
ENGROSSED HOUSE BILL 1943

State of Washington 64th Legislature 2015 Regular Session

By Representatives Shea, Goodman, McCaslin, and Scott

Read first time 02/03/15. Referred to Committee on Public Safety.

1 AN ACT Relating to improving home detention accountability to
2 better protect the public; amending RCW 9.94A.030, 9.94A.734,
3 10.21.030, 9.94A.704, 26.50.010, 10.99.040, 9.94A.505, and 9A.76.130;
4 adding new sections to chapter 9.94A RCW; adding new sections to
5 chapter 10.21 RCW; and prescribing penalties.

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

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

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

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

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

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

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

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

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

1 (c) The determination of a defendant's criminal history is
2 distinct from the determination of an offender score. A prior
3 conviction that was not included in an offender score calculated
4 pursuant to a former version of the sentencing reform act remains
5 part of the defendant's 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
19 the 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
25 is 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,
28 prestige, 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
39 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
40 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88

1 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
2 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
3 9.68 RCW).

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

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

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

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

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

34 (20) "Domestic violence" has the same meaning as defined in RCW
35 10.99.020 and 26.50.010.

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

40 (22) "Drug offense" means:

1 (a) Any felony violation of chapter 69.50 RCW except possession
2 of a controlled substance (RCW 69.50.4013) or forged prescription for
3 a controlled substance (RCW 69.50.403);

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

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

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

12 (24) "Escape" means:

13 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
14 the first degree (RCW 9A.76.110), escape in the second degree (RCW
15 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
16 willful failure to return from work release (RCW 72.65.070), or
17 willful failure to be available for supervision by the department
18 while in community custody (RCW 72.09.310); or

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

22 (25) "Electronic monitoring" means tracking the location of an
23 individual, whether pretrial or posttrial, through the use of
24 technology that is capable of determining or identifying the
25 monitored individual's presence or absence at a particular location
26 including, but not limited to:

27 (a) Radio frequency signaling technology, which detects if the
28 monitored individual is or is not at an approved location and
29 notifies the monitoring agency of the time that the monitored
30 individual either leaves the approved location or tampers with or
31 removes the monitoring device; or

32 (b) Active or passive global positioning system technology, which
33 continuously or intermittently detects the location of the monitored
34 individual and continuously notifies the monitoring agency of the
35 monitored individual's location.

36 (26) "Felony traffic offense" means:

37 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
38 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
39 run injury-accident (RCW 46.52.020(4)), felony driving while under
40 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),

1 or felony physical control of a vehicle while under the influence of
2 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

12 ~~((+28+))~~ (29) "Home detention" means a program of partial
13 confinement available to offenders wherein the offender is confined
14 in a private residence twenty-four hours a day, unless an absence
15 from the residence is approved, authorized, or otherwise permitted in
16 the order by the court or other supervising agency that ordered home
17 detention, and the offender is subject to electronic ~~((surveillance))~~
18 monitoring.

19 ~~((+29+))~~ (30) "Homelessness" or "homeless" means a condition
20 where an individual lacks a fixed, regular, and adequate nighttime
21 residence and who has a primary nighttime residence that is:

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

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

26 (c) A private residence where the individual stays as a transient
27 invitee.

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

1 agency of the expense of an emergency response to the incident
2 resulting in the conviction, subject to RCW 38.52.430.

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

6 ~~((32))~~ (33) "Most serious offense" means any of the following
7 felonies or a felony attempt to commit any of the following felonies:

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

11 (b) Assault in the second degree;

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

13 (d) Child molestation in the second degree;

14 (e) Controlled substance homicide;

15 (f) Extortion in the first degree;

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

17 (h) Indecent liberties;

18 (i) Kidnapping in the second degree;

19 (j) Leading organized crime;

20 (k) Manslaughter in the first degree;

21 (l) Manslaughter in the second degree;

22 (m) Promoting prostitution in the first degree;

23 (n) Rape in the third degree;

24 (o) Robbery in the second degree;

25 (p) Sexual exploitation;

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

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

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

36 (t) Any other felony with a deadly weapon verdict under RCW
37 9.94A.825;

38 (u) Any felony offense in effect at any time prior to December 2,
39 1993, that is comparable to a most serious offense under this
40 subsection, or any federal or out-of-state conviction for an offense

1 that under the laws of this state would be a felony classified as a
2 most serious offense under this subsection;

3 (v)(i) A prior conviction for indecent liberties under RCW
4 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
5 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
6 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
7 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
8 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
13 is 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,
15 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
16 1993, through July 27, 1997;

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

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

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

37 ~~((+35))~~ (36) "Partial confinement" means confinement for no more
38 than one year in a facility or institution operated or utilized under
39 contract by the state or any other unit of government, or, if home
40 detention, electronic monitoring, or work crew has been ordered by

1 the court or home detention has been ordered by the department as
2 part of the parenting program, in an approved residence, for a
3 substantial portion of each day with the balance of the day spent in
4 the community. Partial confinement includes work release, home
5 detention, work crew, electronic monitoring, and a combination of
6 work crew, electronic monitoring, and home detention.

7 ((~~36~~)) (37) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
36 9A.56.070);

37 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
38 9A.56.075);

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

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

1 (xxi) Intimidating a Witness (RCW 9A.72.110);
2 (xxii) Tampering with a Witness (RCW 9A.72.120);
3 (xxiii) Reckless Endangerment (RCW 9A.36.050);
4 (xxiv) Coercion (RCW 9A.36.070);
5 (xxv) Harassment (RCW 9A.46.020); or
6 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
7 (b) That at least one of the offenses listed in (a) of this
8 subsection shall have occurred after July 1, 2008;
9 (c) That the most recent committed offense listed in (a) of this
10 subsection occurred within three years of a prior offense listed in
11 (a) of this subsection; and
12 (d) Of the offenses that were committed in (a) of this
13 subsection, the offenses occurred on separate occasions or were
14 committed by two or more persons.
15 (~~(+37+)~~) (38) "Persistent offender" is an offender who:
16 (a)(i) Has been convicted in this state of any felony considered
17 a most serious offense; and
18 (ii) Has, before the commission of the offense under (a) of this
19 subsection, been convicted as an offender on at least two separate
20 occasions, whether in this state or elsewhere, of felonies that under
21 the laws of this state would be considered most serious offenses and
22 would be included in the offender score under RCW 9.94A.525; provided
23 that of the two or more previous convictions, at least one conviction
24 must have occurred before the commission of any of the other most
25 serious offenses for which the offender was previously convicted; or
26 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
27 of a child in the first degree, child molestation in the first
28 degree, rape in the second degree, rape of a child in the second
29 degree, or indecent liberties by forcible compulsion; (B) any of the
30 following offenses with a finding of sexual motivation: Murder in the
31 first degree, murder in the second degree, homicide by abuse,
32 kidnapping in the first degree, kidnapping in the second degree,
33 assault in the first degree, assault in the second degree, assault of
34 a child in the first degree, assault of a child in the second degree,
35 or burglary in the first degree; or (C) an attempt to commit any
36 crime listed in this subsection (~~(+37+)~~) (38)(b)(i); and
37 (ii) Has, before the commission of the offense under (b)(i) of
38 this subsection, been convicted as an offender on at least one
39 occasion, whether in this state or elsewhere, of an offense listed in
40 (b)(i) of this subsection or any federal or out-of-state offense or

1 offense under prior Washington law that is comparable to the offenses
2 listed in (b)(i) of this subsection. A conviction for rape of a child
3 in the first degree constitutes a conviction under (b)(i) of this
4 subsection only when the offender was sixteen years of age or older
5 when the offender committed the offense. A conviction for rape of a
6 child in the second degree constitutes a conviction under (b)(i) of
7 this subsection only when the offender was eighteen years of age or
8 older when the offender committed the offense.

9 ~~((38))~~ (39) "Predatory" means: (a) The perpetrator of the crime
10 was a stranger to the victim, as defined in this section; (b) the
11 perpetrator established or promoted a relationship with the victim
12 prior to the offense and the victimization of the victim was a
13 significant reason the perpetrator established or promoted the
14 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
15 volunteer, or other person in authority in any public or private
16 school and the victim was a student of the school under his or her
17 authority or supervision. For purposes of this subsection, "school"
18 does not include home-based instruction as defined in RCW
19 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
20 authority in any recreational activity and the victim was a
21 participant in the activity under his or her authority or
22 supervision; (iii) a pastor, elder, volunteer, or other person in
23 authority in any church or religious organization, and the victim was
24 a member or participant of the organization under his or her
25 authority; or (iv) a teacher, counselor, volunteer, or other person
26 in authority providing home-based instruction and the victim was a
27 student receiving home-based instruction while under his or her
28 authority or supervision. For purposes of this subsection: (A) "Home-
29 based instruction" has the same meaning as defined in RCW
30 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
31 in authority" does not include the parent or legal guardian of the
32 victim.

33 ~~((39))~~ (40) "Private school" means a school regulated under
34 chapter 28A.195 or 28A.205 RCW.

35 ~~((40))~~ (41) "Public school" has the same meaning as in RCW
36 28A.150.010.

37 ~~((41))~~ (42) "Repetitive domestic violence offense" means any:
38 (a)(i) Domestic violence assault that is not a felony offense
39 under RCW 9A.36.041;

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

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

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

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

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

14 (~~(42)~~) (43) "Restitution" means a specific sum of money ordered
15 by the sentencing court to be paid by the offender to the court over
16 a specified period of time as payment of damages. The sum may include
17 both public and private costs.

18 (~~(43)~~) (44) "Risk assessment" means the application of the risk
19 instrument recommended to the department by the Washington state
20 institute for public policy as having the highest degree of
21 predictive accuracy for assessing an offender's risk of reoffense.

22 (~~(44)~~) (45) "Serious traffic offense" means:

23 (a) Nonfelony driving while under the influence of intoxicating
24 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
25 while under the influence of intoxicating liquor or any drug (RCW
26 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
27 attended vehicle (RCW 46.52.020(5)); or

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

31 (~~(45)~~) (46) "Serious violent offense" is a subcategory of
32 violent offense and means:

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

34 (ii) Homicide by abuse;

35 (iii) Murder in the second degree;

36 (iv) Manslaughter in the first degree;

37 (v) Assault in the first degree;

38 (vi) Kidnapping in the first degree;

39 (vii) Rape in the first degree;

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

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

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

6 (~~(46)~~) (47) "Sex offense" means:

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

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

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

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

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

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

21 (c) A felony with a finding of sexual motivation under RCW
22 9.94A.835 or 13.40.135; or

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

26 (~~(47)~~) (48) "Sexual motivation" means that one of the purposes
27 for which the defendant committed the crime was for the purpose of
28 his or her sexual gratification.

29 (~~(48)~~) (49) "Standard sentence range" means the sentencing
30 court's discretionary range in imposing a nonappealable sentence.

31 (~~(49)~~) (50) "Statutory maximum sentence" means the maximum
32 length of time for which an offender may be confined as punishment
33 for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the
34 statute defining the crime, or other statute defining the maximum
35 penalty for a crime.

36 (~~(50)~~) (51) "Stranger" means that the victim did not know the
37 offender twenty-four hours before the offense.

38 (~~(51)~~) (52) "Total confinement" means confinement inside the
39 physical boundaries of a facility or institution operated or utilized

1 under contract by the state or any other unit of government for
2 twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

3 ~~((+52+))~~ (53) "Transition training" means written and verbal
4 instructions and assistance provided by the department to the
5 offender during the two weeks prior to the offender's successful
6 completion of the work ethic camp program. The transition training
7 shall include instructions in the offender's requirements and
8 obligations during the offender's period of community custody.

9 ~~((+53+))~~ (54) "Victim" means any person who has sustained
10 emotional, psychological, physical, or financial injury to person or
11 property as a direct result of the crime charged.

12 ~~((+54+))~~ (55) "Violent offense" means:

13 (a) Any of the following felonies:

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

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

18 (iii) Manslaughter in the first degree;

19 (iv) Manslaughter in the second degree;

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

21 (vi) Kidnapping in the second degree;

22 (vii) Arson in the second degree;

23 (viii) Assault in the second degree;

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

25 (x) Extortion in the first degree;

26 (xi) Robbery in the second degree;

27 (xii) Drive-by shooting;

28 (xiii) Vehicular assault, when caused by the operation or driving
29 of a vehicle by a person while under the influence of intoxicating
30 liquor or any drug or by the operation or driving of a vehicle in a
31 reckless manner; and

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

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

1 (c) 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
3 violent offense under (a) or (b) of this subsection.

4 (~~(55)~~) (56) "Work crew" means a program of partial confinement
5 consisting of civic improvement tasks for the benefit of the
6 community that complies with RCW 9.94A.725.

7 (~~(56)~~) (57) "Work ethic camp" means an alternative
8 incarceration program as provided in RCW 9.94A.690 designed to reduce
9 recidivism and lower the cost of corrections by requiring offenders
10 to complete a comprehensive array of real-world job and vocational
11 experiences, character-building work ethics training, life management
12 skills development, substance abuse rehabilitation, counseling,
13 literacy training, and basic adult education.

14 (~~(57)~~) (58) "Work release" means a program of partial
15 confinement available to offenders who are employed or engaged as a
16 student in a regular course of study at school.

17 **Sec. 2.** RCW 9.94A.734 and 2010 c 224 s 9 are each amended to
18 read as follows:

19 (1) Home detention may not be imposed for offenders convicted of
20 the following offenses, unless imposed as partial confinement in the
21 department's parenting program under RCW 9.94A.6551:

- 22 (a) A violent offense;
- 23 (b) Any sex offense;
- 24 (c) Any drug offense;
- 25 (d) Reckless burning in the first or second degree as defined in
26 RCW 9A.48.040 or 9A.48.050;
- 27 (e) Assault in the third degree as defined in RCW 9A.36.031;
- 28 (f) Assault of a child in the third degree;
- 29 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or
- 30 (h) Harassment as defined in RCW 9A.46.020.

31 Home detention may be imposed for offenders convicted of possession
32 of a controlled substance under RCW 69.50.4013 or forged prescription
33 for a controlled substance under RCW 69.50.403 if the offender
34 fulfills the participation conditions set forth in this section and
35 is monitored for drug use by a treatment alternatives to street crime
36 program or a comparable court or agency-referred program.

37 (2) Home detention may be imposed for offenders convicted of
38 burglary in the second degree as defined in RCW 9A.52.030 or
39 residential burglary conditioned upon the offender:

1 (a) Successfully completing twenty-one days in a work release
2 program;

3 (b) Having no convictions for burglary in the second degree or
4 residential burglary during the preceding two years and not more than
5 two prior convictions for burglary or residential burglary;

6 (c) Having no convictions for a violent felony offense during the
7 preceding two years and not more than two prior convictions for a
8 violent felony offense;

9 (d) Having no prior charges of escape; and

10 (e) Fulfilling the other conditions of the home detention
11 program.

12 (3) Home detention may be imposed for offenders convicted of
13 taking a motor vehicle without permission in the second degree as
14 defined in RCW 9A.56.075, theft of a motor vehicle as defined under
15 RCW 9A.56.065, or possession of a stolen motor vehicle as defined
16 under RCW 9A.56.068 conditioned upon the offender:

17 (a) Having no convictions for taking a motor vehicle without
18 permission, theft of a motor vehicle or possession of a stolen motor
19 vehicle during the preceding five years and not more than two prior
20 convictions for taking a motor vehicle without permission, theft of a
21 motor vehicle or possession of a stolen motor vehicle;

22 (b) Having no convictions for a violent felony offense during the
23 preceding two years and not more than two prior convictions for a
24 violent felony offense;

25 (c) Having no prior charges of escape; and

26 (d) Fulfilling the other conditions of the home detention
27 program.

28 (4) Participation in a home detention program shall be
29 conditioned upon:

30 (a) The offender obtaining or maintaining current employment or
31 attending a regular course of school study at regularly defined
32 hours, or the offender performing parental duties to offspring or
33 minors normally in the custody of the offender;

34 (b) Abiding by the rules of the home detention program; and

35 (c) Compliance with court-ordered legal financial obligations.

36 (5) The home detention program may also be made available to
37 offenders whose charges and convictions do not otherwise disqualify
38 them if medical or health-related conditions, concerns or treatment
39 would be better addressed under the home detention program, or where
40 the health and welfare of the offender, other inmates, or staff would

1 be jeopardized by the offender's incarceration. Participation in the
2 home detention program for medical or health-related reasons is
3 conditioned on the offender abiding by the rules of the home
4 detention program and complying with court-ordered restitution.

5 (6) Home detention may not be imposed for an offender if the
6 sentencing court finds that the offender has previously and knowingly
7 violated the terms of a home detention program.

8 (7) A home detention program must be administered by a monitoring
9 agency that meets the conditions described in section 3 of this act.

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

12 (1) A monitoring agency shall:

13 (a) Provide notification within twenty-four hours to the court or
14 other supervising agency when the monitoring agency discovers that
15 the monitored individual is unaccounted for, or is beyond an approved
16 location, for twenty-four consecutive hours. Notification shall also
17 be provided to the probation department, the prosecuting attorney,
18 local law enforcement, the local detention facility, or the
19 department, as applicable;

20 (b) Provide notification to the court or other supervising agency
21 of any other known violations of the court-ordered terms and
22 conditions of the home detention or electronic monitoring program or
23 the terms and conditions set by the supervising agency;

24 (c) Document the monitored individual's absence at the
25 individual's location of employment, school, treatment, counseling,
26 programming, or other court-ordered activities; and

27 (d) Verify the location of the offender through in-person contact
28 on a random basis at least once per month.

29 (2) In addition, a private monitoring agency shall:

30 (a) Have detailed contingency plans for the monitoring agency's
31 operation with provisions for power outage, loss of telephone
32 service, fire, flood, malfunction of equipment, death, incapacitation
33 or personal emergency of a monitor, and financial insolvency of the
34 monitoring agency;

35 (b) Prohibit certain relationships between a monitored individual
36 and a monitoring agency, including:

37 (i) Personal associations between a monitored individual and a
38 monitoring agency or agency employee;

1 (ii) A monitoring agency or employee entering into another
2 business relationship with a monitored individual or monitored
3 individual's family during the monitoring; and

4 (iii) A monitoring agency or employee employing a monitored
5 individual for at least one year after the termination of the
6 monitoring;

7 (c) Not employ or be owned by any person convicted of a felony
8 offense within the past four years; and

9 (d) Obtain a background check through the Washington state patrol
10 for every partner, director, officer, owner, employee, or operator of
11 the monitoring agency, at the monitoring agency's expense.

12 (3) A private monitoring agency that fails to comply with any of
13 the requirements in subsections (1) and (2) of this section may be
14 subject to a civil penalty, as determined by a court of competent
15 jurisdiction, in an amount of not more than one thousand dollars for
16 each violation, in addition to any penalties imposed by contract.

17 (4)(a) A court that receives notice of a violation by a monitored
18 individual of the terms of electronic monitoring or home detention
19 shall note and maintain a record of the violation in the court file.

20 (b) The presiding judge of a court must notify the administrative
21 office of the courts if:

22 (i) The court decides it will not allow use of a particular
23 monitoring agency by persons ordered to comply with an electronic
24 monitoring or home detention program; and

25 (ii) The court, after previously deciding not to allow use of a
26 particular monitoring agency, decides to resume allowing use of the
27 monitoring agency by persons ordered to comply with a home detention
28 program.

29 (iii) In either case, the court must include in its notice the
30 reasons for the court's decision.

31 (5) The administrative office of the courts shall, after
32 receiving notice pursuant to subsection (4) of this section, transmit
33 the notice to all superior courts and courts of limited jurisdiction
34 in the state.

35 (6) The courts, the administrative office of the courts, and
36 their employees and agents are not liable for acts or omissions
37 pursuant to subsections (4) and (5) of this section absent a showing
38 of gross negligence or bad faith.

39 (7) For the purposes of this section:

1 (a) A "monitoring agency" means an entity, private or public,
2 which electronically monitors an individual, pursuant to an
3 electronic monitoring or home detention program, including the
4 department of corrections, a sheriff's office, a police department, a
5 local detention facility, or a private entity; and

6 (b) A "supervising agency" means the public entity that
7 authorized, approved, administers or manages, whether pretrial or
8 posttrial, the home detention or electronic monitoring program of an
9 individual and has jurisdiction and control over the monitored
10 individual. A supervising agency may also be a monitoring agency.

11 (8) All government contracts with a private monitoring agency to
12 provide electronic monitoring or home detention must be in writing
13 and may provide contractual penalties in addition to those provided
14 under subsection (3) of this section.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.94A
16 RCW to read as follows:

17 (1) By December 1, 2015, the administrative office of the courts
18 shall create a pattern form order for use by a court in cases where a
19 court orders a person to comply with a home detention program.

20 (2) The court shall provide a copy of the form order to the
21 person ordered to comply with a home detention program. The form
22 order must include the following:

23 (a) In a conspicuous location, a notice of criminal penalties
24 resulting for a violation of the terms and conditions of a home
25 detention program; and

26 (b) Language stating that a person may leave his or her residence
27 for specific purposes only as ordered by the court, with a list of
28 common purposes, such as school, employment, treatment, counseling,
29 programming, or other activities from which a court may select.

30 (3) When a court orders a person to comply with the terms of a
31 home detention program, the court must, in addition to its order,
32 complete the form order created pursuant to this section to notify
33 the person of criminal penalties associated with violation of the
34 terms and conditions of the program and of any express permission
35 granted for absence from the residence.

36 **Sec. 5.** RCW 10.21.030 and 2014 c 24 s 2 are each amended to read
37 as follows:

1 (1) The judicial officer may at any time amend the order to
2 impose additional or different conditions of release. The conditions
3 imposed under this chapter supplement but do not supplant provisions
4 of law allowing the imposition of conditions to assure the appearance
5 of the defendant at trial or to prevent interference with the
6 administration of justice.

7 (2) Appropriate conditions of release under this chapter include,
8 but are not limited to, the following:

9 (a) The defendant may be placed in the custody of a pretrial
10 release program;

11 (b) The defendant may have restrictions placed upon travel,
12 association, or place of abode during the period of release;

13 (c) The defendant may be required to comply with a specified
14 curfew;

15 (d) The defendant may be required to return to custody during
16 specified hours or to be placed on electronic monitoring, as defined
17 in RCW 9.94A.030, if available. The defendant, if convicted, may not
18 have the period of incarceration reduced by the number of days spent
19 on electronic monitoring;

20 (e) The defendant may be required to comply with a program of
21 home detention, as defined in RCW 9.94A.030;

22 (f) The defendant may be prohibited from approaching or
23 communicating in any manner with particular persons or classes of
24 persons;

25 ((+f)) (g) The defendant may be prohibited from going to certain
26 geographical areas or premises;

27 ((+g)) (h) The defendant may be prohibited from possessing any
28 dangerous weapons or firearms;

29 ((+h)) (i) The defendant may be prohibited from possessing or
30 consuming any intoxicating liquors or drugs not prescribed to the
31 defendant. The defendant may be required to submit to testing to
32 determine the defendant's compliance with this condition;

33 ((+i)) (j) The defendant may be prohibited from operating a
34 motor vehicle that is not equipped with an ignition interlock device;

35 ((+j)) (k) The defendant may be required to report regularly to
36 and remain under the supervision of an officer of the court or other
37 person or agency; and

38 ((+k)) (l) The defendant may be prohibited from committing any
39 violations of criminal law.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 10.21
2 RCW to read as follows:

3 Under this chapter, "home detention" means any program meeting
4 the definition of home detention in RCW 9.94A.030, and complying with
5 the requirements of section 3 of this act.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 10.21
7 RCW to read as follows:

8 A monitoring agency, as defined in section 3 of this act, may not
9 agree to monitor pursuant to home detention or electronic monitoring
10 an offender who is currently awaiting trial for a violent or sex
11 offense, as defined in RCW 9.94A.030, and who has previously been
12 convicted of one or more violent or sex offenses.

13 **Sec. 8.** RCW 9.94A.704 and 2014 c 35 s 1 are each amended to read
14 as follows:

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

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

21 (b) Within the funds available for community custody, the
22 department shall determine conditions on the basis of risk to
23 community safety, and shall supervise offenders during community
24 custody on the basis of risk to community safety and conditions
25 imposed by the court. The secretary shall adopt rules to implement
26 the provisions of this subsection (2)(b).

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

29 (a) Report as directed to a community corrections officer;

30 (b) Remain within prescribed geographical boundaries;

31 (c) Notify the community corrections officer of any change in the
32 offender's address or employment;

33 (d) Pay the supervision fee assessment; and

34 (e) Disclose the fact of supervision to any mental health or
35 chemical dependency treatment provider, as required by RCW 9.94A.722.

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

1 (5) If the offender was sentenced pursuant to a conviction for a
2 sex offense, the department may:

3 (a) Require the offender to refrain from direct or indirect
4 contact with the victim of the crime or immediate family member of
5 the victim of the crime. If a victim or an immediate family member of
6 a victim has requested that the offender not contact him or her after
7 notice as provided in RCW 72.09.340, the department shall require the
8 offender to refrain from contact with the requestor. Where the victim
9 is a minor, the parent or guardian of the victim may make a request
10 on the victim's behalf.

11 (b) Impose electronic monitoring. Within the resources made
12 available by the department for this purpose, the department shall
13 carry out any electronic monitoring using the most appropriate
14 technology given the individual circumstances of the offender. As
15 used in this section, "electronic monitoring" (~~means the monitoring~~
16 ~~of an offender using an electronic offender tracking system~~
17 ~~including, but not limited to, a system using radio frequency or~~
18 ~~active or passive global positioning system technology~~) has the same
19 meaning as in RCW 9.94A.030.

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

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

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

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

34 (9) The department may require offenders to pay for special
35 services rendered including electronic monitoring, day reporting, and
36 telephone reporting, dependent on the offender's ability to pay. The
37 department may pay for these services for offenders who are not able
38 to pay.

39 (10)(a) When a sex offender has been sentenced pursuant to RCW
40 9.94A.507, the department shall assess the offender's risk of

1 recidivism and shall recommend to the board any additional or
2 modified conditions based upon the offender's risk to community
3 safety and may recommend affirmative conduct or electronic monitoring
4 consistent with subsections (4) through (6) of this section.

5 (b) The board may impose conditions in addition to court-ordered
6 conditions. The board must consider and may impose department-
7 recommended conditions. The board must impose a condition requiring
8 the offender to refrain from contact with the victim or immediate
9 family member of the victim as provided in subsection (5)(a) of this
10 section.

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

- 17 (i) The crime of conviction;
- 18 (ii) The offender's risk of reoffending;
- 19 (iii) The safety of the community.

20 (d) If the department finds that an emergency exists requiring
21 the immediate imposition of additional conditions in order to prevent
22 the offender from committing a crime, the department may impose such
23 conditions. The department may not impose conditions that are
24 contrary to those set by the board or the court and may not
25 contravene or decrease court-imposed or board-imposed conditions.
26 Conditions imposed under this subsection shall take effect
27 immediately after notice to the offender by personal service, but
28 shall not remain in effect longer than seven working days unless
29 approved by the board.

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

33 **Sec. 9.** RCW 26.50.010 and 2008 c 6 s 406 are each amended to
34 read as follows:

35 As used in this chapter, the following terms shall have the
36 meanings given them:

37 (1) "Domestic violence" means: (a) Physical harm, bodily injury,
38 assault, or the infliction of fear of imminent physical harm, bodily
39 injury or assault, between family or household members; (b) sexual

1 assault of one family or household member by another; or (c) stalking
2 as defined in RCW 9A.46.110 of one family or household member by
3 another family or household member.

4 (2) "Family or household members" means spouses, domestic
5 partners, former spouses, former domestic partners, persons who have
6 a child in common regardless of whether they have been married or
7 have lived together at any time, adult persons related by blood or
8 marriage, adult persons who are presently residing together or who
9 have resided together in the past, persons sixteen years of age or
10 older who are presently residing together or who have resided
11 together in the past and who have or have had a dating relationship,
12 persons sixteen years of age or older with whom a person sixteen
13 years of age or older has or has had a dating relationship, and
14 persons who have a biological or legal parent-child relationship,
15 including stepparents and stepchildren and grandparents and
16 grandchildren.

17 (3) "Dating relationship" means a social relationship of a
18 romantic nature. Factors that the court may consider in making this
19 determination include: (a) The length of time the relationship has
20 existed; (b) the nature of the relationship; and (c) the frequency of
21 interaction between the parties.

22 (4) "Court" includes the superior, district, and municipal courts
23 of the state of Washington.

24 (5) "Judicial day" does not include Saturdays, Sundays, or legal
25 holidays.

26 (6) "Electronic monitoring" (~~means a program in which a person's~~
27 ~~presence at a particular location is monitored from a remote location~~
28 ~~by use of electronic equipment~~) has the same meaning as in RCW
29 9.94A.030.

30 (7) "Essential personal effects" means those items necessary for
31 a person's immediate health, welfare, and livelihood. "Essential
32 personal effects" includes but is not limited to clothing, cribs,
33 bedding, documents, medications, and personal hygiene items.

34 **Sec. 10.** RCW 10.99.040 and 2012 c 223 s 3 are each amended to
35 read as follows:

36 (1) Because of the serious nature of domestic violence, the court
37 in domestic violence actions:

38 (a) Shall not dismiss any charge or delay disposition because of
39 concurrent dissolution or other civil proceedings;

1 (b) Shall not require proof that either party is seeking a
2 dissolution of marriage prior to instigation of criminal proceedings;

3 (c) Shall waive any requirement that the victim's location be
4 disclosed to any person, other than the attorney of a criminal
5 defendant, upon a showing that there is a possibility of further
6 violence: PROVIDED, That the court may order a criminal defense
7 attorney not to disclose to his or her client the victim's location;
8 and

9 (d) Shall identify by any reasonable means on docket sheets those
10 criminal actions arising from acts of domestic violence.

11 (2)(a) Because of the likelihood of repeated violence directed at
12 those who have been victims of domestic violence in the past, when
13 any person charged with or arrested for a crime involving domestic
14 violence is released from custody before arraignment or trial on bail
15 or personal recognizance, the court authorizing the release may
16 prohibit that person from having any contact with the victim. The
17 jurisdiction authorizing the release shall determine whether that
18 person should be prohibited from having any contact with the victim.
19 If there is no outstanding restraining or protective order
20 prohibiting that person from having contact with the victim, the
21 court authorizing release may issue, by telephone, a no-contact order
22 prohibiting the person charged or arrested from having contact with
23 the victim or from knowingly coming within, or knowingly remaining
24 within, a specified distance of a location.

25 (b) In issuing the order, the court shall consider the provisions
26 of RCW 9.41.800.

27 (c) The no-contact order shall also be issued in writing as soon
28 as possible, and shall state that it may be extended as provided in
29 subsection (3) of this section. By January 1, 2011, the
30 administrative office of the courts shall develop a pattern form for
31 all no-contact orders issued under this chapter. A no-contact order
32 issued under this chapter must substantially comply with the pattern
33 form developed by the administrative office of the courts.

34 (3) At the time of arraignment the court shall determine whether
35 a no-contact order shall be issued or extended. So long as the court
36 finds probable cause, the court may issue or extend a no-contact
37 order even if the defendant fails to appear at arraignment. The no-
38 contact order shall terminate if the defendant is acquitted or the
39 charges are dismissed. If a no-contact order is issued or extended,
40 the court may also include in the conditions of release a requirement

1 that the defendant submit to electronic monitoring as defined in RCW
2 9.94A.030. If electronic monitoring is ordered, the court shall
3 specify who shall provide the monitoring services, and the terms
4 under which the monitoring shall be performed. Upon conviction, the
5 court may require as a condition of the sentence that the defendant
6 reimburse the providing agency for the costs of the electronic
7 monitoring.

8 (4)(a) Willful violation of a court order issued under subsection
9 (2), (3), or (7) of this section is punishable under RCW 26.50.110.

10 (b) The written order releasing the person charged or arrested
11 shall contain the court's directives and shall bear the legend:
12 "Violation of this order is a criminal offense under chapter 26.50
13 RCW and will subject a violator to arrest; any assault, drive-by
14 shooting, or reckless endangerment that is a violation of this order
15 is a felony. You can be arrested even if any person protected by the
16 order invites or allows you to violate the order's prohibitions. You
17 have the sole responsibility to avoid or refrain from violating the
18 order's provisions. Only the court can change the order."

19 (c) A certified copy of the order shall be provided to the
20 victim.

21 (5) If a no-contact order has been issued prior to charging, that
22 order shall expire at arraignment or within seventy-two hours if
23 charges are not filed.

24 (6) Whenever a no-contact order is issued, modified, or
25 terminated under subsection (2) or (3) of this section, the clerk of
26 the court shall forward a copy of the order on or before the next
27 judicial day to the appropriate law enforcement agency specified in
28 the order. Upon receipt of the copy of the order the law enforcement
29 agency shall enter the order for one year or until the expiration
30 date specified on the order into any computer-based criminal
31 intelligence information system available in this state used by law
32 enforcement agencies to list outstanding warrants. Entry into the
33 computer-based criminal intelligence information system constitutes
34 notice to all law enforcement agencies of the existence of the order.
35 The order is fully enforceable in any jurisdiction in the state. Upon
36 receipt of notice that an order has been terminated under subsection
37 (3) of this section, the law enforcement agency shall remove the
38 order from the computer-based criminal intelligence information
39 system.

1 (7) All courts shall develop policies and procedures by January
2 1, 2011, to grant victims a process to modify or rescind a no-contact
3 order issued under this chapter. The administrative office of the
4 courts shall develop a model policy to assist the courts in
5 implementing the requirements of this subsection.

6 **Sec. 11.** RCW 9.94A.505 and 2010 c 224 s 4 are each amended to
7 read as follows:

8 (1) When a person is convicted of a felony, the court shall
9 impose punishment as provided in this chapter.

10 (2)(a) The court shall impose a sentence as provided in the
11 following sections and as applicable in the case:

12 (i) Unless another term of confinement applies, a sentence within
13 the standard sentence range established in RCW 9.94A.510 or
14 9.94A.517;

15 (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

16 (iii) RCW 9.94A.570, relating to persistent offenders;

17 (iv) RCW 9.94A.540, relating to mandatory minimum terms;

18 (v) RCW 9.94A.650, relating to the first-time offender waiver;

19 (vi) RCW 9.94A.660, relating to the drug offender sentencing
20 alternative;

21 (vii) RCW 9.94A.670, relating to the special sex offender
22 sentencing alternative;

23 (viii) RCW 9.94A.655, relating to the parenting sentencing
24 alternative;

25 (ix) RCW 9.94A.507, relating to certain sex offenses;

26 (x) RCW 9.94A.535, relating to exceptional sentences;

27 (xi) RCW 9.94A.589, relating to consecutive and concurrent
28 sentences;

29 (xii) RCW 9.94A.603, relating to felony driving while under the
30 influence of intoxicating liquor or any drug and felony physical
31 control of a vehicle while under the influence of intoxicating liquor
32 or any drug.

33 (b) If a standard sentence range has not been established for the
34 offender's crime, the court shall impose a determinate sentence which
35 may include not more than one year of confinement; community
36 restitution work; a term of community custody under RCW 9.94A.702 not
37 to exceed one year; and/or other legal financial obligations. The
38 court may impose a sentence which provides more than one year of
39 confinement and a community custody term under RCW 9.94A.701 if the

1 court finds reasons justifying an exceptional sentence as provided in
2 RCW 9.94A.535.

3 (3) If the court imposes a sentence requiring confinement of
4 thirty days or less, the court may, in its discretion, specify that
5 the sentence be served on consecutive or intermittent days. A
6 sentence requiring more than thirty days of confinement shall be
7 served on consecutive days. Local jail administrators may schedule
8 court-ordered intermittent sentences as space permits.

9 (4) If a sentence imposed includes payment of a legal financial
10 obligation, it shall be imposed as provided in RCW 9.94A.750,
11 9.94A.753, 9.94A.760, and 43.43.7541.

12 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
13 court may not impose a sentence providing for a term of confinement
14 or community custody that exceeds the statutory maximum for the crime
15 as provided in chapter 9A.20 RCW.

16 (6) The sentencing court shall give the offender credit for all
17 confinement time served before the sentencing if that confinement was
18 solely in regard to the offense for which the offender is being
19 sentenced.

20 (7) The sentencing court shall not give the offender credit for
21 any time the offender was required to comply with a home detention
22 program prior to sentencing if the offender was convicted of one of
23 the following offenses:

24 (a) A violent offense;

25 (b) Any sex offense;

26 (c) Any drug offense;

27 (d) Reckless burning in the first or second degree as defined in
28 RCW 9A.48.040 or 9A.48.050;

29 (e) Assault in the third degree as defined in RCW 9A.36.031;

30 (f) Assault of a child in the third degree;

31 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or

32 (h) Harassment as defined in RCW 9A.46.020.

33 (8) The court shall order restitution as provided in RCW
34 9.94A.750 and 9.94A.753.

35 ~~((+8))~~ (9) As a part of any sentence, the court may impose and
36 enforce crime-related prohibitions and affirmative conditions as
37 provided in this chapter.

38 ~~((+9))~~ (10) In any sentence of partial confinement, the court
39 may require the offender to serve the partial confinement in work

1 release, in a program of home detention, on work crew, or in a
2 combined program of work crew and home detention.

3 **Sec. 12.** RCW 9A.76.130 and 2011 c 336 s 403 are each amended to
4 read as follows:

5 (1) A person is guilty of escape in the third degree if he or
6 she:

7 (a) Escapes from custody; or

8 (b) Knowingly violates the terms of a home detention program.

9 (2) Escape in the third degree is a (~~gross~~) misdemeanor, except
10 as provided in subsection (3) of this section.

11 (3)(a) If the person has one prior conviction for escape in the
12 third degree, escape in the third degree is a gross misdemeanor.

13 (b) If the person has two or more prior convictions for escape in
14 the third degree, escape in the third degree is a class C felony.

15 NEW SECTION. **Sec. 13.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

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