 10 of this act has violated a condition of  
8 community custody or the laws of this state, any community corrections  
9 officer may arrest or cause the arrest and detention of the offender  
10 pending a determination by the board whether sanctions should be  
11 imposed or the offender's community custody should be revoked. The  
12 community corrections officer shall report all facts and circumstances  
13 surrounding the alleged violation to the board, with recommendations.

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

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

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

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

34 (1) If an offender released by the board under RCW 9.95.420,  
35 10.95.030(3), or section 10 of this act violates any condition or



1 requirement of community custody, the board may transfer the offender  
2 to a more restrictive confinement status to serve up to the remaining  
3 portion of the sentence, less credit for any period actually spent in  
4 community custody or in detention awaiting disposition of an alleged  
5 violation and subject to the limitations of subsection (2) of this  
6 section.

7 (2) Following the hearing specified in subsection (3) of this  
8 section, the board may impose sanctions such as work release, home  
9 detention with electronic monitoring, work crew, community restitution,  
10 inpatient treatment, daily reporting, curfew, educational or counseling  
11 sessions, supervision enhanced through electronic monitoring, or any  
12 other sanctions available in the community, or may suspend the release  
13 and sanction up to sixty days' confinement in a local correctional  
14 facility for each violation, or revoke the release to community custody  
15 whenever an offender released by the board under RCW 9.95.420,  
16 10.95.030(3), or section 10 of this act violates any condition or  
17 requirement of community custody.

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

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

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

36 (b) The board shall provide the offender with findings and  
37 conclusions which include the evidence relied upon, and the reasons the  
38 particular sanction was imposed. The board shall notify the offender

1 of the right to appeal the sanction and the right to file a personal  
2 restraint petition under court rules after the final decision of the  
3 board;

4 (c) The hearing shall be held unless waived by the offender, and  
5 shall be electronically recorded. For offenders not in total  
6 confinement, the hearing shall be held within thirty days of service of  
7 notice of the violation, but not less than twenty-four hours after  
8 notice of the violation. For offenders in total confinement, the  
9 hearing shall be held within thirty days of service of notice of the  
10 violation, but not less than twenty-four hours after notice of the  
11 violation. The board or its designee shall make a determination  
12 whether probable cause exists to believe the violation or violations  
13 occurred. The determination shall be made within forty-eight hours of  
14 receipt of the allegation;

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

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

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

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

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

3       In the event the board suspends the release status of an offender  
4 released under RCW 9.95.420, 10.95.030(3), or section 10 of this act by  
5 reason of an alleged violation of a condition of release, or pending  
6 disposition of a new criminal charge, the board may nullify the  
7 suspension order and reinstate release under previous conditions or any  
8 new conditions the board determines advisable under RCW 9.94A.704.  
9 Before the board may nullify a suspension order and reinstate release,  
10 it shall determine that the best interests of society and the offender  
11 shall be served by such reinstatement rather than return to  
12 confinement.

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

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

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

1 court must make a finding as to the existence of an intellectual  
2 disability.

3 (a) "Intellectual disability" means the individual has: (i)  
4 Significantly subaverage general intellectual functioning; (ii)  
5 existing concurrently with deficits in adaptive behavior; and (iii)  
6 both significantly subaverage general intellectual functioning and  
7 deficits in adaptive behavior were manifested during the developmental  
8 period.

9 (b) "General intellectual functioning" means the results obtained  
10 by assessment with one or more of the individually administered general  
11 intelligence tests developed for the purpose of assessing intellectual  
12 functioning.

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

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

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

20 (3) Any person convicted of the crime of aggravated first degree  
21 murder for an offense committed prior to the person's eighteenth  
22 birthday shall be sentenced to a maximum term of life imprisonment and  
23 a minimum term of total confinement of no less than thirty years. A  
24 minimum term of life may be imposed, in which case the person will be  
25 ineligible for parole or early release.

26 (a) A person sentenced under this subsection shall serve the  
27 sentence in a facility or institution operated, or utilized under  
28 contract, by the state. During the minimum term of total confinement,  
29 the person shall not be eligible for community custody, earned release  
30 time, furlough, home detention, partial confinement, work crew, work  
31 release, or any other form of early release authorized under RCW  
32 9.94A.728, or any other form of authorized leave or absence from the  
33 correctional facility while not in the direct custody of a corrections  
34 officer. The provisions of this subsection shall not apply: (i) In  
35 the case of an offender in need of emergency medical treatment; or (ii)  
36 for an extraordinary medical placement when authorized under RCW  
37 9.94A.728(3).

1       (b) Any person sentenced pursuant to this subsection shall be  
2 subject to community custody under the supervision of the department  
3 and the authority of the indeterminate sentence review board for any  
4 period of time the person is released from total confinement before the  
5 expiration of the maximum sentence. As part of any sentence under this  
6 subsection, the court shall require the person to comply with any  
7 conditions imposed by the board.

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

26       (d) In a hearing conducted under (c) of this subsection, the board  
27 shall provide opportunities for victims and survivors of victims of any  
28 crimes for which the offender has been convicted to present statements  
29 as set forth in RCW 7.69.032. The procedures for victim and survivor  
30 of victim input shall be developed by rule. To facilitate victim and  
31 survivor of victim involvement, county prosecutor's offices shall  
32 ensure that any victim impact statements and known contact information  
33 for victims of record and survivors of victims are forwarded as part of  
34 the judgment and sentence.

35       (e) An offender released by the board is subject to the supervision  
36 of the department for life. The department shall monitor the  
37 offender's compliance with conditions of community custody imposed by  
38 the court, department, or board, and promptly report any violations to

1 the board. Any violation of conditions of community custody  
2 established or modified by the board are subject to the provisions of  
3 RCW 9.95.425 through 9.95.440.

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

6 (1) Notwithstanding any other provision of this chapter, any person  
7 convicted of one or more crimes committed prior to the person's  
8 eighteenth birthday may petition the indeterminate sentence review  
9 board for early release after serving no less than thirty years of  
10 total confinement, provided the person has not been convicted for any  
11 crime committed subsequent to the person's eighteenth birthday, the  
12 person has not committed a major violation in the twelve months prior  
13 to filing the petition for early release, and the current sentence was  
14 not imposed under RCW 10.95.030 or 9.94A.507.

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

32 (3) In a hearing conducted under subsection (2) of this section,  
33 the board shall provide opportunities for victims and survivors of  
34 victims of any crimes for which the offender has been convicted to  
35 present statements as set forth in RCW 7.69.032. The procedures for  
36 victim and survivor of victim input shall be developed by rule. To  
37 facilitate victim and survivor of victim involvement, county

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

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

12 (5) An offender whose petition for release is denied may file a new  
13 petition for release five years from the date of denial.

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

16 (1) A person, who was sentenced prior to June 1, 2013, to a term of  
17 life without the possibility of parole for an offense committed prior  
18 to their eighteenth birthday, shall be returned to the sentencing court  
19 or the sentencing court's successor for the setting of a minimum term.  
20 The court may exercise its discretion to set a minimum term of up to  
21 life. In no case may the minimum term be fixed at less than thirty  
22 years. A minimum term of life will render the person ineligible for  
23 parole or early release. Release and supervision of a person who  
24 receives a minimum term of less than life will be governed by RCW  
25 10.95.030(3).

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

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

32 (4) If a person receives a minimum term sentence under this  
33 section, no motion for collateral attack on the judgment and sentence  
34 as defined by RCW 10.73.090(2) may be filed after entry of the order  
35 setting a minimum term, if the judgment and sentence is valid on its  
36 face and was rendered by a court of competent jurisdiction, unless the

1 petition or motion is based solely on one of the grounds set forth in  
2 RCW 10.73.100.

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

5 Sections 1 through 9 of this act apply to all sentencing hearings  
6 conducted on or after June 1, 2013, regardless of the date of an  
7 offender's underlying offense.

8 NEW SECTION. **Sec. 13.** If any provision of this act or its  
9 application to any person or circumstance is held invalid, the  
10 remainder of the act or the application of the provision to other  
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 14.** This act is necessary for the immediate  
13 preservation of the public peace, health, or safety, or support of the  
14 state government and its existing public institutions, and takes effect  
15 June 1, 2013.

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