
HOUSE BILL 2270

State of Washington 64th Legislature 2015 2nd Special Session

By Representatives Hudgins and Walkinshaw

Read first time 06/22/15. Referred to Committee on Appropriations.

1 AN ACT Relating to building safer communities in Washington by
2 modifying sentencing laws related to property crimes and other crimes
3 and implementing recommendations of the Washington state justice
4 reinvestment task force; amending RCW 9.94A.506, 9.94A.515,
5 9.94A.585, 9.94A.702, 9.94A.171, and 9.94A.860; reenacting and
6 amending RCW 9.94A.030, 9.94A.501, 9.94A.505, and 9.94A.701; adding
7 new sections to chapter 9.94A RCW; adding a new section to chapter
8 72.09 RCW; creating new sections; prescribing penalties; providing an
9 effective date; and declaring an emergency.

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

11 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

12 (a) Washington has the highest property crime rate in the
13 country.

14 (b) In recent years, an increasing number of individuals
15 convicted of property crimes have been sentenced to prison.
16 Supervision paired with treatment including, but not limited to,
17 chemical dependency services and mental health and cognitive
18 behavioral treatment and services, which can have a significant
19 impact on reducing the likelihood of reoffending, is not available as
20 a sentencing option for most people convicted of property offenses.

1 (c) Supervision practices in Washington are promising and the
2 department of corrections continues to refine its approach to
3 community supervision, but there is an opportunity to further
4 strengthen the quality of supervision and extend it to property crime
5 offenders.

6 (d) Sustained policy development in juvenile and criminal justice
7 would benefit from a more concerted, consistent, and visible form of
8 governance.

9 (2) It is the intent of the legislature to respond to the
10 findings of the Washington state justice reinvestment task force,
11 which are outlined in subsection (1) of this section, by changing
12 sentencing policy to require supervision of certain people convicted
13 of property offenses; by providing treatment, if needed, and programs
14 to reduce recidivism; and by providing additional support to local
15 governments. The legislature adopts this act with the goal of
16 reducing property crime by at least fifteen percent by fiscal year
17 2021.

18 **Sec. 2.** RCW 9.94A.030 and 2015 c 261 s 12 and 2015 c 287 s 1 are
19 each reenacted and amended to read as follows:

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout this chapter.

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

24 (2) "Collect," or any derivative thereof, "collect and remit," or
25 "collect and deliver," when used with reference to the department,
26 means that the department, either directly or through a collection
27 agreement authorized by RCW 9.94A.760, is responsible for monitoring
28 and enforcing the offender's sentence with regard to the legal
29 financial obligation, receiving payment thereof from the offender,
30 and, consistent with current law, delivering daily the entire payment
31 to the superior court clerk without depositing it in a departmental
32 account.

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

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

38 (5) "Community custody" means that portion of an offender's
39 sentence of confinement in lieu of earned release time or imposed as

1 part of a sentence under this chapter and served in the community
2 subject to controls placed on the offender's movement and activities
3 by the department.

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

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

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

11 (9) "Conviction" means an adjudication of guilt pursuant to Title
12 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
13 and acceptance of a plea of guilty.

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

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

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

29 (b) A conviction may be removed from a defendant's criminal
30 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
31 9.95.240, or a similar out-of-state statute, or if the conviction has
32 been vacated pursuant to a governor's pardon.

33 (c) The determination of a defendant's criminal history is
34 distinct from the determination of an offender score. A prior
35 conviction that was not included in an offender score calculated
36 pursuant to a former version of the sentencing reform act remains
37 part of the defendant's criminal history.

38 (12) "Criminal street gang" means any ongoing organization,
39 association, or group of three or more persons, whether formal or
40 informal, having a common name or common identifying sign or symbol,

1 having as one of its primary activities the commission of criminal
2 acts, and whose members or associates individually or collectively
3 engage in or have engaged in a pattern of criminal street gang
4 activity. This definition does not apply to employees engaged in
5 concerted activities for their mutual aid and protection, or to the
6 activities of labor and bona fide nonprofit organizations or their
7 members or agents.

8 (13) "Criminal street gang associate or member" means any person
9 who actively participates in any criminal street gang and who
10 intentionally promotes, furthers, or assists in any criminal act by
11 the criminal street gang.

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

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

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

21 (c) To exact revenge or retribution for the gang or any member of
22 the gang;

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

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

28 (f) To provide the gang with any advantage in, or any control or
29 dominance over any criminal market sector, including, but not limited
30 to, manufacturing, delivering, or selling any controlled substance
31 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
32 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
33 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
34 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
35 9.68 RCW).

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

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

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

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

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

27 (20) "Domestic violence" has the same meaning as defined in RCW
28 10.99.020 and 26.50.010.

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

33 (22) "Drug offense" means:

34 (a) Any felony violation of chapter 69.50 RCW except possession
35 of a controlled substance (RCW 69.50.4013) or forged prescription for
36 a controlled substance (RCW 69.50.403);

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

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

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

6 (24) "Escape" means:

7 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
8 the first degree (RCW 9A.76.110), escape in the second degree (RCW
9 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
10 willful failure to return from work release (RCW 72.65.070), or
11 willful failure to be available for supervision by the department
12 while in community custody (RCW 72.09.310); or

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

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

21 (a) Radio frequency signaling technology, which detects if the
22 monitored individual is or is not at an approved location and
23 notifies the monitoring agency of the time that the monitored
24 individual either leaves the approved location or tampers with or
25 removes the monitoring device; or

26 (b) Active or passive global positioning system technology, which
27 detects the location of the monitored individual and notifies the
28 monitoring agency of the monitored individual's location.

29 (26) "Felony traffic offense" means:

30 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
31 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
32 run injury-accident (RCW 46.52.020(4)), felony driving while under
33 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
34 or felony physical control of a vehicle while under the influence of
35 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

1 (27) "Fine" means a specific sum of money ordered by the
2 sentencing court to be paid by the offender to the court over a
3 specific period of time.

4 (28) "First-time offender" means any person who has no prior
5 convictions for a felony and is eligible for the first-time offender
6 waiver under RCW 9.94A.650.

7 (29) "Home detention" is a subset of electronic monitoring and
8 means a program of partial confinement available to offenders wherein
9 the offender is confined in a private residence twenty-four hours a
10 day, unless an absence from the residence is approved, authorized, or
11 otherwise permitted in the order by the court or other supervising
12 agency that ordered home detention, and the offender is subject to
13 electronic monitoring.

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

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

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

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

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

37 (32) "Minor child" means a biological or adopted child of the
38 offender who is under age eighteen at the time of the offender's
39 current offense.

1 (33) "Most serious offense" means any of the following felonies
2 or a felony attempt to commit any of the following felonies:

3 (a) Any felony defined under any law as a class A felony or
4 criminal solicitation of or criminal conspiracy to commit a class A
5 felony;

6 (b) Assault in the second degree;

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

8 (d) Child molestation in the second degree;

9 (e) Controlled substance homicide;

10 (f) Extortion in the first degree;

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

12 (h) Indecent liberties;

13 (i) Kidnapping in the second degree;

14 (j) Leading organized crime;

15 (k) Manslaughter in the first degree;

16 (l) Manslaughter in the second degree;

17 (m) Promoting prostitution in the first degree;

18 (n) Rape in the third degree;

19 (o) Robbery in the second degree;

20 (p) Sexual exploitation;

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

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

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

31 (t) Any other felony with a deadly weapon verdict under RCW
32 9.94A.825;

33 (u) Any felony offense in effect at any time prior to December 2,
34 1993, that is comparable to a most serious offense under this
35 subsection, or any federal or out-of-state conviction for an offense
36 that under the laws of this state would be a felony classified as a
37 most serious offense under this subsection;

38 (v)(i) A prior conviction for indecent liberties under RCW
39 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
40 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),

1 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
2 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
3 until July 1, 1988;

4 (ii) A prior conviction for indecent liberties under RCW
5 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
6 if: (A) The crime was committed against a child under the age of
7 fourteen; or (B) the relationship between the victim and perpetrator
8 is included in the definition of indecent liberties under RCW
9 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
10 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
11 1993, through July 27, 1997;

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

18 (34) "Nonviolent offense" means an offense which is not a violent
19 offense.

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

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

1 work crew, electronic monitoring, and a combination of work crew,
2 electronic monitoring, and home detention.

3 (37) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
32 9A.56.070);

33 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
34 9A.56.075);

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

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

37 (xxi) Intimidating a Witness (RCW 9A.72.110);

38 (xxii) Tampering with a Witness (RCW 9A.72.120);

39 (xxiii) Reckless Endangerment (RCW 9A.36.050);

40 (xxiv) Coercion (RCW 9A.36.070);

1 (xxv) Harassment (RCW 9A.46.020); or

2 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

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

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

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

11 (38) "Persistent offender" is an offender who:

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

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

22 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
23 of a child in the first degree, child molestation in the first
24 degree, rape in the second degree, rape of a child in the second
25 degree, or indecent liberties by forcible compulsion; (B) any of the
26 following offenses with a finding of sexual motivation: Murder in the
27 first degree, murder in the second degree, homicide by abuse,
28 kidnapping in the first degree, kidnapping in the second degree,
29 assault in the first degree, assault in the second degree, assault of
30 a child in the first degree, assault of a child in the second degree,
31 or burglary in the first degree; or (C) an attempt to commit any
32 crime listed in this subsection (38)(b)(i); and

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

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

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

29 (40) "Private school" means a school regulated under chapter
30 28A.195 or 28A.205 RCW.

31 (41) "Property offense" means:

32 (a)(i) Counterfeiting (RCW 9.16.035(4));

33 (ii) Identity Theft 1 (RCW 9.35.020(2));

34 (iii) Theft of Livestock 1 (RCW 9A.56.080);

35 (iv) Trafficking in Stolen Property 1 (RCW 9A.82.050);

36 (v) Unlawful Factoring of a Credit Card or Payment Card
37 Transaction (RCW 9A.56.290(4)(b));

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

39 (vii) Organized Retail Theft 1 (RCW 9A.56.350(2));

1 (viii) Retail Theft with Special Circumstances 1 (RCW
2 9A.56.360(2));
3 (ix) Theft of Livestock 2 (RCW 9A.56.083);
4 (x) Theft with the Intent to Resell 1 (RCW 9A.56.340(2));
5 (xi) Trafficking in Stolen Property 2 (RCW 9A.82.055);
6 (xii) Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b));
7 (xiii) Commercial Fishing Without a License 1 (RCW
8 77.15.500(3)(b));
9 (xiv) Counterfeiting (RCW 9.16.035(3));
10 (xv) Engaging in Fish Dealing Activity Unlicensed 1 (RCW
11 77.15.620(3)(b));
12 (xvi) Health Care False Claims (RCW 48.80.030);
13 (xvii) Identity Theft 2 (RCW 9.35.020(3));
14 (xviii) Malicious Mischief 1 (RCW 9A.48.070);
15 (xix) Organized Retail Theft 2 (RCW 9A.56.350(3));
16 (xx) Possession of Stolen Property 1 (RCW 9A.56.150);
17 (xxi) Possession of a Stolen Vehicle (RCW 9A.56.068);
18 (xxii) Retail Theft with Special Circumstances 2 (RCW
19 9A.56.360(3));
20 (xxiii) Scrap Processing, Recycling, or Supplying Without a
21 License (second or subsequent offense) (RCW 19.290.100(2)(b));
22 (xxiv) Theft 1 (RCW 9A.56.030);
23 (xxv) Theft of a Motor Vehicle (RCW 9A.56.065);
24 (xxvi) Theft of Rental, Leased, Lease-purchased, or Loaned
25 Property (valued at five thousand dollars or more) (RCW
26 9A.56.096(5)(a));
27 (xxvii) Theft with the Intent to Resell 2 (RCW 9A.56.340(3));
28 (xxviii) Trafficking in Insurance Claims (RCW 48.30A.015);
29 (xxix) Unlawful Factoring of a Credit Card or Payment Card
30 Transaction (RCW 9A.56.290(4)(a));
31 (xxx) False Verification for Welfare (RCW 74.08.055);
32 (xxxii) Forgery (RCW 9A.60.020);
33 (xxxiii) Malicious Mischief 2 (RCW 9A.48.080);
34 (xxxiv) Possession of Stolen Property 2 (RCW 9A.56.160);
35 (xxxv) Reckless Burning 1 (RCW 9A.48.040);
36 (xxxvi) Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075);
37 (xxxvii) Theft 2 (RCW 9A.56.040);
38 (xxxviii) Theft of Rental, Leased, Lease-purchased, or Loaned
39 Property (valued at seven hundred fifty dollars or more but less than
40 five thousand dollars) (RCW 9A.56.096(5)(b));

1 (xxxviii) Unlawful Issuance of Checks or Drafts (RCW 9A.56.060);
2 (xxxix) Unlawful Possession of Fictitious Identification (RCW
3 9A.56.320(4));
4 (xl) Unlawful Possession of Instruments of Financial Fraud (RCW
5 9A.56.320(5));
6 (xli) Unlawful Possession of Payment Instruments (RCW
7 9A.56.320(2));
8 (xlii) Unlawful Possession of a Personal Identification Device
9 (RCW 9A.56.320(3));
10 (xliii) Unlawful Production of Payment Instruments (RCW
11 9A.56.320(1));
12 (xliv) Unlawful Trafficking in Food Stamps (RCW 9.91.142);
13 (xlv) Unlawful Use of Food Stamps (RCW 9.91.144);
14 (b) An attempt, criminal solicitation, or criminal conspiracy to
15 commit a property offense under (a) of this subsection; or
16 (c) Any federal or out-of-state conviction for an offense that
17 under the laws of this state would be a felony classified as a
18 property offense under (a) or (b) of this subsection.
19 (42) "Public school" has the same meaning as in RCW 28A.150.010.
20 ((+42+)) (43) "Repetitive domestic violence offense" means any:
21 (a)(i) Domestic violence assault that is not a felony offense
22 under RCW 9A.36.041;
23 (ii) Domestic violence violation of a no-contact order under
24 chapter 10.99 RCW that is not a felony offense;
25 (iii) Domestic violence violation of a protection order under
26 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony
27 offense;
28 (iv) Domestic violence harassment offense under RCW 9A.46.020
29 that is not a felony offense; or
30 (v) Domestic violence stalking offense under RCW 9A.46.110 that
31 is not a felony offense; or
32 (b) Any federal, out-of-state, tribal court, military, county, or
33 municipal conviction for an offense that under the laws of this state
34 would be classified as a repetitive domestic violence offense under
35 (a) of this subsection.
36 ((+43+)) (44) "Restitution" means a specific sum of money ordered
37 by the sentencing court to be paid by the offender to the court over
38 a specified period of time as payment of damages. The sum may include
39 both public and private costs.

1 (~~(44)~~) (45) "Risk assessment" means the application of the risk
2 instrument recommended to the department by the Washington state
3 institute for public policy as having the highest degree of
4 predictive accuracy for assessing an offender's risk of reoffense.

5 (~~(45)~~) (46) "Serious traffic offense" means:

6 (a) Nonfelony driving while under the influence of intoxicating
7 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
8 while under the influence of intoxicating liquor or any drug (RCW
9 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
10 attended vehicle (RCW 46.52.020(5)); or

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

14 (~~(46)~~) (47) "Serious violent offense" is a subcategory of
15 violent offense and means:

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

17 (ii) Homicide by abuse;

18 (iii) Murder in the second degree;

19 (iv) Manslaughter in the first degree;

20 (v) Assault in the first degree;

21 (vi) Kidnapping in the first degree;

22 (vii) Rape in the first degree;

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

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

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

29 (~~(47)~~) (48) "Sex offense" means:

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

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

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

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

38 (v) A felony violation of RCW 9A.44.132(1) (failure to register
39 as a sex offender) if the person has been convicted of violating RCW

1 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
2 prior to June 10, 2010, on at least one prior occasion;

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

6 (c) A felony with a finding of sexual motivation under RCW
7 9.94A.835 or 13.40.135; or

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

11 ~~((48))~~ (49) "Sexual motivation" means that one of the purposes
12 for which the defendant committed the crime was for the purpose of
13 his or her sexual gratification.

14 ~~((49))~~ (50) "Standard sentence range" means the sentencing
15 court's discretionary range in imposing a nonappealable sentence.

16 ~~((50))~~ (51) "Statutory maximum sentence" means the maximum
17 length of time for which an offender may be confined as punishment
18 for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the
19 statute defining the crime, or other statute defining the maximum
20 penalty for a crime.

21 ~~((51))~~ (52) "Stranger" means that the victim did not know the
22 offender twenty-four hours before the offense.

23 ~~((52))~~ (53) "Total confinement" means confinement inside the
24 physical boundaries of a facility or institution operated or utilized
25 under contract by the state or any other unit of government for
26 twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

27 ~~((53))~~ (54) "Transition training" means written and verbal
28 instructions and assistance provided by the department to the
29 offender during the two weeks prior to the offender's successful
30 completion of the work ethic camp program. The transition training
31 shall include instructions in the offender's requirements and
32 obligations during the offender's period of community custody.

33 ~~((54))~~ (55) "Victim" means any person who has sustained
34 emotional, psychological, physical, or financial injury to person or
35 property as a direct result of the crime charged.

36 ~~((55))~~ (56) "Violent offense" means:

37 (a) Any of the following felonies:

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

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

3 (iii) Manslaughter in the first degree;

4 (iv) Manslaughter in the second degree;

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

6 (vi) Kidnapping in the second degree;

7 (vii) Arson in the second degree;

8 (viii) Assault in the second degree;

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

10 (x) Extortion in the first degree;

11 (xi) Robbery in the second degree;

12 (xii) Drive-by shooting;

13 (xiii) Vehicular assault, when caused by the operation or driving
14 of a vehicle by a person while under the influence of intoxicating
15 liquor or any drug or by the operation or driving of a vehicle in a
16 reckless manner; and

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

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

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

27 ~~((+56+))~~ (57) "Work crew" means a program of partial confinement
28 consisting of civic improvement tasks for the benefit of the
29 community that complies with RCW 9.94A.725.

30 ~~((+57+))~~ (58) "Work ethic camp" means an alternative
31 incarceration program as provided in RCW 9.94A.690 designed to reduce
32 recidivism and lower the cost of corrections by requiring offenders
33 to complete a comprehensive array of real-world job and vocational
34 experiences, character-building work ethics training, life management
35 skills development, substance abuse rehabilitation, counseling,
36 literacy training, and basic adult education.

37 ~~((+58+))~~ (59) "Work release" means a program of partial
38 confinement available to offenders who are employed or engaged as a
39 student in a regular course of study at school.

1 **Sec. 3.** RCW 9.94A.501 and 2015 c 134 s 1 and 2015 c 290 s 1 are
2 each reenacted and amended to read as follows:

3 (1) The department shall supervise the following offenders who
4 are sentenced to probation in superior court, pursuant to RCW
5 9.92.060, 9.95.204, or 9.95.210:

6 (a) Offenders convicted of:

7 (i) Sexual misconduct with a minor second degree;

8 (ii) Custodial sexual misconduct second degree;

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

10 (iv) Violation of RCW 9A.44.132(2) (failure to register); and

11 (b) Offenders who have:

12 (i) A current conviction for a repetitive domestic violence
13 offense where domestic violence has been plead and proven after
14 August 1, 2011; and

15 (ii) A prior conviction for a repetitive domestic violence
16 offense or domestic violence felony offense where domestic violence
17 has been plead and proven after August 1, 2011.

18 (2) Misdemeanor and gross misdemeanor offenders supervised by the
19 department pursuant to this section shall be placed on community
20 custody.

21 (3) The department shall supervise every felony offender
22 sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702
23 whose risk assessment classifies the offender as one who is at a high
24 risk to reoffend.

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

28 (a) Has a current conviction for a sex offense or a serious
29 violent offense and was sentenced to a term of community custody
30 pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

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

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

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

38 (e)(i) Has a current conviction for a domestic violence felony
39 offense where domestic violence has been plead and proven after
40 August 1, 2011, and a prior conviction for a repetitive domestic

1 violence offense or domestic violence felony offense where domestic
2 violence was plead and proven after August 1, 2011. This subsection
3 (4)(e)(i) applies only to offenses committed prior to the effective
4 date of this section;

5 (ii) Has a current conviction for a domestic violence felony
6 offense where domestic violence was plead and proven (~~and that was~~
7 ~~committed~~) after the effective date of this section. The state and
8 its officers, agents, and employees shall not be held criminally or
9 civilly liable for its supervision of an offender under this
10 subsection (4)(e)(ii) unless the state and its officers, agents, and
11 employees acted with gross negligence;

12 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or
13 9.94A.670;

14 (g) Is subject to supervision pursuant to RCW 9.94A.745; (~~or~~)

15 (h) Was convicted and sentenced under RCW 46.61.520 (vehicular
16 homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6)
17 (felony DUI), or RCW 46.61.504(6) (felony physical control); or

18 (i) Has a current conviction for a property offense as defined in
19 RCW 9.94A.030, and has an offender score of two points or more.

20 (5) The department shall supervise any offender who is released
21 by the indeterminate sentence review board and who was sentenced to
22 community custody or subject to community custody under the terms of
23 release.

24 (6) The department is not authorized to, and may not, supervise
25 any offender sentenced to a term of community custody or any
26 probationer unless the offender or probationer is one for whom
27 supervision is required under this section or RCW 9.94A.5011.

28 (7) The department shall conduct a risk assessment for every
29 felony offender sentenced to a term of community custody who may be
30 subject to supervision under this section or RCW 9.94A.5011.

31 (8) The period of time the department is authorized to supervise
32 an offender under this section may not exceed the duration of
33 community custody ordered pursuant to a sentencing alternative or
34 specified under RCW 9.94B.050, 9.94A.701 (1), (2), or (3), or
35 9.94A.702, except in cases where the court has imposed an
36 exceptional term of community custody under RCW 9.94A.535. The period
37 of time the department is authorized to supervise an offender under
38 this section may be reduced by the earned award of positive
39 achievement time pursuant to section 20 of this act.

1 **Sec. 4.** RCW 9.94A.505 and 2015 c 287 s 10 and 2015 c 81 s 1 are
2 each reenacted and amended to read as follows:

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

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

7 (i) Unless another term of confinement applies, a sentence within
8 the standard sentence range established in RCW 9.94A.510 ~~((~~o~~))~~,
9 9.94A.517, or section 7 of this act;

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

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

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

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

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

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

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

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

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

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

24 (xii) RCW 9.94A.603, relating to felony driving while under the
25 influence of intoxicating liquor or any drug and felony physical
26 control of a vehicle while under the influence of intoxicating liquor
27 or any drug.

28 (b) If a standard sentence range has not been established for the
29 offender's crime, the court shall impose a determinate sentence which
30 may include not more than one year of confinement; community
31 restitution work; a term of community custody under RCW 9.94A.702 not
32 to exceed one year; and/or other legal financial obligations. The
33 court may impose a sentence which provides more than one year of
34 confinement and a community custody term under RCW 9.94A.701 if the
35 court finds reasons justifying an exceptional sentence as provided in
36 RCW 9.94A.535.

37 (3) If the court imposes a sentence requiring confinement of
38 thirty days or less, the court may, in its discretion, specify that
39 the sentence be served on consecutive or intermittent days. A
40 sentence requiring more than thirty days of confinement shall be

1 served on consecutive days. Local jail administrators may schedule
2 court-ordered intermittent sentences as space permits.

3 (4) If a sentence imposed includes payment of a legal financial
4 obligation, it shall be imposed as provided in RCW 9.94A.750,
5 9.94A.753, 9.94A.760, and 43.43.7541.

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

10 (6) The sentencing court shall give the offender credit for all
11 confinement time served before the sentencing if that confinement was
12 solely in regard to the offense for which the offender is being
13 sentenced.

14 (7) The sentencing court shall not give the offender credit for
15 any time the offender was required to comply with an electronic
16 monitoring program prior to sentencing if the offender was convicted
17 of one of the following offenses:

18 (a) A violent offense;

19 (b) Any sex offense;

20 (c) Any drug offense;

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

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

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

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

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

27 (8) The court shall order restitution as provided in RCW
28 9.94A.750 and 9.94A.753.

29 (9) As a part of any sentence, the court may impose and enforce
30 crime-related prohibitions and affirmative conditions as provided in
31 this chapter. "Crime-related prohibitions" may include a prohibition
32 on the use or possession of alcohol or controlled substances if the
33 court finds that any chemical dependency or substance abuse
34 contributed to the offense.

35 (10) In any sentence of partial confinement, the court may
36 require the offender to serve the partial confinement in work
37 release, in a program of home detention, on work crew, or in a
38 combined program of work crew and home detention.

1 Assault of a Child 1 (RCW 9A.36.120)
2 Malicious placement of an imitation
3 device 1 (RCW 70.74.272(1)(a))
4 Promoting Commercial Sexual Abuse
5 of a Minor (RCW 9.68A.101)
6 Rape 1 (RCW 9A.44.040)
7 Rape of a Child 1 (RCW 9A.44.073)
8 Trafficking 2 (RCW 9A.40.100(3))
9 XI Manslaughter 1 (RCW 9A.32.060)
10 Rape 2 (RCW 9A.44.050)
11 Rape of a Child 2 (RCW 9A.44.076)
12 Vehicular Homicide, by being under
13 the influence of intoxicating liquor
14 or any drug (RCW 46.61.520)
15 X Child Molestation 1 (RCW 9A.44.083)
16 Criminal Mistreatment 1 (RCW
17 9A.42.020)
18 Indecent Liberties (with forcible
19 compulsion) (RCW
20 9A.44.100(1)(a))
21 Kidnapping 1 (RCW 9A.40.020)
22 Leading Organized Crime (RCW
23 9A.82.060(1)(a))
24 Malicious explosion 3 (RCW
25 70.74.280(3))
26 Sexually Violent Predator Escape
27 (RCW 9A.76.115)
28 IX Abandonment of Dependent Person 1
29 (RCW 9A.42.060)
30 Assault of a Child 2 (RCW 9A.36.130)
31 Explosive devices prohibited (RCW
32 70.74.180)
33 Hit and Run—Death (RCW
34 46.52.020(4)(a))

1 Homicide by Watercraft, by being
2 under the influence of intoxicating
3 liquor or any drug (RCW
4 79A.60.050)

5 Inciting Criminal Profiteering (RCW
6 9A.82.060(1)(b))

7 Malicious placement of an explosive 2
8 (RCW 70.74.270(2))

9 Robbery 1 (RCW 9A.56.200)

10 Sexual Exploitation (RCW 9.68A.040)

11 VIII Arson 1 (RCW 9A.48.020)

12 Commercial Sexual Abuse of a Minor
13 (RCW 9.68A.100)

14 Homicide by Watercraft, by the
15 operation of any vessel in a
16 reckless manner (RCW
17 79A.60.050)

18 Manslaughter 2 (RCW 9A.32.070)

19 Promoting Prostitution 1 (RCW
20 9A.88.070)

21 Theft of Ammonia (RCW 69.55.010)

22 Vehicular Homicide, by the operation
23 of any vehicle in a reckless
24 manner (RCW 46.61.520)

25 VII Burglary 1 (RCW 9A.52.020)

26 Child Molestation 2 (RCW 9A.44.086)

27 Civil Disorder Training (RCW
28 9A.48.120)

29 Dealing in depictions of minor engaged
30 in sexually explicit conduct 1
31 (RCW 9.68A.050(1))

32 Drive-by Shooting (RCW 9A.36.045)

33 Homicide by Watercraft, by disregard
34 for the safety of others (RCW
35 79A.60.050)

1 Indecent Liberties (without forcible
2 compulsion) (RCW 9A.44.100(1)
3 (b) and (c))
4 Introducing Contraband 1 (RCW
5 9A.76.140)
6 Malicious placement of an explosive 3
7 (RCW 70.74.270(3))
8 Negligently Causing Death By Use of a
9 Signal Preemption Device (RCW
10 46.37.675)
11 Sending, bringing into state depictions
12 of minor engaged in sexually
13 explicit conduct 1 (RCW
14 9.68A.060(1))
15 Unlawful Possession of a Firearm in
16 the first degree (RCW
17 9.41.040(1))
18 Use of a Machine Gun in Commission
19 of a Felony (RCW 9.41.225)
20 Vehicular Homicide, by disregard for
21 the safety of others (RCW
22 46.61.520)
23 VI Bail Jumping with Murder 1 (RCW
24 9A.76.170(3)(a))
25 Bribery (RCW 9A.68.010)
26 Incest 1 (RCW 9A.64.020(1))
27 Intimidating a Judge (RCW 9A.72.160)
28 Intimidating a Juror/Witness (RCW
29 9A.72.110, 9A.72.130)
30 Malicious placement of an imitation
31 device 2 (RCW 70.74.272(1)(b))
32 Possession of Depictions of a Minor
33 Engaged in Sexually Explicit
34 Conduct 1 (RCW 9.68A.070(1))
35 Rape of a Child 3 (RCW 9A.44.079)
36 Theft of a Firearm (RCW 9A.56.300)

1 Unlawful Storage of Ammonia (RCW
2 69.55.020)

3 V Abandonment of Dependent Person 2
4 (RCW 9A.42.070)

5 Advancing money or property for
6 extortionate extension of credit
7 (RCW 9A.82.030)

8 Bail Jumping with class A Felony
9 (RCW 9A.76.170(3)(b))

10 Child Molestation 3 (RCW 9A.44.089)

11 Criminal Mistreatment 2 (RCW
12 9A.42.030)

13 Custodial Sexual Misconduct 1 (RCW
14 9A.44.160)

15 Dealing in Depictions of Minor
16 Engaged in Sexually Explicit
17 Conduct 2 (RCW 9.68A.050(2))

18 Domestic Violence Court Order
19 Violation (RCW 10.99.040,
20 10.99.050, 26.09.300, 26.10.220,
21 26.26.138, 26.50.110, 26.52.070,
22 or 74.34.145)

23 Driving While Under the Influence
24 (RCW 46.61.502(6))

25 Extortion 1 (RCW 9A.56.120)

26 Extortionate Extension of Credit (RCW
27 9A.82.020)

28 Extortionate Means to Collect
29 Extensions of Credit (RCW
30 9A.82.040)

31 Incest 2 (RCW 9A.64.020(2))

32 Kidnapping 2 (RCW 9A.40.030)

33 Perjury 1 (RCW 9A.72.020)

34 Persistent prison misbehavior (RCW
35 9.94.070)

1 Physical Control of a Vehicle While
2 Under the Influence (RCW
3 46.61.504(6))
4 Possession of a Stolen Firearm (RCW
5 9A.56.310)
6 Rape 3 (RCW 9A.44.060)
7 Rendering Criminal Assistance 1
8 (RCW 9A.76.070)
9 Sending, Bringing into State
10 Depictions of Minor Engaged in
11 Sexually Explicit Conduct 2
12 (RCW 9.68A.060(2))
13 Sexual Misconduct with a Minor 1
14 (RCW 9A.44.093)
15 Sexually Violating Human Remains
16 (RCW 9A.44.105)
17 Stalking (RCW 9A.46.110)
18 Taking Motor Vehicle Without
19 Permission 1 (RCW 9A.56.070)
20 IV Arson 2 (RCW 9A.48.030)
21 Assault 2 (RCW 9A.36.021)
22 Assault 3 (of a Peace Officer with a
23 Projectile Stun Gun) (RCW
24 9A.36.031(1)(h))
25 Assault by Watercraft (RCW
26 79A.60.060)
27 Bribing a Witness/Bribe Received by
28 Witness (RCW 9A.72.090,
29 9A.72.100)
30 Cheating 1 (RCW 9.46.1961)
31 Commercial Bribery (RCW
32 9A.68.060)
33 ~~((Counterfeiting (RCW 9.16.035(4))))~~
34 Endangerment with a Controlled
35 Substance (RCW 9A.42.100)

1 Escape 1 (RCW 9A.76.110)
2 Hit and Run—Injury (RCW
3 46.52.020(4)(b))
4 Hit and Run with Vessel—Injury
5 Accident (RCW 79A.60.200(3))
6 ~~((Identity Theft 1 (RCW 9.35.020(2))))~~
7 Indecent Exposure to Person Under
8 Age Fourteen (subsequent sex
9 offense) (RCW 9A.88.010)
10 Influencing Outcome of Sporting Event
11 (RCW 9A.82.070)
12 Malicious Harassment (RCW
13 9A.36.080)
14 Possession of Depictions of a Minor
15 Engaged in Sexually Explicit
16 Conduct 2 (RCW 9.68A.070(2))
17 Residential Burglary (RCW
18 9A.52.025)
19 Robbery 2 (RCW 9A.56.210)
20 ~~((Theft of Livestock 1 (RCW
21 9A.56.080)))~~
22 Threats to Bomb (RCW 9.61.160)
23 ~~((Trafficking in Stolen Property 1
24 (RCW 9A.82.050))~~
25 ~~Unlawful factoring of a credit card or
26 payment card transaction (RCW
27 9A.56.290(4)(b))))~~
28 Unlawful transaction of health
29 coverage as a health care service
30 contractor (RCW 48.44.016(3))
31 Unlawful transaction of health
32 coverage as a health maintenance
33 organization (RCW 48.46.033(3))
34 Unlawful transaction of insurance
35 business (RCW 48.15.023(3))

1 Unlicensed practice as an insurance
2 professional (RCW 48.17.063(2))
3 Use of Proceeds of Criminal
4 Profiteering (RCW 9A.82.080 (1)
5 and (2))
6 Vehicle Prowling 2 (third or
7 subsequent offense) (RCW
8 9A.52.100(3))
9 Vehicular Assault, by being under the
10 influence of intoxicating liquor or
11 any drug, or by the operation or
12 driving of a vehicle in a reckless
13 manner (RCW 46.61.522)
14 Viewing of Depictions of a Minor
15 Engaged in Sexually Explicit
16 Conduct 1 (RCW 9.68A.075(1))
17 Willful Failure to Return from
18 Furlough (RCW 72.66.060)
19 III Animal Cruelty 1 (Sexual Conduct or
20 Contact) (RCW 16.52.205(3))
21 Assault 3 (Except Assault 3 of a Peace
22 Officer With a Projectile Stun
23 Gun) (RCW 9A.36.031 except
24 subsection (1)(h))
25 Assault of a Child 3 (RCW 9A.36.140)
26 Bail Jumping with class B or C Felony
27 (RCW 9A.76.170(3)(c))
28 ~~((Burglary 2 (RCW 9A.52.030)))~~
29 Communication with a Minor for
30 Immoral Purposes (RCW
31 9.68A.090)
32 Criminal Gang Intimidation (RCW
33 9A.46.120)
34 Custodial Assault (RCW 9A.36.100)

1 Cyberstalking (subsequent conviction
2 or threat of death) (RCW
3 9.61.260(3))
4 Escape 2 (RCW 9A.76.120)
5 Extortion 2 (RCW 9A.56.130)
6 Harassment (RCW 9A.46.020)
7 Intimidating a Public Servant (RCW
8 9A.76.180)
9 Introducing Contraband 2 (RCW
10 9A.76.150)
11 Malicious Injury to Railroad Property
12 (RCW 81.60.070)
13 Mortgage Fraud (RCW 19.144.080)
14 Negligently Causing Substantial
15 Bodily Harm By Use of a Signal
16 Preemption Device (RCW
17 46.37.674)
18 ~~((Organized Retail Theft 1 (RCW~~
19 ~~9A.56.350(2))))~~
20 Perjury 2 (RCW 9A.72.030)
21 Possession of Incendiary Device (RCW
22 9.40.120)
23 Possession of Machine Gun or Short-
24 Barreled Shotgun or Rifle (RCW
25 9.41.190)
26 Promoting Prostitution 2 (RCW
27 9A.88.080)
28 ~~((Retail Theft with Special~~
29 ~~Circumstances 1 (RCW~~
30 ~~9A.56.360(2))))~~
31 Securities Act violation (RCW
32 21.20.400)
33 Tampering with a Witness (RCW
34 9A.72.120)

1 Telephone Harassment (subsequent
2 conviction or threat of death)
3 (RCW 9.61.230(2))
4 ~~((Theft of Livestock 2 (RCW
5 9A.56.083)
6 Theft with the Intent to Resell 1 (RCW
7 9A.56.340(2))
8 Trafficking in Stolen Property 2 (RCW
9 9A.82.055)
10 Unlawful Hunting of Big Game 1
11 (RCW 77.15.410(3)(b))))
12 Unlawful Imprisonment (RCW
13 9A.40.040)
14 Unlawful Misbranding of Food Fish or
15 Shellfish 1 (RCW 69.04.938(3))
16 Unlawful possession of firearm in the
17 second degree (RCW 9.41.040(2))
18 Unlawful Taking of Endangered Fish
19 or Wildlife 1 (RCW
20 77.15.120(3)(b))
21 Unlawful Trafficking in Fish, Shellfish,
22 or Wildlife 1 (RCW
23 77.15.260(3)(b))
24 Unlawful Use of a Nondesignated
25 Vessel (RCW 77.15.530(4))
26 Vehicular Assault, by the operation or
27 driving of a vehicle with disregard
28 for the safety of others (RCW
29 46.61.522)
30 Willful Failure to Return from Work
31 Release (RCW 72.65.070)
32 II ~~((Commercial Fishing Without a
33 License 1 (RCW
34 77.15.500(3)(b))))
35 Computer Trespass 1 (RCW
36 9A.52.110)~~~~

1 ~~((Counterfeiting (RCW 9.16.035(3))~~
2 ~~Engaging in Fish Dealing Activity~~
3 ~~Unlicensed 1 (RCW~~
4 ~~77.15.620(3)))~~
5 ~~Escape from Community Custody~~
6 ~~(RCW 72.09.310)~~
7 ~~Failure to Register as a Sex Offender~~
8 ~~(second or subsequent offense)~~
9 ~~(RCW 9A.44.130 prior to June 10,~~
10 ~~2010, and RCW 9A.44.132)~~
11 ~~((Health Care False Claims (RCW~~
12 ~~48.80.030)~~
13 ~~Identity Theft 2 (RCW 9.35.020(3)))~~
14 ~~Improperly Obtaining Financial~~
15 ~~Information (RCW 9.35.010)~~
16 ~~((Malicious Mischief 1 (RCW~~
17 ~~9A.48.070)~~
18 ~~Organized Retail Theft 2 (RCW~~
19 ~~9A.56.350(3))~~
20 ~~Possession of Stolen Property 1 (RCW~~
21 ~~9A.56.150)~~
22 ~~Possession of a Stolen Vehicle (RCW~~
23 ~~9A.56.068)~~
24 ~~Retail Theft with Special~~
25 ~~Circumstances 2 (RCW~~
26 ~~9A.56.360(3))~~
27 ~~Scrap Processing, Recycling, or~~
28 ~~Supplying Without a License~~
29 ~~(second or subsequent offense)~~
30 ~~(RCW 19.290.100)~~
31 ~~Theft 1 (RCW 9A.56.030)~~
32 ~~Theft of a Motor Vehicle (RCW~~
33 ~~9A.56.065)~~

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at one
3 thousand five hundred dollars or
4 more) (RCW 9A.56.096(5)(a))
5 Theft with the Intent to Resell 2 (RCW
6 9A.56.340(3))
7 Trafficking in Insurance Claims (RCW
8 48.30A.015)
9 Unlawful factoring of a credit card or
10 payment card transaction (RCW
11 9A.56.290(4)(a)))
12 Unlawful Participation of Non-Indians
13 in Indian Fishery (RCW
14 77.15.570(2))
15 Unlawful Practice of Law (RCW
16 2.48.180)
17 Unlawful Purchase or Use of a License
18 (RCW 77.15.650(3)(b))
19 Unlawful Trafficking in Fish, Shellfish,
20 or Wildlife 2 (RCW
21 77.15.260(3)(a))
22 Unlicensed Practice of a Profession or
23 Business (RCW 18.130.190(7))
24 Voyeurism (RCW 9A.44.115)
25 I Attempting to Elude a Pursuing Police
26 Vehicle (RCW 46.61.024)
27 ((False Verification for Welfare (RCW
28 74.08.055)
29 Forgery (RCW 9A.60.020)))
30 Fraudulent Creation or Revocation of a
31 Mental Health Advance Directive
32 (RCW 9A.60.060)
33 ((Malicious Mischief 2 (RCW
34 9A.48.080)))
35 Mineral Trespass (RCW 78.44.330)

1 ((Possession of Stolen Property 2
2 (RCW 9A.56.160)
3 Reckless Burning 1 (RCW
4 9A.48.040)))
5 Spotlighting Big Game 1 (RCW
6 77.15.450(3)(b))
7 Suspension of Department Privileges 1
8 (RCW 77.15.670(3)(b))
9 ((Taking Motor Vehicle Without
10 Permission 2 (RCW 9A.56.075)
11 Theft 2 (RCW 9A.56.040)
12 Theft of Rental, Leased, or Lease-
13 purchased Property (valued at two
14 hundred fifty dollars or more but
15 less than one thousand five
16 hundred dollars) (RCW
17 9A.56.096(5)(b))))
18 Transaction of insurance business
19 beyond the scope of licensure
20 (RCW 48.17.063)
21 Unlawful Fish and Shellfish Catch
22 Accounting (RCW
23 77.15.630(3)(b))
24 ((Unlawful Issuance of Checks or
25 Drafts (RCW 9A.56.060)
26 Unlawful Possession of Fictitious
27 Identification (RCW 9A.56.320)
28 Unlawful Possession of Instruments of
29 Financial Fraud (RCW 9A.56.320)
30 Unlawful Possession of Payment
31 Instruments (RCW 9A.56.320)
32 Unlawful Possession of a Personal
33 Identification Device (RCW
34 9A.56.320)
35 Unlawful Production of Payment
36 Instruments (RCW 9A.56.320)

1 ~~Unlawful Releasing, planting,~~
 2 ~~possessing, or placing Deleterious~~
 3 ~~Exotic Wildlife (RCW~~
 4 ~~77.15.250(2)(b))~~
 5 ~~Unlawful Trafficking in Food Stamps~~
 6 ~~(RCW 9.91.142)~~
 7 ~~Unlawful Use of Food Stamps (RCW~~
 8 ~~9.91.144))~~
 9 Unlawful Use of Net to Take Fish 1
 10 (RCW 77.15.580(3)(b))
 11 Unlawful Use of Prohibited Aquatic
 12 Animal Species (RCW
 13 77.15.253(3))
 14 ~~Unlawfully Releasing, Planting,~~
 15 ~~Possessing, or Placing Deleterious~~
 16 ~~Exotic Wildlife (RCW~~
 17 ~~77.15.250(2)(b)~~
 18 Vehicle Prowl 1 (RCW 9A.52.095)
 19 Violating Commercial Fishing Area or
 20 Time 1 (RCW 77.15.550(3)(b))

21 NEW SECTION. Sec. 7.

22 (1)

23 TABLE 5 - PROPERTY OFFENSE SENTENCING GRID

24 Seriousness 25 Level	26 Offender Score									
	27 0	1	2	3	4	5	6	7	8	27 9 or more
28 4	15-180 29 days	30-240 days	30-300 days	30-365 days	12+-16 months	14-18 months	16-24 months	24-30 months	30-36.5 months	36.5-42 months
30 3	10-90 31 days	15-180 days	20-180 days	30-240 days	30-300 days	60-365 days	12+-16 months	14-18 months	16-24 months	24-30 months
32 2	3-90 33 days	10-120 days	15-180 days	20-180 days	30-240 days	30-300 days	60-365 days	12+-16 months	14-18 months	16-20 months
34 1	3-60 35 days	3-90 days	10-120 days	20-180 days	30-240 days	30-300 days	30-300 days	30-365 days	12+-16 months	14-18 months

1 References to days and months represent the standard sentence
2 range.

3 (2) The court may utilize any other sanctions or alternatives as
4 authorized by law, including but not limited to the special drug
5 offender sentencing alternative under RCW 9.94A.660 or drug court
6 under RCW 2.28.170.

7 (3) Nothing in this section creates an entitlement for a criminal
8 defendant to any specific sanction, alternative, sentence option, or
9 substance abuse treatment.

10 NEW SECTION. **Sec. 8.**

11 TABLE 6 - PROPERTY OFFENSES
12 INCLUDED WITHIN EACH SERIOUSNESS LEVEL

13	IV	Counterfeiting (RCW 9.16.035(4))
14		Identity Theft 1 (RCW 9.35.020(2))
15		Theft of Livestock 1 (RCW 9A.56.080)
16		Trafficking in Stolen Property 1 (RCW
17		9A.82.050)
18		Unlawful Factoring of a Credit Card or
19		Payment Card Transaction (RCW
20		9A.56.290(4)(b))
21	III	Burglary 2 (RCW 9A.52.030)
22		Organized Retail Theft 1 (RCW
23		9A.56.350(2))
24		Retail Theft with Special Circumstances 1
25		(RCW 9A.56.360(2))
26		Theft of Livestock 2 (RCW 9A.56.083)
27		Theft with the Intent to Resell 1 (RCW
28		9A.56.340(2))
29		Trafficking in Stolen Property 2 (RCW
30		9A.82.055)
31		Unlawful Hunting of Big Game 1 (RCW
32		77.15.410(3)(b))
33	II	Commercial Fishing Without a License 1
34		(RCW 77.15.500(3)(b))
35		Counterfeiting (RCW 9.16.035(3))

1 Engaging in Fish Dealing Activity
2 Unlicensed 1 (RCW 77.15.620(3)(b))
3 Health Care False Claims (RCW 48.80.030)
4 Identity Theft 2 (RCW 9.35.020(3))
5 Malicious Mischief 1 (RCW 9A.48.070)
6 Organized Retail Theft 2 (RCW
7 9A.56.350(3))
8 Possession of Stolen Property 1 (RCW
9 9A.56.150)
10 Possession of a Stolen Vehicle (RCW
11 9A.56.068)
12 Retail Theft with Special Circumstances 2
13 (RCW 9A.56.360(3))
14 Scrap Processing, Recycling, or Supplying
15 Without a License (second or
16 subsequent offense) (RCW
17 19.290.100(2)(b))
18 Theft 1 (RCW 9A.56.030)
19 Theft of a Motor Vehicle (RCW 9A.56.065)
20 Theft of Rental, Leased, or Lease-
21 purchased, or Loaned Property (valued
22 at five thousand dollars or more) (RCW
23 9A.56.096(5)(a))
24 Theft with the Intent to Resell 2 (RCW
25 9A.56.340(3))
26 Trafficking in Insurance Claims (RCW
27 48.30A.015)
28 Unlawful Factoring of a Credit Card or
29 Payment Card Transaction (RCW
30 9A.56.290(4)(a))
31 I False Verification for Welfare (RCW
32 74.08.055)
33 Forgery (RCW 9A.60.020)
34 Malicious Mischief 2 (RCW 9A.48.080)

1 Possession of Stolen Property 2 (RCW
2 9A.56.160)
3 Reckless Burning 1 (RCW 9A.48.040)
4 Taking Motor Vehicle Without Permission
5 2 (RCW 9A.56.075)
6 Theft 2 (RCW 9A.56.040)
7 Theft of Rental, Leased, Lease-purchased,
8 or Loan Property (valued at seven
9 hundred fifty dollars or more but less
10 than five thousand dollars) (RCW
11 9A.56.096(5)(b))
12 Unlawful Issuance of Checks or Drafts
13 (RCW 9A.56.060)
14 Unlawful Possession of Fictitious
15 Identification (RCW 9A.56.320(4))
16 Unlawful Possession of Instruments of
17 Financial Fraud (RCW 9A.56.320(5))
18 Unlawful Possession of Payment
19 Instruments (RCW 9A.56.320(2))
20 Unlawful Possession of a Personal
21 Identification Device (RCW
22 9A.56.320(3))
23 Unlawful Production of Payment
24 Instruments (RCW 9A.56.320(1))
25 Unlawful Trafficking in Food Stamps
26 (RCW 9.91.142)
27 Unlawful Use of Food Stamps (RCW
28 9.91.144)

29 **Sec. 9.** RCW 9.94A.585 and 2002 c 290 s 19 are each amended to
30 read as follows:

31 (1) A sentence within the standard sentence range, under RCW
32 9.94A.510 ~~((or))~~, 9.94A.517, or section 7 of this act, for an offense
33 shall not be appealed. For purposes of this section, a sentence
34 imposed on a first-time offender under RCW 9.94A.650 shall also be
35 deemed to be within the standard sentence range for the offense and
36 shall not be appealed.

1 (2) A sentence outside the standard sentence range for the
2 offense is subject to appeal by the defendant or the state. The
3 appeal shall be to the court of appeals in accordance with rules
4 adopted by the supreme court.

5 (3) Pending review of the sentence, the sentencing court or the
6 court of appeals may order the defendant confined or placed on
7 conditional release, including bond.

8 (4) To reverse a sentence which is outside the standard sentence
9 range, the reviewing court must find: (a) Either that the reasons
10 supplied by the sentencing court are not supported by the record
11 which was before the judge or that those reasons do not justify a
12 sentence outside the standard sentence range for that offense; or (b)
13 that the sentence imposed was clearly excessive or clearly too
14 lenient.

15 (5) A review under this section shall be made solely upon the
16 record that was before the sentencing court. Written briefs shall not
17 be required and the review and decision shall be made in an expedited
18 manner according to rules adopted by the supreme court.

19 (6) The court of appeals shall issue a written opinion in support
20 of its decision whenever the judgment of the sentencing court is
21 reversed and may issue written opinions in any other case where the
22 court believes that a written opinion would provide guidance to
23 sentencing courts and others in implementing this chapter and in
24 developing a common law of sentencing within the state.

25 (7) The department may petition for a review of a sentence
26 committing an offender to the custody or jurisdiction of the
27 department. The review shall be limited to errors of law. Such
28 petition shall be filed with the court of appeals no later than
29 ninety days after the department has actual knowledge of terms of the
30 sentence. The petition shall include a certification by the
31 department that all reasonable efforts to resolve the dispute at the
32 superior court level have been exhausted.

33 **Sec. 10.** RCW 9.94A.701 and 2010 c 267 s 11 and 2010 c 224 s 5
34 are each reenacted and amended to read as follows:

35 (1) If an offender is sentenced to the custody of the department
36 for one of the following crimes, the court shall, in addition to the
37 other terms of the sentence, sentence the offender to community
38 custody for three years:

39 (a) A sex offense not sentenced under RCW 9.94A.507; or

1 (b) A serious violent offense.

2 (2) A court shall, in addition to the other terms of the
3 sentence, sentence an offender to community custody for eighteen
4 months when the court sentences the person to the custody of the
5 department for a violent offense that is not considered a serious
6 violent offense.

7 (3) A court shall, in addition to the other terms of the
8 sentence, sentence an offender to community custody for one year when
9 the court sentences the person to the custody of the department for:

10 (a) Any crime against persons under RCW 9.94A.411(2);

11 (b) An offense involving the unlawful possession of a firearm
12 under RCW 9.41.040, where the offender is a criminal street gang
13 member or associate;

14 (c) A felony offense under chapter 69.50 or 69.52 RCW, committed
15 on or after July 1, 2000; (~~or~~)

16 (d) A felony violation of RCW 9A.44.132(1) (failure to register)
17 that is the offender's first violation for a felony failure to
18 register; or

19 (e) Any property offense, as defined in RCW 9.94A.030 if the
20 offender has an offender score of two points or more.

21 (4) If an offender is sentenced under the drug offender
22 sentencing alternative, the court shall impose community custody as
23 provided in RCW 9.94A.660.

24 (5) If an offender is sentenced under the special sex offender
25 sentencing alternative, the court shall impose community custody as
26 provided in RCW 9.94A.670.

27 (6) If an offender is sentenced to a work ethic camp, the court
28 shall impose community custody as provided in RCW 9.94A.690.

29 (7) If an offender is sentenced under the parenting sentencing
30 alternative, the court shall impose a term of community custody as
31 provided in RCW 9.94A.655.

32 (8) If a sex offender is sentenced as a nonpersistent offender
33 pursuant to RCW 9.94A.507, the court shall impose community custody
34 as provided in that section.

35 (9) The term of community custody specified by this section shall
36 be reduced by the court whenever an offender's standard range term of
37 confinement in combination with the term of community custody exceeds
38 the statutory maximum for the crime as provided in RCW 9A.20.021.

1 **Sec. 11.** RCW 9.94A.702 and 2010 c 267 s 12 are each amended to
2 read as follows:

3 (1) If an offender is sentenced to a term of confinement for one
4 year or less for one of the following offenses, the court may impose
5 up to one year of community custody:

6 (a) A sex offense;

7 (b) A violent offense;

8 (c) A crime against a person under RCW 9.94A.411;

9 (d) A felony violation of chapter 69.50 or 69.52 RCW, or an
10 attempt, conspiracy, or solicitation to commit such a crime; or

11 (e) A felony violation of RCW 9A.44.132(1) (failure to register).

12 (2) If an offender is sentenced to a term of confinement for one
13 year or less for a property offense, as defined in RCW 9.94A.030, and
14 the offender has an offender score of two points or more, the court
15 shall impose one year of community custody.

16 (3) If an offender is sentenced to a first-time offender waiver,
17 the court may impose community custody as provided in RCW 9.94A.650.

18 **Sec. 12.** RCW 9.94A.171 and 2011 1st sp.s. c 40 s 1 are each
19 amended to read as follows:

20 (1) A term of confinement ordered in a sentence pursuant to this
21 chapter shall be tolled by any period of time during which the
22 offender has absented himself or herself from confinement without the
23 prior approval of the entity in whose custody the offender has been
24 placed. A term of partial confinement shall be tolled during any
25 period of time spent in total confinement pursuant to a new
26 conviction.

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

31 (3)(a) For offenders other than sex offenders serving a sentence
32 for a sex offense as defined in RCW 9.94A.030, any period of
33 community custody shall be tolled during any period of time the
34 offender is in confinement for any reason unless the offender is
35 detained pursuant to RCW 9.94A.740 or 9.94A.631 for the period of
36 time prior to the hearing or for confinement pursuant to sanctions
37 imposed for violation of sentence conditions, in which case, the
38 period of community custody shall not toll. However, sanctions that
39 result in the imposition of the remaining sentence or the original

1 sentence will continue to toll the period of community custody. In
2 addition, inpatient treatment ordered by the court in lieu of jail
3 time shall not toll the period of community custody.

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

8 (c) For offenders serving a sentence for a property offense, as
9 defined in RCW 9.94A.030, any period of community custody shall be
10 tolled during any period of time the offender is in confinement for
11 any reason.

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

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

19 **Sec. 13.** RCW 9.94A.860 and 2011 1st sp.s. c 40 s 36 are each
20 amended to read as follows:

21 (1) The sentencing guidelines commission is hereby created(~~(~~
22 ~~located within the office of financial management. Except as provided~~
23 ~~in RCW 9.94A.875, the commission shall serve to advise the governor~~
24 ~~and the legislature as necessary on issues relating to adult and~~
25 ~~juvenile sentencing)). The commission may meet, as necessary, to~~
26 accomplish these purposes within funds appropriated. The commission
27 must be colocated with the caseload forecast council and the caseload
28 forecast council shall provide administrative support services for
29 the commission.

30 (2) The commission consists of twenty voting members, one of whom
31 the governor shall designate as chairperson. With the exception of ex
32 officio voting members, the voting members of the commission shall be
33 appointed by the governor, or his or her designee, subject to
34 confirmation by the senate.

35 (3) The voting membership consists of the following:

36 (a) The (~~head of the state agency having general responsibility~~
37 ~~for adult correction programs)) secretary of the department having
38 general responsibility for adult corrections programs, as an ex
39 officio member;~~

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

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

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

8 (e) Two prosecuting attorneys;

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

10 (g) ~~((Four))~~ Two persons who are superior court judges;

11 (h) One person who is the chief law enforcement officer of a
12 county ~~((or))~~ and one person who is the chief law enforcement officer
13 of a city;

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

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

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

20 (l) One person who is an administrator of juvenile court
21 services;

22 (m) The chief justice of the supreme court or the chief justice's
23 designee, as an ex officio member.

24 In making the appointments, the governor shall endeavor to assure
25 that the commission membership includes adequate representation and
26 expertise relating to both the adult criminal justice system and the
27 juvenile justice system. In making the appointments, the governor
28 shall seek the recommendations of Washington prosecutors in respect
29 to the prosecuting attorney members, of the Washington state bar
30 association in respect to the defense attorney members, of the
31 association of superior court judges in respect to the members who
32 are judges, of the Washington association of sheriffs and police
33 chiefs in respect to the member who is a law enforcement officer, of
34 the Washington state association of counties in respect to the member
35 who is a county official, of the association of Washington cities in
36 respect to the member who is a city official, of the office of crime
37 victims' advocacy and other organizations of crime victims in respect
38 to the member who is a victim of crime or a crime victims' advocate,
39 and of the Washington association of juvenile court administrators in

1 respect to the member who is an administrator of juvenile court
2 services.

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

6 (b) The governor shall stagger the terms of the members appointed
7 under subsection (3)(j), (k), and (l) of this section by appointing
8 one of them for a term of one year, one for a term of two years, and
9 one for a term of three years.

10 (5) The speaker of the house of representatives and the president
11 of the senate may each appoint two nonvoting members to the
12 commission, one from each of the two largest caucuses in each house.
13 The members so appointed shall serve two-year terms, or until they
14 cease to be members of the house from which they were appointed,
15 whichever occurs first.

16 (6) The executive director of the caseload forecast council or
17 his or her designee shall be an ex officio, nonvoting member of the
18 commission.

19 (7) The members of the commission may be reimbursed for travel
20 expenses as provided in RCW 43.03.050 and 43.03.060. Legislative
21 members may be reimbursed by their respective houses as provided
22 under RCW 44.04.120. Except for the reimbursement of travel expenses,
23 members shall not be compensated.

24 NEW SECTION. **Sec. 14.** Subject to funds appropriated
25 specifically for this purpose:

26 (1) Not less than once per biennium, the commission working in
27 conjunction with the caseload forecast council and other entities, as
28 needed, shall review:

29 (a) Property crime rates;

30 (b) The impact on supervision, jail, and prison populations of
31 sentencing under the property crime grid in this chapter;

32 (c) Recidivism rates, as measured by rearrest among other
33 outcomes, of supervision, jail, and prison populations;

34 (d) Racial disproportionality impacts;

35 (e) The effectiveness of the minimum three day sentencing ranges
36 under the property offense sentencing grid in section 7 of this act
37 and whether such minimum ranges should be amended;

1 (f) How risk assessments are used to make informed decisions
2 regarding pretrial detainees and whether localities would benefit
3 from increased pretrial opportunities; and

4 (g) New programs implemented through grant funding established
5 pursuant to sections 16 and 17 of this act.

6 (2) Until January 31, 2019, no later than January 1st of each
7 odd-numbered year, the commission shall submit a report to the
8 appropriate committees of the legislature that includes:

9 (a) The determinations described in subsection (1) of this
10 section and descriptions of the methodology employed by the
11 commission in reaching those determinations; and

12 (b) An overview and the effectiveness of the law enforcement
13 grant program under section 16 of this act.

14 (3) The commission may request assistance from other state
15 agencies including, but not limited to, the caseload forecast
16 council, the department of corrections, the department of social and
17 health services, and other agencies.

18 NEW SECTION. **Sec. 15.** (1) The caseload forecast council shall
19 provide administrative support to the commission.

20 (2)(a) All reports, documents, surveys, books, records, files,
21 papers, or written materials in the possession of the office of
22 financial management specifically for the commission shall be
23 delivered to the custody of the caseload forecast council. All funds,
24 credits, or other assets held by the office of financial management
25 specifically for the commission shall be assigned to the caseload
26 forecast council.

27 (b) If any question arises as to the transfer of any personnel,
28 funds, books, documents, records, papers, files, equipment, or other
29 tangible property used or held in the exercise of the powers and the
30 performance of the duties and functions transferred, the director of
31 the office of financial management shall make a determination as to
32 the proper allocation and certify the same to the state agencies
33 concerned.

34 (3) All rules and all pending business before the commission on
35 the effective date of this section shall be continued. All existing
36 contracts and obligations shall remain in full force and shall be
37 performed by the caseload forecast council.

1 (4) The transfer of the powers, duties, functions, and personnel
2 of the commission shall not affect the validity of any act performed
3 before the effective date of this section.

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

10 NEW SECTION. **Sec. 16.** (1) The department of commerce shall
11 establish a law enforcement grant program. To be eligible for a
12 grant, local law enforcement agencies shall submit proposals to the
13 department of commerce that focus on increasing the capacity of the
14 law enforcement agency to address property crime within their
15 jurisdiction through one of the following strategies:

16 (a) Focusing on intervention and enforcement through the use of
17 increased staffing resources, including with overtime funds, to
18 target property crime with evidence driven approaches;

19 (b) Increasing technological capacity to support intervention and
20 enforcement with the purchase of technology for crime prevention and
21 criminal justice problem solving. Technology shall include, but not
22 be limited to, crime mapping software, global positioning systems
23 technology, and smart phone tools;

24 (c) Enhancing analytical capacity through the development or
25 expansion of analytical capabilities that focus on crime mapping,
26 analysis of crime trends, and developing data driven strategies that
27 focus on property crime reduction through the employment of civilian
28 crime analysts;

29 (d) Engaging with community partners in order to develop projects
30 that focus on preventing property crime in the community. Community
31 partners may include, but are not limited to, public and private
32 service providers, the courts, and probation services;

33 (e) Increasing direct services to property crime victims through
34 local law enforcement efforts.

35 (2) Preference shall be given to grant applicants that can
36 demonstrate a commitment to regional, multijurisdictional strategies
37 and that can clearly outline a comprehensive plan for municipalities
38 to work with law enforcement, community-based organizations, and
39 government agencies to address property crime.

1 (3) The department of commerce shall attempt to utilize national
2 resources and expertise on policing.

3 (4) The department of commerce shall utilize an advisory
4 committee to evaluate grant applications and monitor the
5 effectiveness of grant projects in terms of property crime reduction.
6 The advisory committee shall include one representative of each of
7 the following entities:

8 (a) Governor's office;

9 (b) Washington state association of counties;

10 (c) Washington association of prosecuting attorneys;

11 (d) Administrative office of the courts;

12 (e) Washington association of sheriffs and police chiefs;

13 (f) Crime victims' compensation program;

14 (g) Department of corrections;

15 (h) Washington state patrol;

16 (i) Washington auto theft prevention authority; and

17 (j) Washington state criminal justice training commission.

18 (5) The department of commerce shall provide an annual report to
19 the commission that provides an overview of the grants distributed
20 and the effectiveness of the grant projects in terms of property
21 crime reduction.

22 NEW SECTION. **Sec. 17.** (1) Grants awarded under section 16 of
23 this act shall be considered one-time grants and may be renewed for
24 effective programs as determined by the department of commerce. The
25 department of commerce shall consult with counties and local law
26 enforcement agencies when determining grant eligibility requirements
27 and criteria. The department of commerce shall publish guidelines and
28 an application for the competitive portion of the grant programs no
29 later than January 1, 2016.

30 (2) The department of commerce shall monitor and enforce grant
31 compliance, including enforcement by withdrawing grant funds or
32 requiring reimbursement of grant funds.

33 (3) The department of commerce may adopt rules and procedures as
34 necessary to carry out section 16 of this act.

35 (4) A grantee may not supplant current local funds for law
36 enforcement with funds provided by the department of commerce under
37 section 16 of this act.

1 NEW SECTION. **Sec. 18.** Sections 7, 8, and 14 through 16 of this
2 act are each added to chapter 9.94A RCW.

3 NEW SECTION. **Sec. 19.** A new section is added to chapter 72.09
4 RCW to read as follows:

5 The property offense supervision and programs account is created
6 in the state treasury. Moneys in the account may be expended solely
7 for community custody supervision of felony property offenders
8 released from prison or jail, offender specific programming aimed at
9 reducing reoffense, and property crime reduction grants. Moneys
10 allocated under this section must be used to supplement, not
11 supplant, other federal, state, and local funds used for property
12 offender supervision and programming. The department shall consult
13 with the sentencing guidelines commission on allocating the funds.
14 Moneys in the account may be spent only after appropriation.

15 NEW SECTION. **Sec. 20.** A new section is added to chapter 9.94A
16 RCW to read as follows:

17 (1) If an offender sentenced under this chapter or chapter 9.94B
18 RCW is supervised by the department, the offender may earn positive
19 achievement time in accordance with procedures that are developed and
20 adopted by the department.

21 (a) The positive achievement time shall be awarded to offenders
22 who are in compliance with supervision terms and are making progress
23 towards the goals of their individualized supervision case plan,
24 including: Participation in specific targeted interventions, risk
25 related programming, or treatment; or completing steps towards
26 specific targeted goals that enhance protective factors and
27 stability, as determined by the department.

28 (b) For each month of community custody served, offenders may
29 earn positive achievement time of fifteen days.

30 (c) Positive achievement time is accrued monthly and time shall
31 not be applied to an offender's term of supervision prior to the
32 earning of the time.

33 (d) The department may develop rules to allow for the partial
34 revocation of previously accrued positive achievement time as an
35 alternative to confinement for certain low-level violations as
36 specified by the department.

37 (2) An offender is not eligible to earn positive achievement time
38 if he or she:

- 1 (a) Was sentenced under RCW 9.94A.507 or 10.95.030;
2 (b) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or
3 9.94A.670;
4 (c) Is subject to supervision pursuant to RCW 9.94A.745;
5 (d) Has been identified by the department as a dangerous mentally
6 ill offender pursuant to RCW 72.09.370;
7 (e) Has an indeterminate sentence and is subject to parole
8 pursuant to RCW 9.95.017; or
9 (f) Is serving community custody pursuant to early release under
10 RCW 9.94A.730.

11 NEW SECTION. **Sec. 21.** The department of corrections has
12 discretion to implement section 20 of this act over a period of time
13 not to exceed twelve months. For any offender under active
14 supervision by the department as of the effective date of this
15 section, he or she is not eligible to earn positive achievement time
16 pursuant to section 20 of this act until he or she has received an
17 orientation by the department regarding positive time.

18 NEW SECTION. **Sec. 22.** Sections 3(4), 3(8), 20, and 21 of this
19 act are necessary for the immediate preservation of the public peace,
20 health, or safety, or support of the state government and its
21 existing public institutions, and take effect July 1, 2015.

22 NEW SECTION. **Sec. 23.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

--- END ---