

SENATE BILL 5934

State of Washington 65th Legislature 2017 1st Special Session
By Senator Padden

1 AN ACT Relating to convicted persons; amending RCW 9.94A.589,
2 9.94B.050, 9.94A.501, 9.94A.533, 46.20.117, and 46.20.117; amending
3 2013 2nd sp.s. c 14 s 10 (uncodified); reenacting and amending RCW
4 9.94A.515; adding a new section to chapter 9.94B RCW; adding new
5 sections to chapter 9.94A RCW; adding a new section to chapter 72.09
6 RCW; creating new sections; repealing 2015 c 291 s 9; repealing 2015
7 c 291 ss 15 and 16 (uncodified); prescribing penalties; providing an
8 effective date; providing expiration dates; and declaring an
9 emergency.

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

PART I

SERIOUSNESS LEVEL OF CRIMES

13 Sec. 101. RCW 9.94A.515 and 2016 c 213 s 5, 2016 c 164 s 13, and
14 2016 c 6 s 1 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH
SERIOUSNESS LEVEL

- XVI Aggravated Murder 1 (RCW 10.95.020)
XV Homicide by abuse (RCW 9A.32.055)

1 Malicious explosion 1 (RCW
2 70.74.280(1))
3 Murder 1 (RCW 9A.32.030)
4 XIV Murder 2 (RCW 9A.32.050)
5 Trafficking 1 (RCW 9A.40.100(1))
6 XIII Malicious explosion 2 (RCW
7 70.74.280(2))
8 Malicious placement of an explosive 1
9 (RCW 70.74.270(1))
10 Rape of a Child 1 (RCW 9A.44.073)
11 XII Assault 1 (RCW 9A.36.011)
12 Assault of a Child 1 (RCW 9A.36.120)
13 Malicious placement of an imitation
14 device 1 (RCW 70.74.272(1)(a))
15 Promoting Commercial Sexual Abuse of
16 a Minor (RCW 9.68A.101)
17 Rape 1 (RCW 9A.44.040)
18 Rape of a Child (~~(1 (RCW 9A.44.073))~~)
19 2 (RCW 9A.44.076)
20 Trafficking 2 (RCW 9A.40.100(3))
21 XI Child Molestation 1 (RCW 9A.44.083)
22 Manslaughter 1 (RCW 9A.32.060)
23 Rape 2 (RCW 9A.44.050)
24 (~~(Rape of a Child 2 (RCW 9A.44.076))~~)
25 Vehicular Homicide, by being under the
26 influence of intoxicating liquor or
27 any drug (RCW 46.61.520)
28 Vehicular Homicide, by the operation of
29 any vehicle in a reckless manner
30 (RCW 46.61.520)
31 X (~~(Child Molestation 1 (RCW~~
32 ~~9A.44.083))~~)
33 Criminal Mistreatment 1 (RCW
34 9A.42.020)

1 Indecent Liberties (with forcible
2 compulsion) (RCW
3 9A.44.100(1)(a))
4 Kidnapping 1 (RCW 9A.40.020)
5 Leading Organized Crime (RCW
6 9A.82.060(1)(a))
7 Malicious explosion 3 (RCW
8 70.74.280(3))
9 Sexually Violent Predator Escape (RCW
10 9A.76.115)
11 IX Abandonment of Dependent Person 1
12 (RCW 9A.42.060)
13 Assault of a Child 2 (RCW 9A.36.130)
14 Explosive devices prohibited (RCW
15 70.74.180)
16 Hit and Run—Death (RCW
17 46.52.020(4)(a))
18 Homicide by Watercraft, by being under
19 the influence of intoxicating liquor
20 or any drug (RCW 79A.60.050)
21 Inciting Criminal Profiteering (RCW
22 9A.82.060(1)(b))
23 Malicious placement of an explosive 2
24 (RCW 70.74.270(2))
25 Robbery 1 (RCW 9A.56.200)
26 Sexual Exploitation (RCW 9.68A.040)
27 VIII Arson 1 (RCW 9A.48.020)
28 Child Molestation 2 (RCW 9A.44.086)
29 Commercial Sexual Abuse of a Minor
30 (RCW 9.68A.100)
31 Homicide by Watercraft, by the
32 operation of any vessel in a reckless
33 manner (RCW 79A.60.050)
34 Manslaughter 2 (RCW 9A.32.070)

1 Promoting Prostitution 1 (RCW
2 9A.88.070)
3 Theft of Ammonia (RCW 69.55.010)
4 VII Air bag diagnostic systems (causing
5 bodily injury or death) (RCW
6 46.37.660(2)(b))
7 Air bag replacement requirements
8 (causing bodily injury or death)
9 (RCW 46.37.660(1)(b))
10 Burglary 1 (RCW 9A.52.020)
11 ~~((Child Molestation 2 (RCW~~
12 ~~9A.44.086)))~~
13 Civil Disorder Training (RCW
14 9A.48.120)
15 Dealing in depictions of minor engaged
16 in sexually explicit conduct 1
17 (RCW 9.68A.050(1))
18 Drive-by Shooting (RCW 9A.36.045)
19 Homicide by Watercraft, by disregard
20 for the safety of others (RCW
21 79A.60.050)
22 Indecent Liberties (without forcible
23 compulsion) (RCW 9A.44.100(1)
24 (b) and (c))
25 Introducing Contraband 1 (RCW
26 9A.76.140)
27 Malicious placement of an explosive 3
28 (RCW 70.74.270(3))
29 Manufacture or import counterfeit,
30 nonfunctional, damaged, or
31 previously deployed air bag
32 (causing bodily injury or death)
33 (RCW 46.37.650(1)(b))
34 Negligently Causing Death By Use of a
35 Signal Preemption Device (RCW
36 46.37.675)

1 Rape of a Child 3 (RCW 9A.44.079)
2 Sale, install, ~~((for))~~ or reinstall
3 counterfeit, nonfunctional,
4 damaged, or previously deployed
5 airbag (RCW 46.37.650(2)(b))
6 Sending, bringing into state depictions
7 of minor engaged in sexually
8 explicit conduct 1 (RCW
9 9.68A.060(1))
10 Unlawful Possession of a Firearm in the
11 first degree (RCW 9.41.040(1))
12 Use of a Machine Gun in Commission
13 of a Felony (RCW 9.41.225)
14 Vehicular Homicide, by disregard for
15 the safety of others (RCW
16 46.61.520)
17 VI Bail Jumping with Murder 1 (RCW
18 9A.76.170(3)(a))
19 Bribery (RCW 9A.68.010)
20 Child Molestation 3 (RCW 9A.44.089)
21 Incest 1 (RCW 9A.64.020(1))
22 Intimidating a Judge (RCW 9A.72.160)
23 Intimidating a Juror/Witness (RCW
24 9A.72.110, 9A.72.130)
25 Malicious placement of an imitation
26 device 2 (RCW 70.74.272(1)(b))
27 Possession of Depictions of a Minor
28 Engaged in Sexually Explicit
29 Conduct 1 (RCW 9.68A.070(1))
30 ~~((Rape of a Child 3 (RCW 9A.44.079)))~~
31 Theft of a Firearm (RCW 9A.56.300)
32 Unlawful Storage of Ammonia (RCW
33 69.55.020)
34 V Abandonment of Dependent Person 2
35 (RCW 9A.42.070)

1 Advancing money or property for
2 extortionate extension of credit
3 (RCW 9A.82.030)

4 Air bag diagnostic systems (RCW
5 46.37.660(2)(c))

6 Air bag replacement requirements
7 (RCW 46.37.660(1)(c))

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

10 ~~((Child Molestation 3 (RCW
11 9A.44.089)))~~

12 Criminal Mistreatment 2 (RCW
13 9A.42.030)

14 Custodial Sexual Misconduct 1 (RCW
15 9A.44.160)

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

19 Domestic Violence Court Order
20 Violation (RCW 10.99.040,
21 10.99.050, 26.09.300, 26.10.220,
22 26.26.138, 26.50.110, 26.52.070, or
23 74.34.145)

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

26 Extortion 1 (RCW 9A.56.120)

27 Extortionate Extension of Credit (RCW
28 9A.82.020)

29 Extortionate Means to Collect
30 Extensions of Credit (RCW
31 9A.82.040)

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

33 Kidnapping 2 (RCW 9A.40.030)

1 Manufacture or import counterfeit,
2 nonfunctional, damaged, or
3 previously deployed air bag (RCW
4 46.37.650(1)(c))
5 Perjury 1 (RCW 9A.72.020)
6 Persistent prison misbehavior (RCW
7 9.94.070)
8 Physical Control of a Vehicle While
9 Under the Influence (RCW
10 46.61.504(6))
11 Possession of a Stolen Firearm (RCW
12 9A.56.310)
13 Rape 3 (RCW 9A.44.060)
14 Rendering Criminal Assistance 1 (RCW
15 9A.76.070)
16 Sale, install, (~~for~~) or reinstall
17 counterfeit, nonfunctional,
18 damaged, or previously deployed
19 airbag (RCW 46.37.650(2)(c))
20 Sending, Bringing into State Depictions
21 of Minor Engaged in Sexually
22 Explicit Conduct 2 (RCW
23 9.68A.060(2))
24 Sexual Misconduct with a Minor 1
25 (RCW 9A.44.093)
26 Sexually Violating Human Remains
27 (RCW 9A.44.105)
28 Stalking (RCW 9A.46.110)
29 Taking Motor Vehicle Without
30 Permission 1 (RCW 9A.56.070)
31 IV Arson 2 (RCW 9A.48.030)
32 Assault 2 (RCW 9A.36.021)
33 Assault 3 (of a Peace Officer with a
34 Projectile Stun Gun) (RCW
35 9A.36.031(1)(h))

1 Assault by Watercraft (RCW
2 79A.60.060)
3 Bribing a Witness/Bribe Received by
4 Witness (RCW 9A.72.090,
5 9A.72.100)
6 Cheating 1 (RCW 9.46.1961)
7 Commercial Bribery (RCW 9A.68.060)
8 Counterfeiting (RCW 9.16.035(4))
9 Endangerment with a Controlled
10 Substance (RCW 9A.42.100)
11 Escape 1 (RCW 9A.76.110)
12 Hit and Run—Injury (RCW
13 46.52.020(4)(b))
14 Hit and Run with Vessel—Injury
15 Accident (RCW 79A.60.200(3))
16 Identity Theft 1 (RCW 9.35.020(2))
17 Indecent Exposure to Person Under Age
18 Fourteen (subsequent sex offense)
19 (RCW 9A.88.010)
20 Influencing Outcome of Sporting Event
21 (RCW 9A.82.070)
22 Malicious Harassment (RCW
23 9A.36.080)
24 Possession of Depictions of a Minor
25 Engaged in Sexually Explicit
26 Conduct 2 (RCW 9.68A.070(2))
27 Residential Burglary (RCW 9A.52.025)
28 Robbery 2 (RCW 9A.56.210)
29 Theft of Livestock 1 (RCW 9A.56.080)
30 Threats to Bomb (RCW 9.61.160)
31 Trafficking in Stolen Property 1 (RCW
32 9A.82.050)
33 Unlawful factoring of a credit card or
34 payment card transaction (RCW
35 9A.56.290(4)(b))

1 Unlawful transaction of health coverage
2 as a health care service contractor
3 (RCW 48.44.016(3))
4 Unlawful transaction of health coverage
5 as a health maintenance
6 organization (RCW 48.46.033(3))
7 Unlawful transaction of insurance
8 business (RCW 48.15.023(3))
9 Unlicensed practice as an insurance
10 professional (RCW 48.17.063(2))
11 Use of Proceeds of Criminal
12 Profiteering (RCW 9A.82.080 (1)
13 and (2))
14 Vehicle Prowling 2 (third or subsequent
15 offense) (RCW 9A.52.100(3))
16 Vehicular Assault, by being under the
17 influence of intoxicating liquor or
18 any drug, or by the operation or
19 driving of a vehicle in a reckless
20 manner (RCW 46.61.522)
21 Viewing of Depictions of a Minor
22 Engaged in Sexually Explicit
23 Conduct 1 (RCW 9.68A.075(1))
24 Willful Failure to Return from Furlough
25 (RCW 72.66.060)
26 III Animal Cruelty 1 (Sexual Conduct or
27 Contact) (RCW 16.52.205(3))
28 Assault 3 (Except Assault 3 of a Peace
29 Officer With a Projectile Stun Gun)
30 (RCW 9A.36.031 except subsection
31 (1)(h))
32 Assault of a Child 3 (RCW 9A.36.140)
33 Bail Jumping with class B or C Felony
34 (RCW 9A.76.170(3)(c))
35 Burglary 2 (RCW 9A.52.030)

1 Communication with a Minor for
2 Immoral Purposes (RCW
3 9.68A.090)
4 Criminal Gang Intimidation (RCW
5 9A.46.120)
6 Custodial Assault (RCW 9A.36.100)
7 Cyberstalking (subsequent conviction or
8 threat of death) (RCW 9.61.260(3))
9 Escape 2 (RCW 9A.76.120)
10 Extortion 2 (RCW 9A.56.130)
11 Harassment (RCW 9A.46.020)
12 Intimidating a Public Servant (RCW
13 9A.76.180)
14 Introducing Contraband 2 (RCW
15 9A.76.150)
16 Malicious Injury to Railroad Property
17 (RCW 81.60.070)
18 Mortgage Fraud (RCW 19.144.080)
19 Negligently Causing Substantial Bodily
20 Harm By Use of a Signal
21 Preemption Device (RCW
22 46.37.674)
23 Organized Retail Theft 1 (RCW
24 9A.56.350(2))
25 Perjury 2 (RCW 9A.72.030)
26 Possession of Incendiary Device (RCW
27 9.40.120)
28 Possession of Machine Gun or Short-
29 Barreled Shotgun or Rifle (RCW
30 9.41.190)
31 Promoting Prostitution 2 (RCW
32 9A.88.080)
33 Retail Theft with Special Circumstances
34 1 (RCW 9A.56.360(2))

1 Securities Act violation (RCW
2 21.20.400)
3 Tampering with a Witness (RCW
4 9A.72.120)
5 Telephone Harassment (subsequent
6 conviction or threat of death) (RCW
7 9.61.230(2))
8 Theft of Livestock 2 (RCW 9A.56.083)
9 Theft with the Intent to Resell 1 (RCW
10 9A.56.340(2))
11 Trafficking in Stolen Property 2 (RCW
12 9A.82.055)
13 Unlawful Hunting of Big Game 1 (RCW
14 77.15.410(3)(b))
15 Unlawful Imprisonment (RCW
16 9A.40.040)
17 Unlawful Misbranding of Food Fish or
18 Shellfish 1 (RCW 69.04.938(3))
19 Unlawful possession of firearm in the
20 second degree (RCW 9.41.040(2))
21 Unlawful Taking of Endangered Fish or
22 Wildlife 1 (RCW 77.15.120(3)(b))
23 Unlawful Trafficking in Fish, Shellfish,
24 or Wildlife 1 (RCW
25 77.15.260(3)(b))
26 Unlawful Use of a Nondesignated
27 Vessel (RCW 77.15.530(4))
28 Vehicular Assault, by the operation or
29 driving of a vehicle with disregard
30 for the safety of others (RCW
31 46.61.522)
32 Willful Failure to Return from Work
33 Release (RCW 72.65.070)
34 II Commercial Fishing Without a License
35 1 (RCW 77.15.500(3)(b))
36 Computer Trespass 1 (RCW 9A.90.040)

1 Counterfeiting (RCW 9.16.035(3))
2 Electronic Data Service Interference
3 (RCW 9A.90.060)
4 Electronic Data Tampering 1 (RCW
5 9A.90.080)
6 Electronic Data Theft (RCW 9A.90.100)
7 Engaging in Fish Dealing Activity
8 Unlicensed 1 (RCW 77.15.620(3))
9 Escape from Community Custody
10 (RCW 72.09.310)
11 Failure to Register as a Sex Offender
12 (second or subsequent offense)
13 (RCW 9A.44.130 prior to June 10,
14 2010, and RCW 9A.44.132)
15 Health Care False Claims (RCW
16 48.80.030)
17 Identity Theft 2 (RCW 9.35.020(3))
18 Improperly Obtaining Financial
19 Information (RCW 9.35.010)
20 Malicious Mischief 1 (RCW 9A.48.070)
21 Organized Retail Theft 2 (RCW
22 9A.56.350(3))
23 Possession of Stolen Property 1 (RCW
24 9A.56.150)
25 Possession of a Stolen Vehicle (RCW
26 9A.56.068)
27 Retail Theft with Special Circumstances
28 2 (RCW 9A.56.360(3))
29 Scrap Processing, Recycling, or
30 Supplying Without a License
31 (second or subsequent offense)
32 (RCW 19.290.100)
33 Theft 1 (RCW 9A.56.030)
34 Theft of a Motor Vehicle (RCW
35 9A.56.065)

1 Theft of Rental, Leased, Lease-
2 purchased, or Loaned Property
3 (valued at five thousand 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 9A.48.080)
34 Mineral Trespass (RCW 78.44.330)
35 Possession of Stolen Property 2 (RCW
36 9A.56.160)

1 Reckless Burning 1 (RCW 9A.48.040)
2 Spotlighting Big Game 1 (RCW
3 77.15.450(3)(b))
4 Suspension of Department Privileges 1
5 (RCW 77.15.670(3)(b))
6 Taking Motor Vehicle Without
7 Permission 2 (RCW 9A.56.075)
8 Theft 2 (RCW 9A.56.040)
9 Theft of Rental, Leased, Lease-
10 purchased, or Loaned Property
11 (valued at seven hundred fifty
12 dollars or more but less than five
13 thousand dollars) (RCW
14 9A.56.096(5)(b))
15 Transaction of insurance business
16 beyond the scope of licensure
17 (RCW 48.17.063)
18 Unlawful Fish and Shellfish Catch
19 Accounting (RCW 77.15.630(3)(b))
20 Unlawful Issuance of Checks or Drafts
21 (RCW 9A.56.060)
22 Unlawful Possession of Fictitious
23 Identification (RCW 9A.56.320)
24 Unlawful Possession of Instruments of
25 Financial Fraud (RCW 9A.56.320)
26 Unlawful Possession of Payment
27 Instruments (RCW 9A.56.320)
28 Unlawful Possession of a Personal
29 Identification Device (RCW
30 9A.56.320)
31 Unlawful Production of Payment
32 Instruments (RCW 9A.56.320)
33 Unlawful Releasing, Planting,
34 Possessing, or Placing Deleterious
35 Exotic Wildlife (RCW
36 77.15.250(2)(b))

1 Unlawful Trafficking in Food Stamps
2 (RCW 9.91.142)
3 Unlawful Use of Food Stamps (RCW
4 9.91.144)
5 Unlawful Use of Net to Take Fish 1
6 (RCW 77.15.580(3)(b))
7 Unlawful Use of Prohibited Aquatic
8 Animal Species (RCW
9 77.15.253(3))
10 Vehicle Prowl 1 (RCW 9A.52.095)
11 Violating Commercial Fishing Area or
12 Time 1 (RCW 77.15.550(3)(b))

13 **PART II**
14 **COMMUNITY CUSTODY: CONCURRENT**

15 **Sec. 201.** RCW 9.94A.589 and 2015 2nd sp.s. c 3 s 13 are each
16 amended to read as follows:

17 (1)(a) Except as provided in (b), (c), or (d) of this subsection,
18 whenever a person is to be sentenced for two or more current
19 offenses, the sentence range for each current offense shall be
20 determined by using all other current and prior convictions as if
21 they were prior convictions for the purpose of the offender score:
22 PROVIDED, That if the court enters a finding that some or all of the
23 current offenses encompass the same criminal conduct then those
24 current offenses shall be counted as one crime. Sentences imposed
25 under this subsection shall be served concurrently. Consecutive
26 sentences may only be imposed under the exceptional sentence
27 provisions of RCW 9.94A.535. "Same criminal conduct," as used in this
28 subsection, means two or more crimes that require the same criminal
29 intent, are committed at the same time and place, and involve the
30 same victim. This definition applies in cases involving vehicular
31 assault or vehicular homicide even if the victims occupied the same
32 vehicle.

33 (b) Whenever a person is convicted of two or more serious violent
34 offenses arising from separate and distinct criminal conduct, the
35 standard sentence range for the offense with the highest seriousness
36 level under RCW 9.94A.515 shall be determined using the offender's

1 prior convictions and other current convictions that are not serious
2 violent offenses in the offender score and the standard sentence
3 range for other serious violent offenses shall be determined by using
4 an offender score of zero. The standard sentence range for any
5 offenses that are not serious violent offenses shall be determined
6 according to (a) of this subsection. All sentences imposed under this
7 subsection (1)(b) shall be served consecutively to each other and
8 concurrently with sentences imposed under (a) of this subsection.
9 However, unless the court expressly orders that the community custody
10 terms run consecutively to each other, such terms shall run
11 concurrently to each other even if the court orders the confinement
12 terms to run consecutively to each other.

13 (c) If an offender is convicted under RCW 9.41.040 for unlawful
14 possession of a firearm in the first or second degree and for the
15 felony crimes of theft of a firearm or possession of a stolen
16 firearm, or both, the standard sentence range for each of these
17 current offenses shall be determined by using all other current and
18 prior convictions, except other current convictions for the felony
19 crimes listed in this subsection (1)(c), as if they were prior
20 convictions. The offender shall serve consecutive sentences for each
21 conviction of the felony crimes listed in this subsection (1)(c), and
22 for each firearm unlawfully possessed.

23 (d) All sentences imposed under RCW 46.61.502(6), 46.61.504(6),
24 or 46.61.5055(4) shall be served consecutively to any sentences
25 imposed under RCW 46.20.740 and 46.20.750.

26 (2)(a) (~~Except as provided in (b) of this subsection,~~) Whenever
27 a person while under sentence for conviction of a felony commits
28 another felony and is sentenced to another term of confinement, the
29 latter term of confinement shall not begin until expiration of all
30 prior terms of confinement. However, any terms of community custody
31 shall run concurrently to each other, unless the court pronouncing
32 the current sentence expressly orders that they be served
33 consecutively.

34 (b) Whenever a second or later felony conviction results in
35 consecutive community (~~supervision~~) custody with conditions not
36 currently in effect, under the prior sentence or sentences of
37 community (~~supervision~~) custody the court may require that the
38 conditions of community (~~supervision~~) custody contained in the
39 second or later sentence begin during the immediate term of community

1 ((~~supervision~~)) custody and continue throughout the duration of the
2 consecutive term of community ((~~supervision~~)) custody.

3 (3) Subject to subsections (1) and (2) of this section, whenever
4 a person is sentenced for a felony that was committed while the
5 person was not under sentence for conviction of a felony, the
6 sentence shall run concurrently with any felony sentence which has
7 been imposed by any court in this or another state or by a federal
8 court subsequent to the commission of the crime being sentenced
9 unless the court pronouncing the current sentence expressly orders
10 that ((~~they~~)) the confinement terms be served consecutively to each
11 other. Unless the court expressly orders that the community custody
12 terms run consecutively, such terms run concurrently to each other
13 even if the court orders the confinement terms to run consecutively
14 to each other.

15 (4) Whenever any person granted probation under RCW 9.95.210 or
16 9.92.060, or both, has the probationary sentence revoked and a prison
17 sentence imposed, that sentence shall run consecutively to any
18 sentence imposed pursuant to this chapter, unless the court
19 pronouncing the subsequent sentence expressly orders that they be
20 served concurrently.

21 (5) ((~~In the case of consecutive sentences,~~)) All periods of
22 total confinement shall be served before any partial confinement,
23 community ((~~restitution, community supervision~~)) custody, or any
24 other requirement or conditions of any of the sentences. ((~~Except for~~
25 exceptional sentences as authorized under RCW 9.94A.535, if two or
26 more sentences that run consecutively include periods of community
27 supervision, the aggregate of the community supervision period shall
28 not exceed twenty-four months.))

29 **Sec. 202.** RCW 9.94B.050 and 2003 c 379 s 4 are each amended to
30 read as follows:

31 When a court sentences an offender to a term of total confinement
32 in the custody of the department for any of the offenses specified in
33 this section, the court shall also sentence the offender to a term of
34 community placement as provided in this section. Except as provided
35 in RCW 9.94A.501, the department shall supervise any sentence of
36 community placement imposed under this section.

37 (1) The court shall order a one-year term of community placement
38 for the following:

1 (a) A sex offense or a serious violent offense committed after
2 July 1, 1988, but before July 1, 1990; or

3 (b) An offense committed on or after July 1, 1988, but before
4 July 25, 1999, that is:

5 (i) Assault in the second degree;

6 (ii) Assault of a child in the second degree;

7 (iii) A crime against persons where it is determined in
8 accordance with RCW (~~9.94A.602~~) 9.94A.825 that the offender or an
9 accomplice was armed with a deadly weapon at the time of commission;
10 or

11 (iv) A felony offense under chapter 69.50 or 69.52 RCW not
12 sentenced under RCW 9.94A.660.

13 (2) The court shall sentence the offender to a term of community
14 placement of two years or up to the period of earned release awarded
15 pursuant to RCW 9.94A.728, whichever is longer, for:

16 (a) An offense categorized as a sex offense committed on or after
17 July 1, 1990, but before June 6, 1996, including those sex offenses
18 also included in other offense categories;

19 (b) A serious violent offense other than a sex offense committed
20 on or after July 1, 1990, but before July 1, 2000; or

21 (c) A vehicular homicide or vehicular assault committed on or
22 after July 1, 1990, but before July 1, 2000.

23 (3) The community placement ordered under this section shall
24 begin either upon completion of the term of confinement or at such
25 time as the offender is transferred to community custody in lieu of
26 earned release. When the court sentences an offender to the statutory
27 maximum sentence then the community placement portion of the sentence
28 shall consist entirely of the community custody to which the offender
29 may become eligible. Any period of community custody actually served
30 shall be credited against the community placement portion of the
31 sentence. The community placement shall run concurrently to any
32 period of probation, parole, community supervision, community
33 placement, or community custody previously imposed by any court in
34 any jurisdiction, unless the court pronouncing the current sentence
35 expressly orders that they be served consecutively to each other.

36 (4) Unless a condition is waived by the court, the terms of any
37 community placement imposed under this section shall include the
38 following conditions:

39 (a) The offender shall report to and be available for contact
40 with the assigned community corrections officer as directed;

1 (b) The offender shall work at department-approved education,
2 employment, or community restitution, or any combination thereof;

3 (c) The offender shall not possess or consume controlled
4 substances except pursuant to lawfully issued prescriptions;

5 (d) The offender shall pay supervision fees as determined by the
6 department; and

7 (e) The residence location and living arrangements shall be
8 subject to the prior approval of the department during the period of
9 community placement.

10 (5) As a part of any terms of community placement imposed under
11 this section, the court may also order one or more of the following
12 special conditions:

13 (a) The offender shall remain within, or outside of, a specified
14 geographical boundary;

15 (b) The offender shall not have direct or indirect contact with
16 the victim of the crime or a specified class of individuals;

17 (c) The offender shall participate in crime-related treatment or
18 counseling services;

19 (d) The offender shall not consume alcohol; or

20 (e) The offender shall comply with any crime-related
21 prohibitions.

22 (6) An offender convicted of a felony sex offense against a minor
23 victim after June 6, 1996, shall comply with any terms and conditions
24 of community placement imposed by the department relating to contact
25 between the sex offender and a minor victim or a child of similar age
26 or circumstance as a previous victim.

27 (7) Prior to or during community placement, upon recommendation
28 of the department, the sentencing court may remove or modify any
29 conditions of community placement so as not to be more restrictive.

30 NEW SECTION. **Sec. 203.** A new section is added to chapter 9.94B
31 RCW to read as follows:

32 Except for exceptional sentences as authorized under RCW
33 9.94A.535, if two or more sentences that run consecutively include
34 periods of community supervision that the court has expressly ordered
35 to run consecutively, the aggregate of the community supervision
36 period shall not exceed twenty-four months.

37 NEW SECTION. **Sec. 204.** The department of corrections must
38 recalculate the scheduled end dates for terms of community custody,

1 community supervision, and community placement so that they run
2 concurrently to previously imposed sentences of community custody,
3 community supervision, community placement, probation, and parole.
4 This section applies to each offender currently in confinement or
5 under active supervision, regardless of whether the offender is
6 sentenced after the effective date of this section, and regardless of
7 whether the offender's date of offense occurred prior to the
8 effective date of this section or after.

9 NEW SECTION. **Sec. 205.** The legislature declares that the
10 department of corrections' recalculations of community custody terms
11 pursuant to this act do not create any expectations that a particular
12 community custody term will end before July 1, 2017, and offenders
13 have no reason to conclude that the recalculation of their community
14 custody terms before July 1, 2017, is an entitlement or creates any
15 liberty interest in their community custody term ending before July
16 1, 2017.

17 NEW SECTION. **Sec. 206.** The department of corrections has the
18 authority to begin implementing sections 201 through 204 of this act
19 upon the effective date of this section.

20 **PART III**

21 **COMMUNITY CUSTODY: MOTOR VEHICLE OFFENSE PILOT**

22 NEW SECTION. **Sec. 301.** A new section is added to chapter 9.94A
23 RCW to read as follows:

24 (1) Subject to the availability of amounts appropriated for this
25 purpose, a pilot program is established for the supervision of
26 offenders convicted of felonies relating to the theft or taking of a
27 motor vehicle.

28 (2) Notwithstanding the provisions of RCW 9.94A.701, until June
29 30, 2019, the court may sentence an offender to community custody for
30 a term of one year when the court sentences the person to the custody
31 of the department for theft of a motor vehicle (RCW 9A.56.065),
32 possession of a stolen vehicle (RCW 9A.56.068), taking a motor
33 vehicle without permission in the first degree (RCW 9A.56.070),
34 taking a motor vehicle without permission in the second degree (RCW
35 9A.56.075), or a crime against property with a prior conviction for
36 one of the preceding motor vehicle crimes.

1 (3) Notwithstanding the provisions of RCW 9.94A.501, the
2 department shall supervise any offender sentenced to community
3 custody pursuant to subsection (2) of this section.

4 (4) No later than November 1, 2020, the department must submit a
5 report to the governor and the appropriate committees of the
6 legislature analyzing the effectiveness of supervision in reducing
7 recidivism among offenders committing felonies relating to the theft
8 or taking of a motor vehicle. The department shall consult with the
9 Washington state institute for public policy in guiding its data
10 tracking efforts and preparing the report.

11 (5) This section expires December 31, 2020.

12 **PART IV**

13 **COMMUNITY CUSTODY: GOOD TIME**

14 **Sec. 401.** RCW 9.94A.501 and 2016 sp.s. c 28 s 1 are each amended
15 to read as follows:

16 (1) The department shall supervise the following offenders who
17 are sentenced to probation in superior court, pursuant to RCW
18 9.92.060, 9.95.204, or 9.95.210:

19 (a) Offenders convicted of:

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

21 (ii) Custodial sexual misconduct second degree;

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

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

24 (b) Offenders who have:

25 (i) A current conviction for a repetitive domestic violence
26 offense where domestic violence has been pleaded and proven after
27 August 1, 2011; and

28 (ii) A prior conviction for a repetitive domestic violence
29 offense or domestic violence felony offense where domestic violence
30 has been pleaded and proven after August 1, 2011.

31 (2) Misdemeanor and gross misdemeanor offenders supervised by the
32 department pursuant to this section shall be placed on community
33 custody.

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

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

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

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

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

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

14 (e)(i) Has a current conviction for a domestic violence felony
15 offense where domestic violence has been pleaded and proven after
16 August 1, 2011, and a prior conviction for a repetitive domestic
17 violence offense or domestic violence felony offense where domestic
18 violence was pleaded and proven after August 1, 2011. This subsection
19 (4)(e)(i) applies only to offenses committed prior to July 24, 2015;

20 (ii) Has a current conviction for a domestic violence felony
21 offense where domestic violence was pleaded and proven. The state and
22 its officers, agents, and employees shall not be held criminally or
23 civilly liable for its supervision of an offender under this
24 subsection (4)(e)(ii) unless the state and its officers, agents, and
25 employees acted with gross negligence;

26 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or
27 9.94A.670;

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

29 (h) Was convicted and sentenced under RCW 46.61.520 (vehicular
30 homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6)
31 (felony DUI), or RCW 46.61.504(6) (felony physical control).

32 (5) The department shall supervise any offender who is released
33 by the indeterminate sentence review board and who was sentenced to
34 community custody or subject to community custody under the terms of
35 release.

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

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

4 (8) The period of time the department is authorized to supervise
5 an offender under this section may not exceed the duration of
6 community custody specified under RCW 9.94B.050, 9.94A.701 (1)
7 through (8), or 9.94A.702, except in cases where the court has
8 imposed an exceptional term of community custody under RCW 9.94A.535.

9 (9) The period of time the department is authorized to supervise
10 an offender under this section may be reduced by the earned award of
11 positive achievement time pursuant to section 402 of this act.

12 NEW SECTION. Sec. 402. A new section is added to chapter 9.94A
13 RCW to read as follows:

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

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

25 (b) For each month of community custody served, offenders may
26 earn positive achievement time of ten days.

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

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

32 (a) Was sentenced under RCW 9.94A.507 or 10.95.030;

33 (b) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or
34 9.94A.670;

35 (c) Is subject to supervision pursuant to RCW 9.94A.745;

36 (d) Has been identified by the department as a dangerous mentally
37 ill offender pursuant to RCW 72.09.370;

38 (e) Has an indeterminate sentence and is subject to parole
39 pursuant to RCW 9.95.017; or

1 (f) Is serving community custody pursuant to early release under
2 RCW 9.94A.730.

3 NEW SECTION. **Sec. 403.** The department of corrections has
4 discretion to implement sections 401 and 402 of this act over a
5 period of time not to exceed twelve months. For any offender under
6 active supervision by the department as of the effective date of this
7 section, he or she is not eligible to earn positive achievement time
8 pursuant to section 402 of this act until he or she has received an
9 orientation by the department regarding positive time.

10 **PART V**

11 **HABITUAL PROPERTY OFFENDERS**

12 NEW SECTION. **Sec. 501.** (1) The legislature finds there to be a
13 significant number of property crimes in Washington and that the
14 current practices in the criminal justice system are ineffective in
15 reducing recidivism.

16 (2) The legislature further finds that a large portion of
17 property crimes in Washington are committed by habitual offenders.
18 Increasing the sanctions for habitual property offenders will provide
19 more effective deterrents to recidivism. The legislature intends to
20 enhance the courts' discretion to more appropriately sentence
21 habitual property offenders with significant histories of burglary
22 and theft.

23 NEW SECTION. **Sec. 502.** A new section is added to chapter 9.94A
24 RCW to read as follows:

25 (1) The prosecuting attorney may file a special allegation when
26 sufficient evidence exists to show that the accused is a habitual
27 property offender.

28 (2) In a criminal case in which there has been a special
29 allegation and the accused has been convicted of the underlying
30 crime, the court shall make a finding of fact prior to sentencing
31 whether the person is a habitual property offender based on the
32 person's criminal history. If the court finds beyond a reasonable
33 doubt that the person is a habitual property offender, the person
34 shall be sentenced in accordance with RCW 9.94A.533(15).

35 (3) For purposes of this section, a person is a habitual property
36 offender if:

1 (a) The present felony conviction for which the person is being
2 sentenced is for residential burglary, burglary in the second degree,
3 theft in the first degree, theft in the second degree, theft of a
4 firearm, unlawful issuance of checks or drafts, organized retail
5 theft, theft with special circumstances, or mail theft;

6 (b) The person has an offender score of nine points or higher;

7 (c) At least nine of the points in the person's offender score
8 result from any combination of the following felony offenses:
9 Residential burglary, burglary in the second degree, theft in the
10 first degree, theft in the second degree, theft of a firearm,
11 unlawful issuance of checks or drafts, organized retail theft, theft
12 with special circumstances, or mail theft; and

13 (d) The person has either received drug treatment related to any
14 felony conviction or has refused drug treatment related to any felony
15 conviction.

16 **Sec. 503.** RCW 9.94A.533 and 2016 c 203 s 7 are each amended to
17 read as follows:

18 (1) The provisions of this section apply to the standard sentence
19 ranges determined by RCW 9.94A.510 or 9.94A.517.

20 (2) For persons convicted of the anticipatory offenses of
21 criminal attempt, solicitation, or conspiracy under chapter 9A.28
22 RCW, the standard sentence range is determined by locating the
23 sentencing grid sentence range defined by the appropriate offender
24 score and the seriousness level of the completed crime, and
25 multiplying the range by seventy-five percent.

26 (3) The following additional times shall be added to the standard
27 sentence range for felony crimes committed after July 23, 1995, if
28 the offender or an accomplice was armed with a firearm as defined in
29 RCW 9.41.010 and the offender is being sentenced for one of the
30 crimes listed in this subsection as eligible for any firearm
31 enhancements based on the classification of the completed felony
32 crime. If the offender is being sentenced for more than one offense,
33 the firearm enhancement or enhancements must be added to the total
34 period of confinement for all offenses, regardless of which
35 underlying offense is subject to a firearm enhancement. If the
36 offender or an accomplice was armed with a firearm as defined in RCW
37 9.41.010 and the offender is being sentenced for an anticipatory
38 offense under chapter 9A.28 RCW to commit one of the crimes listed in
39 this subsection as eligible for any firearm enhancements, the

1 following additional times shall be added to the standard sentence
2 range determined under subsection (2) of this section based on the
3 felony crime of conviction as classified under RCW 9A.28.020:

4 (a) Five years for any felony defined under any law as a class A
5 felony or with a statutory maximum sentence of at least twenty years,
6 or both, and not covered under (f) of this subsection;

7 (b) Three years for any felony defined under any law as a class B
8 felony or with a statutory maximum sentence of ten years, or both,
9 and not covered under (f) of this subsection;

10 (c) Eighteen months for any felony defined under any law as a
11 class C felony or with a statutory maximum sentence of five years, or
12 both, and not covered under (f) of this subsection;

13 (d) If the offender is being sentenced for any firearm
14 enhancements under (a), (b), and/or (c) of this subsection and the
15 offender has previously been sentenced for any deadly weapon
16 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
17 subsection or subsection (4)(a), (b), and/or (c) of this section, or
18 both, all firearm enhancements under this subsection shall be twice
19 the amount of the enhancement listed;

20 (e) Notwithstanding any other provision of law, all firearm
21 enhancements under this section are mandatory, shall be served in
22 total confinement, and shall run consecutively to all other
23 sentencing provisions, including other firearm or deadly weapon
24 enhancements, for all offenses sentenced under this chapter. However,
25 whether or not a mandatory minimum term has expired, an offender
26 serving a sentence under this subsection may be:

27 (i) Granted an extraordinary medical placement when authorized
28 under RCW 9.94A.728(1)(c); or

29 (ii) Released under the provisions of RCW 9.94A.730;

30 (f) The firearm enhancements in this section shall apply to all
31 felony crimes except the following: Possession of a machine gun,
32 possessing a stolen firearm, drive-by shooting, theft of a firearm,
33 unlawful possession of a firearm in the first and second degree, and
34 use of a machine gun in a felony;

35 (g) If the standard sentence range under this section exceeds the
36 statutory maximum sentence for the offense, the statutory maximum
37 sentence shall be the presumptive sentence unless the offender is a
38 persistent offender. If the addition of a firearm enhancement
39 increases the sentence so that it would exceed the statutory maximum

1 for the offense, the portion of the sentence representing the
2 enhancement may not be reduced.

3 (4) The following additional times shall be added to the standard
4 sentence range for felony crimes committed after July 23, 1995, if
5 the offender or an accomplice was armed with a deadly weapon other
6 than a firearm as defined in RCW 9.41.010 and the offender is being
7 sentenced for one of the crimes listed in this subsection as eligible
8 for any deadly weapon enhancements based on the classification of the
9 completed felony crime. If the offender is being sentenced for more
10 than one offense, the deadly weapon enhancement or enhancements must
11 be added to the total period of confinement for all offenses,
12 regardless of which underlying offense is subject to a deadly weapon
13 enhancement. If the offender or an accomplice was armed with a deadly
14 weapon other than a firearm as defined in RCW 9.41.010 and the
15 offender is being sentenced for an anticipatory offense under chapter
16 9A.28 RCW to commit one of the crimes listed in this subsection as
17 eligible for any deadly weapon enhancements, the following additional
18 times shall be added to the standard sentence range determined under
19 subsection (2) of this section based on the felony crime of
20 conviction as classified under RCW 9A.28.020:

21 (a) Two years for any felony defined under any law as a class A
22 felony or with a statutory maximum sentence of at least twenty years,
23 or both, and not covered under (f) of this subsection;

24 (b) One year for any felony defined under any law as a class B
25 felony or with a statutory maximum sentence of ten years, or both,
26 and not covered under (f) of this subsection;

27 (c) Six months for any felony defined under any law as a class C
28 felony or with a statutory maximum sentence of five years, or both,
29 and not covered under (f) of this subsection;

30 (d) If the offender is being sentenced under (a), (b), and/or (c)
31 of this subsection for any deadly weapon enhancements and the
32 offender has previously been sentenced for any deadly weapon
33 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
34 subsection or subsection (3)(a), (b), and/or (c) of this section, or
35 both, all deadly weapon enhancements under this subsection shall be
36 twice the amount of the enhancement listed;

37 (e) Notwithstanding any other provision of law, all deadly weapon
38 enhancements under this section are mandatory, shall be served in
39 total confinement, and shall run consecutively to all other
40 sentencing provisions, including other firearm or deadly weapon

1 enhancements, for all offenses sentenced under this chapter. However,
2 whether or not a mandatory minimum term has expired, an offender
3 serving a sentence under this subsection may be:

4 (i) Granted an extraordinary medical placement when authorized
5 under RCW 9.94A.728(1)(c); or

6 (ii) Released under the provisions of RCW 9.94A.730;

7 (f) The deadly weapon enhancements in this section shall apply to
8 all felony crimes except the following: Possession of a machine gun,
9 possessing a stolen firearm, drive-by shooting, theft of a firearm,
10 unlawful possession of a firearm in the first and second degree, and
11 use of a machine gun in a felony;

12 (g) If the standard sentence range under this section exceeds the
13 statutory maximum sentence for the offense, the statutory maximum
14 sentence shall be the presumptive sentence unless the offender is a
15 persistent offender. If the addition of a deadly weapon enhancement
16 increases the sentence so that it would exceed the statutory maximum
17 for the offense, the portion of the sentence representing the
18 enhancement may not be reduced.

19 (5) The following additional times shall be added to the standard
20 sentence range if the offender or an accomplice committed the offense
21 while in a county jail or state correctional facility and the
22 offender is being sentenced for one of the crimes listed in this
23 subsection. If the offender or an accomplice committed one of the
24 crimes listed in this subsection while in a county jail or state
25 correctional facility, and the offender is being sentenced for an
26 anticipatory offense under chapter 9A.28 RCW to commit one of the
27 crimes listed in this subsection, the following additional times
28 shall be added to the standard sentence range determined under
29 subsection (2) of this section:

30 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
31 (a) or (b) or 69.50.410;

32 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
33 (c), (d), or (e);

34 (c) Twelve months for offenses committed under RCW 69.50.4013.

35 For the purposes of this subsection, all of the real property of
36 a state correctional facility or county jail shall be deemed to be
37 part of that facility or county jail.

38 (6) An additional twenty-four months shall be added to the
39 standard sentence range for any ranked offense involving a violation
40 of chapter 69.50 RCW if the offense was also a violation of RCW

1 69.50.435 or 9.94A.827. All enhancements under this subsection shall
2 run consecutively to all other sentencing provisions, for all
3 offenses sentenced under this chapter.

4 (7) An additional two years shall be added to the standard
5 sentence range for vehicular homicide committed while under the
6 influence of intoxicating liquor or any drug as defined by RCW
7 46.61.502 for each prior offense as defined in RCW 46.61.5055.

8 Notwithstanding any other provision of law, all impaired driving
9 enhancements under this subsection are mandatory, shall be served in
10 total confinement, and shall run consecutively to all other
11 sentencing provisions, including other impaired driving enhancements,
12 for all offenses sentenced under this chapter.

13 An offender serving a sentence under this subsection may be
14 granted an extraordinary medical placement when authorized under RCW
15 9.94A.728(1)(c).

16 (8)(a) The following additional times shall be added to the
17 standard sentence range for felony crimes committed on or after July
18 1, 2006, if the offense was committed with sexual motivation, as that
19 term is defined in RCW 9.94A.030. If the offender is being sentenced
20 for more than one offense, the sexual motivation enhancement must be
21 added to the total period of total confinement for all offenses,
22 regardless of which underlying offense is subject to a sexual
23 motivation enhancement. If the offender committed the offense with
24 sexual motivation and the offender is being sentenced for an
25 anticipatory offense under chapter 9A.28 RCW, the following
26 additional times shall be added to the standard sentence range
27 determined under subsection (2) of this section based on the felony
28 crime of conviction as classified under RCW 9A.28.020:

29 (i) Two years for any felony defined under the law as a class A
30 felony or with a statutory maximum sentence of at least twenty years,
31 or both;

32 (ii) Eighteen months for any felony defined under any law as a
33 class B felony or with a statutory maximum sentence of ten years, or
34 both;

35 (iii) One year for any felony defined under any law as a class C
36 felony or with a statutory maximum sentence of five years, or both;

37 (iv) If the offender is being sentenced for any sexual motivation
38 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
39 the offender has previously been sentenced for any sexual motivation
40 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or

1 (iii) of this subsection, all sexual motivation enhancements under
2 this subsection shall be twice the amount of the enhancement listed;

3 (b) Notwithstanding any other provision of law, all sexual
4 motivation enhancements under this subsection are mandatory, shall be
5 served in total confinement, and shall run consecutively to all other
6 sentencing provisions, including other sexual motivation
7 enhancements, for all offenses sentenced under this chapter. However,
8 whether or not a mandatory minimum term has expired, an offender
9 serving a sentence under this subsection may be:

10 (i) Granted an extraordinary medical placement when authorized
11 under RCW 9.94A.728(1)(c); or

12 (ii) Released under the provisions of RCW 9.94A.730;

13 (c) The sexual motivation enhancements in this subsection apply
14 to all felony crimes;

15 (d) If the standard sentence range under this subsection exceeds
16 the statutory maximum sentence for the offense, the statutory maximum
17 sentence shall be the presumptive sentence unless the offender is a
18 persistent offender. If the addition of a sexual motivation
19 enhancement increases the sentence so that it would exceed the
20 statutory maximum for the offense, the portion of the sentence
21 representing the enhancement may not be reduced;

22 (e) The portion of the total confinement sentence which the
23 offender must serve under this subsection shall be calculated before
24 any earned early release time is credited to the offender;

25 (f) Nothing in this subsection prevents a sentencing court from
26 imposing a sentence outside the standard sentence range pursuant to
27 RCW 9.94A.535.

28 (9) An additional one-year enhancement shall be added to the
29 standard sentence range for the felony crimes of RCW 9A.44.073,
30 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
31 or after July 22, 2007, if the offender engaged, agreed, or offered
32 to engage the victim in the sexual conduct in return for a fee. If
33 the offender is being sentenced for more than one offense, the
34 one-year enhancement must be added to the total period of total
35 confinement for all offenses, regardless of which underlying offense
36 is subject to the enhancement. If the offender is being sentenced for
37 an anticipatory offense for the felony crimes of RCW 9A.44.073,
38 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
39 offender attempted, solicited another, or conspired to engage, agree,
40 or offer to engage the victim in the sexual conduct in return for a

1 fee, an additional one-year enhancement shall be added to the
2 standard sentence range determined under subsection (2) of this
3 section. For purposes of this subsection, "sexual conduct" means
4 sexual intercourse or sexual contact, both as defined in chapter
5 9A.44 RCW.

6 (10)(a) For a person age eighteen or older convicted of any
7 criminal street gang-related felony offense for which the person
8 compensated, threatened, or solicited a minor in order to involve the
9 minor in the commission of the felony offense, the standard sentence
10 range is determined by locating the sentencing grid sentence range
11 defined by the appropriate offender score and the seriousness level
12 of the completed crime, and multiplying the range by one hundred
13 twenty-five percent. If the standard sentence range under this
14 subsection exceeds the statutory maximum sentence for the offense,
15 the statutory maximum sentence is the presumptive sentence unless the
16 offender is a persistent offender.

17 (b) This subsection does not apply to any criminal street gang-
18 related felony offense for which involving a minor in the commission
19 of the felony offense is an element of the offense.

20 (c) The increased penalty specified in (a) of this subsection is
21 unavailable in the event that the prosecution gives notice that it
22 will seek an exceptional sentence based on an aggravating factor
23 under RCW 9.94A.535.

24 (11) An additional twelve months and one day shall be added to
25 the standard sentence range for a conviction of attempting to elude a
26 police vehicle as defined by RCW 46.61.024, if the conviction
27 included a finding by special allegation of endangering one or more
28 persons under RCW 9.94A.834.

29 (12) An additional twelve months shall be added to the standard
30 sentence range for an offense that is also a violation of RCW
31 9.94A.831.

32 (13) An additional twelve months shall be added to the standard
33 sentence range for vehicular homicide committed while under the
34 influence of intoxicating liquor or any drug as defined by RCW
35 46.61.520 or for vehicular assault committed while under the
36 influence of intoxicating liquor or any drug as defined by RCW
37 46.61.522, or for any felony driving under the influence (RCW
38 46.61.502(6)) or felony physical control under the influence (RCW
39 46.61.504(6)) for each child passenger under the age of sixteen who
40 is an occupant in the defendant's vehicle. These enhancements shall

1 be mandatory, shall be served in total confinement, and shall run
2 consecutively to all other sentencing provisions. If the addition of
3 a minor child enhancement increases the sentence so that it would
4 exceed the statutory maximum for the offense, the portion of the
5 sentence representing the enhancement may not be reduced.

6 (14) An additional twelve months shall be added to the standard
7 sentence range for an offense that is also a violation of RCW
8 9.94A.832.

9 (15)(a) The following additional times shall be added to the
10 standard sentence range if the court finds that the offender is a
11 habitual property offender pursuant to section 502 of this act:

12 (i) Twenty-four months if the offender is being sentenced for a
13 felony defined as a class B felony;

14 (ii) Twelve months if the offender is being sentenced for a
15 felony defined as a class C felony.

16 (b) A sentence imposed pursuant to this subsection is not to
17 exceed the statutory maximum for the crime as established in RCW
18 9A.20.021.

19 (c) Notwithstanding any other provision of law, all habitual
20 property offender enhancements imposed under this subsection (15) are
21 mandatory and shall be served in total confinement. However, whether
22 or not the mandatory minimum term has expired, an offender serving a
23 sentence under this subsection may be granted an extraordinary
24 medical placement when authorized under RCW 9.94A.728(1)(c).

25 PART VI

26 IDENTICARDS FOR PERSONS RELEASED FROM DEPARTMENT OF CORRECTIONS

27 NEW SECTION. Sec. 601. The legislature intends to create an
28 identicard program to assist incarcerated offenders to obtain a
29 state-issued identicard to aid and prepare offenders for release from
30 prison and reentry into the community. The legislature finds that
31 each step that assists individuals being released from prisons helps
32 incarcerated offenders avoid predictable conditions that lead to
33 future recidivism. In accordance with executive order 16-05 building
34 safe and strong communities through successful reentry, this act
35 intends to ensure that offenders released from state prisons have
36 adequate identification in order to increase public safety and reduce
37 recidivism.

1 NEW SECTION. **Sec. 602.** A new section is added to chapter 72.09
2 RCW to read as follows:

3 (1) Subject to the availability of amounts appropriated for this
4 specific purpose, the department, working in conjunction with the
5 department of licensing, shall create and implement an identicard
6 program to provide offenders released within Washington state a
7 state-issued identicard pursuant to RCW 46.20.117.

8 (2) An offender is eligible for an original, renewal, or
9 replacement identicard pursuant to this section, provided he or she:

10 (a) Meets the department of licensing criteria under RCW
11 46.20.117;

12 (b) Is sentenced to the custody of the department, and is
13 incarcerated within a correctional facility with an earned release
14 date that is more than one year from his or her admission date;

15 (c) Has not been found to be subject to an immigration detainer
16 or removal order and does not become subject to a removal order
17 during the period of incarceration. The department must inquire as to
18 a person's immigration status prior to issuance of an identicard in a
19 manner consistent with RCW 10.70.140;

20 (d) Is expected to be released to a location within Washington
21 state; and

22 (e) Pays a fee of eighteen dollars for the cost of the
23 identicard.

24 (3) A state law enforcement agency, court, or the department may
25 not be prohibited from investigating the legal presence of a person
26 or identifying a defendant's legal presence on a judgment and
27 sentence form or any other investigatory or arrest materials provided
28 to the department after conviction for the purposes of this act.

29 **Sec. 603.** RCW 46.20.117 and 2012 c 80 s 6 are each amended to
30 read as follows:

31 (1) **Issuance.** The department shall issue an identicard,
32 containing a picture, if the applicant:

33 (a)(i) Does not hold a valid Washington driver's license;

34 (~~(b)~~) (ii) Proves his or her identity as required by RCW
35 46.20.035; and

36 (~~(c)~~) (iii) Pays the required fee. Except as provided in (b) of
37 this subsection or subsection (5) of this section, the fee is
38 (~~forty five dollars from October 1, 2012, to June 30, 2013, and~~)
39 fifty-four dollars (~~(after June 30, 2013)~~), unless an applicant is a

1 recipient of continuing public assistance grants under Title 74 RCW,
2 who is referred in writing by the secretary of social and health
3 services. For those persons the fee must be the actual cost of
4 production of the identicard; or

5 (b) Is eligible for issuance of an identicard under section 602
6 of this act.

7 (i) A valid identification card issued by the department of
8 corrections may serve as sufficient proof of identity and residency
9 for an applicant under this subsection (1)(b);

10 (ii) An identicard issued under this subsection (1)(b) must
11 expire two years from the first anniversary of the offender's
12 birthdate after issuance; and

13 (iii) The department shall charge a fee of eighteen dollars for
14 an identicard issued under this subsection (1)(b).

15 (2) **Design and term.** The identicard must:

16 (a) Be distinctly designed so that it will not be confused with
17 the official driver's license; and

18 (b) Except as provided in subsection (1)(b) or (5) of this
19 section, expire on the sixth anniversary of the applicant's birthdate
20 after issuance.

21 (3) **Renewal.** An application for identicard renewal may be
22 submitted by means of:

23 (a) Personal appearance before the department; or

24 (b) Mail or electronic commerce, if permitted by rule of the
25 department and if the applicant did not renew his or her identicard
26 by mail or by electronic commerce when it last expired.

27 An identicard may not be renewed by mail or by electronic
28 commerce unless the renewal issued by the department includes a
29 photograph of the identicard holder.

30 (4) **Cancellation.** The department may cancel an identicard if the
31 holder of the identicard used the card or allowed others to use the
32 card in violation of RCW 46.20.0921.

33 (5) **Alternative issuance/renewal/extension.** The department may
34 issue or renew an identicard for a period other than five years from
35 October 1, 2012, to June 30, 2013, or six years after June 30, 2013,
36 or may extend by mail or electronic commerce an identicard that has
37 already been issued, in order to evenly distribute, as nearly as
38 possible, the yearly renewal rate of identicard holders. The fee for
39 an identicard issued or renewed for a period other than five years
40 from October 1, 2012, to June 30, 2013, or six years after June 30,

1 2013, or that has been extended by mail or electronic commerce, is
2 nine dollars for each year that the identicard is issued, renewed, or
3 extended. The department may adopt any rules as are necessary to
4 carry out this subsection.

5 **Sec. 604.** RCW 46.20.117 and 2014 c 185 s 2 are each amended to
6 read as follows:

7 (1) **Issuance.** The department shall issue an identicard,
8 containing a picture, if the applicant:

9 (a)(i) Does not hold a valid Washington driver's license;

10 ((b)) (ii) Proves his or her identity as required by RCW
11 46.20.035; and

12 ((c)) (iii) Pays the required fee. Except as provided in (b) of
13 this subsection or subsection (5) of this section, the fee is
14 ((forty five dollars from October 1, 2012, to June 30, 2013, and))
15 fifty-four dollars ((after June 30, 2013)), unless an applicant is a
16 recipient of continuing public assistance grants under Title 74 RCW,
17 who is referred in writing by the secretary of social and health
18 services. For those persons the fee must be the actual cost of
19 production of the identicard; or

20 (b) Is eligible for issuance of an identicard under section 602
21 of this act.

22 (i) A valid identification card issued by the department of
23 corrections may serve as sufficient proof of identity and residency
24 for an applicant under this subsection (1)(b);

25 (ii) An identicard issued under this subsection (1)(b) must
26 expire two years from the first anniversary of the offender's
27 birthdate after issuance; and

28 (iii) The department shall charge a fee of eighteen dollars for
29 an identicard issued under this subsection (1)(b).

30 (2)(a) **Design and term.** The identicard must:

31 (i) Be distinctly designed so that it will not be confused with
32 the official driver's license; and

33 (ii) Except as provided in subsection (1)(b) or (5) of this
34 section, expire on the sixth anniversary of the applicant's birthdate
35 after issuance.

36 (b) The identicard may include the person's status as a veteran,
37 consistent with RCW 46.20.161(2).

38 (3) **Renewal.** An application for identicard renewal may be
39 submitted by means of:

- 1 (a) Personal appearance before the department; or
2 (b) Mail or electronic commerce, if permitted by rule of the
3 department and if the applicant did not renew his or her identicard
4 by mail or by electronic commerce when it last expired.

5 An identicard may not be renewed by mail or by electronic
6 commerce unless the renewal issued by the department includes a
7 photograph of the identicard holder.

8 (4) **Cancellation.** The department may cancel an identicard if the
9 holder of the identicard used the card or allowed others to use the
10 card in violation of RCW 46.20.0921.

11 (5) **Alternative issuance/renewal/extension.** The department may
12 issue or renew an identicard for a period other than five years from
13 October 1, 2012, to June 30, 2013, or six years after June 30, 2013,
14 or may extend by mail or electronic commerce an identicard that has
15 already been issued, in order to evenly distribute, as nearly as
16 possible, the yearly renewal rate of identicard holders. The fee for
17 an identicard issued or renewed for a period other than five years
18 from October 1, 2012, to June 30, 2013, or six years after June 30,
19 2013, or that has been extended by mail or electronic commerce, is
20 nine dollars for each year that the identicard is issued, renewed, or
21 extended. The department may adopt any rules as are necessary to
22 carry out this subsection.

23 NEW SECTION. **Sec. 605.** The department of corrections and the
24 department of licensing may enter into a memorandum of understanding
25 to meet the requirements of sections 602 through 604 of this act, and
26 have discretion to implement sections 602 through 604 of this act
27 over a period of time not to exceed twelve months from the effective
28 date of this section.

29 **PART VII**

30 **APPLICABILITY AND EXPIRATION**

31 **Sec. 701.** 2013 2nd sp.s. c 14 s 10 (uncodified) is amended to
32 read as follows:

33 Section(~~s 1 and~~) 5 of this act expires July 1, 2018.

34 NEW SECTION. **Sec. 702.** The following acts or parts of acts are
35 each repealed:

36 (1) 2015 c 291 s 9;

1 (2) 2015 c 291 s 15 (uncodified); and
2 (3) 2015 c 291 s 16 (uncodified).

3 NEW SECTION. **Sec. 703.** Sections 201 through 204 of this act
4 apply retroactively and prospectively regardless of the date of an
5 offender's underlying offense.

6 NEW SECTION. **Sec. 704.** Section 603 of this act expires August
7 30, 2017.

8 NEW SECTION. **Sec. 705.** Section 604 of this act takes effect
9 August 30, 2017.

10 NEW SECTION. **Sec. 706.** Sections 201 through 206 and 401 through
11 403 of this act are necessary for the immediate preservation of the
12 public peace, health, or safety, or support of the state government
13 and its existing public institutions, and take effect immediately.

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