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**SENATE BILL 5819**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Darneille, Nguyen, and Wilson, C.

AN ACT Relating to establishing a postconviction review board and review process for early release of qualifying offenders; amending RCW 9.94A.533, 9.94A.570, 9.94A.6332, 9.94A.728, 9.95.0001, 9.95.0002, 9.95.001, 9.95.002, 9.95.422, 9.95.425, 9.95.430, 9.95.435, 9.95.440, 9.95.009, 9.95.030, 9.95.045, 9.95.055, 9.95.060, 9.95.070, 9.95.115, 9.95.130, 4.24.550, 4.24.5501, 4.100.070, 7.68.120, 9.94A.030, 9.94A.501, 9.94A.730, 9.94A.840, 9.94A.860, 9.94A.8673, 9.94A.890, 9.96.050, 9.98.010, 9A.44.045, 9A.46.020, 9A.46.110, 10.64.140, 10.77.210, 10.95.020, 10.95.030, 10.98.160, 10.110.020, 29A.08.520, 34.05.030, 42.17A.705, 43.43.745, 69.50.410, 70.02.260, 71.05.232, 71.06.091, 71.06.100, 71.06.270, 71.09.025, 72.02.100, 72.02.110, 72.02.220, 72.02.270, 72.04A.050, 72.04A.070, 72.04A.080, 72.04A.090, 72.09.335, 72.09.337, 72.09.370, 72.09.585, 72.60.102, 72.64.065, 72.65.130, 72.68.031, and 72.70.040; reenacting and amending RCW 9.95.003 and 9.95.260; adding a new section to chapter 9.94A RCW; adding new sections to chapter 9.95 RCW; adding a new section to chapter 43.06 RCW; creating new sections; and providing an expiration date.

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

NEW SECTION. **Sec.**  The legislature finds that Washington's prison system serves the public good by providing rehabilitative services and protecting public safety. The legislature declares that offender rehabilitation is a top priority for the department of corrections and finds that offender rehabilitation may occur prior to the end of a lengthy prison sentence.

The legislature has determined that in certain situations, incarceration well beyond rehabilitation may not further the goal of addressing public safety and providing for effective rehabilitation. The legislature finds that many of the individuals who have committed low-severity offenses have unmet behavioral health needs that could be better managed in the community, and that people who are incarcerated have higher rates of victimization, trauma, and abuse than those in the general public.

The legislature affirms that research in cognitive development and brain science have given us the information necessary to trust that against the backdrop of rehabilitation, hope, and effective programming, many offenders are able to fully rehabilitate. The legislature finds that the public has both a financial and humanitarian interest in those who have been fully rehabilitated to reenter the community if they are ready, in the state's view, to be productive members of society.

As such, the legislature intends to create an independent program of review to examine certain offenders' progress in rehabilitation and their potential to reenter the community. The legislature intends to expand the authority and size of the currently existing indeterminate sentence review board, and rename it as the postconviction review board. The board shall report directly to the governor, and will review postconviction cases for early release if they meet the criteria established in this act.

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

(1) Notwithstanding any other provision of this chapter, a person may petition the postconviction review board for early release under this section, provided that he or she:

(a) Has served at least fifteen consecutive years of total confinement;

(b) Has not committed a disqualifying serious infraction as defined by the department in the twelve months prior to filing the petition for early release; and

(c) Consents to a review of all his or her medical, mental health, and department files by the board.

(2) No later than five years prior to the date the offender will be eligible to petition for release, the department shall:

(a) Notify the offender regarding his or her eligibility under this section;

(b) Conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(3) If the offender has a prior known or diagnosed decreased cognitive function or developmental disability, or a decreased cognitive function or developmental disability is determined during the assessment process as outlined in subsection (2)(b) of this section, the department shall assist the offender with the process of applying for review by the postconviction review board, or refer to additional services for such assistance.

(4) No later than one hundred eighty days from the date that the offender submits his or her petition for early release to the board, the department shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are evidence-based, normed on the specific gender of the offender, and recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the postconviction review board.

NEW SECTION. **Sec.**  A new section is added to chapter 9.95 RCW to read as follows:

(1) When a petition is filed under this section, the board shall review the petition, and shall take the following actions:

(a) Deny a petition without a hearing due to the offender's failure to meet the statutory eligibility for review or based on the presence of any of the following:

(i) A risk-related infraction within the past five years including, but not limited to, serious infractions;

(ii) A security threat group concern within the past five years;

(iii) A lack of compliance with the department's recommended treatment and programming; or

(iv) A new conviction after admission to prison; or

(b) Conduct a hearing if the conditions in (a) of this subsection are not met. The determination made at the hearing is whether to grant or deny the petition for early release.

(i) A decision to grant a petition for early release under this section must be made by a majority vote of the board, after the hearing. The board shall order the person released under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released. In making a determination, the board shall consider: The nature, circumstances, and seriousness of the offense committed; evidence of the offender's remorse and atonement for the offense committed, including any efforts to participate in the department's victim offender dialogue program; the offender's behavior while incarcerated, including job history, education, participation in rehabilitative programming and treatment, and infraction history; statements of correctional staff, program supervisors, and volunteer facilitators regarding the offender; and other behavior or medical conditions, or risk assessments and psychological evaluations that the board finds to be relevant to the question of whether the offender is likely to engage in future criminal behavior if released to appropriate conditions. In addition, the board may consider factors pertaining to the offender's ability to reintegrate into society, including employment skills, outside support from family, friends, or other groups, including but not limited to police and prosecutors in the jurisdictions where the crimes were committed. The board shall give public safety considerations the highest priority when making all discretionary decisions regarding the ability for release and conditions of release. The board shall seek input from the victim of the crime, if the victim so chooses.

(ii) When denying a petition for release under this section, the board shall provide the offender with a written report setting forth the reasons for the denial and recommendations as to what the offender should do prior to submitting any subsequent petition under this section. The recommendations may include behavioral changes, programming or educational objectives, or other actions the board reasonably believes will reduce the offender's risk to reoffend. An offender whose petition for release is denied may file a new petition for release five years from the date of denial or at an earlier date as may be set by the board.

(iii) The granting or denial of a petition is reviewable by the Washington state court of appeals, only if the board fails to follow the proper procedures.

(iv) A decision of the board to grant or deny petition must be filed with the superior court in the county where the last offense took place, and a certified copy must be provided to the department. Before the release of an offender, the department shall confirm the decision with the board.

(2) In a hearing conducted under subsection (1)(b) of this section, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be provided by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence. Prior to the hearing, the department shall notify victims and survivors of victims of the offender's eligibility under this section, which must also include notice as to the availability of the voluntary victim offender dialogue program and other support programs or services administered by the department.

(3) When a petition is filed under this section, the board must render its decision and notify the offender and all other necessary parties within the following time frames:

(a) For a petition denied according to subsection (1)(a) of this section, within sixty days of the receipt of the petition.

(b) For a hearing conducted according to subsection (1)(b) of this section, within sixty days of the final hearing date.

(4)(a) The board has jurisdiction over an offender released under this section for the length of the offender's original sentence. Conditions for release may include: Partial confinement for up to six months, regular drug and/or alcohol testing, no violations of law, restrictions on travel, no contact with certain individuals or classes of individuals, restrictions on the type of employment, and any other restrictions that the board determines to be reasonable and appropriate in light of the individual offender's case. The board shall order the released offender to serve a term of community custody under the supervision of the department, which may not be less than three years and may not exceed the expiration date of the original sentence imposed by the court.

 (b) The department shall supervise the offender for the period ordered by the board and may impose additional individualized conditions. The department shall monitor the offender's compliance with conditions of community custody imposed by the court, the board, and the department, and shall promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(5) An offender released under this section may be returned to the institution at the discretion of the board if the offender is found to have violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. If the board finds that the offender has committed a new violation, the board may return the offender to the institution for up to the remainder of the court-imposed term of incarceration. The offender may file a new petition for release five years from the date of return to the institution or at an earlier date as may be set by the board.

(6) Individuals determined to be indigent who are petitioning for release under this section have a right to appointed counsel. Both lawyers and nonlawyers may assist the offender in the preparation of his or her petition and at the hearing.

(7) The hearing may be conducted telephonically and without the offender's physical presence at the hearing. When possible, video conferencing shall be used. Hearings under this section are subject to the open public meetings act under chapter 42.30 RCW.

(8) All information contained in a petition or that is submitted to the board is subject to public disclosure.

(9) Members of the board are not civilly liable for decisions made while performing their duties.

NEW SECTION. **Sec.**  A new section is added to chapter 9.95 RCW to read as follows:

(1) The postconviction review board shall evaluate outcomes of petitions brought under section 3 of this act. The board shall develop recommendations for changes to the eligibility requirements under section 3 of this act and to the composition or scope of review of the board. The board shall submit a report with its findings and recommendations, to the appropriate committees of the legislature and the governor's office no later than July 1, 2022.

(2) This section expires July 1, 2023.

NEW SECTION. **Sec.**  A new section is added to chapter 43.06 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, there is hereby created the postconviction review board, as described and defined in chapter 9.95 RCW, within the office of the governor for the purpose of reviewing and granting the early release of certain qualifying offenders.

(2) The postconviction review board reports directly to the governor and exercises its powers and duties independently of the department of corrections.

**Sec.**  RCW 9.94A.533 and 2018 c 7 s 8 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

(ii) Released under the provisions of RCW 9.94A.730 or section 3 of this act;

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

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

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

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

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

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

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

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

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

(ii) Released under the provisions of RCW 9.94A.730 or section 3 of this act;

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

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

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

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

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

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

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

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.827. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

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

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

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

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

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

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

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

(iv) If the offender is being sentenced for any sexual motivation enhancements under (a)(i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (a)(i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

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

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

(ii) Released under the provisions of RCW 9.94A.730 or section 3 of this act;

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

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

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

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

(9) An additional one‑year enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the one‑year enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in the sexual conduct in return for a fee, an additional one‑year enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

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

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

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

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

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

(13) An additional twelve months shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)) or felony physical control under the influence (RCW 46.61.504(6)) for each child passenger under the age of sixteen who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions. If the addition of a minor child enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

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

**Sec.**  RCW 9.94A.570 and 2000 c 28 s 6 are each amended to read as follows:

(1) Notwithstanding the statutory maximum sentence or any other provision of this chapter, a persistent offender shall be sentenced:

(a) To a term of total confinement for life ((~~without the possibility of release~~)) and may only be released if authorized by the board under section 3 of this act; or((~~,~~))

(b) When authorized by RCW 10.95.030 for the crime of aggravated murder in the first degree((~~, sentenced to death~~)).

((~~In addition, no offender subject to this section may be~~)) (2) Except when released by the board under section 3 of this act, a persistent offender is not eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of release as defined under RCW 9.94A.728 (1)((~~, (2), (3), (4), (6), (8), or (9)~~)) (b), (c), (e), (h), or (i), or any other form of authorized leave from a correctional facility while not in the direct custody of a corrections officer or officers, except: ((~~(1)~~)) (a) In the case of an offender in need of emergency medical treatment; or ((~~(2)~~)) (b) for the purpose of commitment to an inpatient treatment facility in the case of an offender convicted of the crime of rape in the first degree.

**Sec.**  RCW 9.94A.6332 and 2014 c 130 s 3 are each amended to read as follows:

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

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

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

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

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

(5) If the offender was released pursuant to RCW 9.94A.730, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

(6) If the offender was sentenced pursuant to RCW 10.95.030(3) or 10.95.035, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

(7) If the offender was released pursuant to section 3 of this act, any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

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

((~~(8)~~)) (9) If the offender is not being supervised by the department, any sanctions shall be imposed by the court pursuant to RCW 9.94A.6333.

**Sec.**  RCW 9.94A.728 and 2018 c 166 s 2 are each amended to read as follows:

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

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

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

(c)(i) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

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

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

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

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

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

(iv) The secretary may revoke an extraordinary medical placement under this subsection (1)(c) at any time.

(v) Persistent offenders are not eligible for extraordinary medical placement;

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

(e) No more than the final twelve months of the offender's term of confinement may be served in partial confinement for aiding the offender with: Finding work as part of the work release program under chapter 72.65 RCW; or reestablishing himself or herself in the community as part of the parenting program in RCW 9.94A.6551. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

(f) No more than the final six months of the offender's term of confinement may be served in partial confinement as home detention as part of the graduated reentry program developed by the department under RCW 9.94A.733;

(g) The governor may pardon any offender;

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

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

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

(k) Any person convicted of one or more crimes committed prior to the person's eighteenth birthday may be released from confinement pursuant to RCW 9.94A.730; and

(l) An offender may leave a correctional facility prior to completion of his or her sentence if he or she qualifies under section 3 of this act and release has been granted by the board.

(2) Offenders residing in a juvenile correctional facility placement pursuant to RCW 72.01.410(1)(a) are not subject to the limitations in this section.

**Sec.**  RCW 9.95.0001 and 2001 2nd sp.s. c 12 s 317 are each amended to read as follows:

(1) "Board" means the ((~~indeterminate sentence~~)) postconviction review board.

(2) "Community custody" means that portion of an offender's sentence subject to controls including crime-related prohibitions and affirmative conditions from the court, the board, or the department of corrections based on risk to community safety, that is served under supervision in the community, and which may be modified or revoked for violations of release conditions.

(3) "Crime-related prohibition" has the meaning defined in RCW 9.94A.030.

(4) "Department" means the department of corrections.

(5) "Parole" means that portion of a person's sentence for a crime committed before July 1, 1984, served on conditional release in the community subject to board controls and revocation and under supervision of the department.

(6) "Secretary" means the secretary of the department of corrections or his or her designee.

**Sec.**  RCW 9.95.0002 and 2011 1st sp.s. c 40 s 16 are each amended to read as follows:

(1) The indeterminate sentence review board is transferred to the office of the governor and is no longer a part of the department of corrections.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written materials in the possession of the department of corrections pertaining to the indeterminate sentence review board shall be delivered to the custody of the ((~~department of corrections~~)) postconviction review board. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of corrections pertaining to the indeterminate sentence review board shall be made available to the ((~~department of corrections~~)) postconviction review board. All funds, credits, or other assets held by the department of corrections pertaining to the indeterminate sentence review board shall be assigned to the ((~~department of corrections~~)) postconviction review board.

(b) Any appropriations made during the 2017-2019 biennium to the department of corrections pertaining to the indeterminate sentence review board shall((~~, on August 24, 2011,~~)) be transferred and credited to the ((~~department of corrections~~)) postconviction review board.

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

(3) All employees of the indeterminate sentence review board are transferred to the jurisdiction of the ((~~department of corrections~~)) postconviction review board. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the ((~~department of corrections~~)) postconviction review board to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the indeterminate sentence review board shall be continued and acted upon by the ((~~department of corrections~~)) postconviction review board. All existing contracts and obligations shall remain in full force and shall be performed by the ((~~department of corrections~~)) postconviction review board.

(5) ((~~The transfer of the powers, duties, functions, and personnel of the indeterminate sentence review board shall not affect the validity of any act performed before August 24, 2011.~~

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

((~~(7) All classified employees of the indeterminate sentence review board assigned to the department of corrections under chapter 40, Laws of 2011 1st sp. sess. whose positions are within an existing bargaining unit description at the department of corrections shall become a part of the existing bargaining unit at the department of corrections and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.~~

~~(8) Notwithstanding any provision of chapter 40, Laws of 2011 1st sp. sess. and despite the transfer of the indeterminate sentence review board to the department of corrections, the members of the indeterminate sentence review board will possess and shall exercise independent judgment when making any decisions concerning offenders. These decisions include, but are not limited to, decisions concerning offenders' release, revocation, reinstatement, or the imposition of conditions of supervision.~~))

**Sec.**  RCW 9.95.001 and 1986 c 224 s 2 are each amended to read as follows:

On July 1, 1986, the board of prison terms and paroles shall be redesignated the indeterminate sentence review board. The newly designated board shall retain the same membership and staff as the previously designated board of prison terms and paroles. References to "the board" or "board of prison terms and paroles" contained in this chapter, chapters 7.68, 9.95, 9.96, 71.06, and 72.04A RCW, and RCW 9A.44.045 and 72.68.031 are deemed to refer to the ((~~indeterminate sentence~~)) postconviction review board.

**Sec.**  RCW 9.95.002 and 2001 2nd sp.s. c 12 s 363 are each amended to read as follows:

The ((~~indeterminate sentence~~)) postconviction review board, in fulfilling its duties under the provisions of chapter 12, Laws of 2001 2nd sp. sess., shall be considered a parole board as that concept was treated in law under the state's indeterminate sentencing statutes.

**Sec.**  RCW 9.95.003 and 2011 1st sp.s. c 40 s 15 and 2011 c 336 s 336 are each reenacted and amended to read as follows:

(1) The ((~~board is created within the department~~)) indeterminate sentence review board is renamed the postconviction review board as an entity within the governor's office. The board shall consist of a chair and ((~~four~~)) seven other members, each of whom shall be appointed by the governor with the consent of the senate. In appointing members, the governor shall consider racial inequities in the criminal justice system, and ensure the members are representatives of underrepresented communities.

(a) Four of the eight board members shall be composed of members as follows:

(i) A judge chosen from a pool of six to eight retired superior court or appellate court judges/justices;

(ii) A representative from a statewide or local organization representing communities of color or otherwise concerning issues of racial equity;

(iii) A representative from an association, organization, or advocacy group with experience or interest in the formerly incarcerated and successful reentry; and

(iv) A behavioral health professional.

(b) Minimum qualifications for board members include, but are not limited to:

(i) Bachelor's degree and five years' experience in criminal justice or a social science field;

(ii) Ten years' experience in criminal justice or a social science field; or

(iii) Demonstrated competence in principles of racial equity and restorative justice.

(c) Each member shall hold office for a term of five years, and until his or her successor is appointed and qualified. The terms shall expire on April 15th of the expiration year. Vacancies in the membership of the board shall be filled by appointment by the governor with the consent of the senate. In the event of the inability of any member to act, the governor shall appoint some competent person to act in his or her stead during the continuance of such inability. The members shall not be removable during their respective terms except for cause determined by the ((~~superior court of Thurston county~~)) governor. The governor in appointing the members shall designate one of them to serve as chair at the governor's pleasure. The appointed chair shall serve as a fully participating board member.

(2) ((~~The department shall provide administrative and staff support for the board.~~)) The ((~~secretary~~)) board may employ a senior administrative officer and such other personnel as may be necessary to assist the board in carrying out its duties.

(3) The members of the board and staff assigned to the board shall not engage in any other business or profession or hold any other public office without the prior approval of the executive ethics board indicating compliance with RCW 42.52.020, 42.52.030, 42.52.040, and 42.52.120; nor shall they, at the time of appointment or employment or during their incumbency, serve as the representative of any political party on an executive committee or other governing body thereof, or as an executive officer or employee of any political committee or association. The members of the board shall each severally receive salaries fixed by the governor in accordance with the provisions of RCW 43.03.040, and in addition shall receive travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

**Sec.**  RCW 9.95.422 and 2016 c 218 s 2 are each amended to read as follows:

(1) Upon receipt of a petition for early release submitted under RCW 9.94A.730 or the time it is determined that a hearing shall be scheduled for a petition submitted under section 3 of this act, or upon determination of a parole eligibility review date pursuant to RCW 9.95.100 and 9.95.052, the ((~~indeterminate sentence~~)) postconviction review board must provide notice and a copy of a petition or parole eligibility documents to the sentencing court, prosecuting attorney, and crime victim or surviving family member. The board may request the prosecuting attorney to assist in contacting the crime victim or surviving family member. If requested in writing by the sentencing court, the prosecuting attorney, or the crime victim or surviving family member, the ((~~indeterminate sentence review~~)) board must also provide any assessment, psychological evaluation, institutional behavior record, or other examination of the offender. Notice of the early release hearing date or parole eligibility date, and any evaluations or information relevant to the release decision, must be provided at least ninety days before the early release hearing or parole eligibility review hearing. The records described in this section, and other records reviewed by the board in response to the petition or parole eligibility review((~~[,]~~)), must be disclosed in full and without redaction. Copies of records to be provided to the sentencing court and prosecuting attorney under this section must be provided as required without regard to whether the board has received a request for copies.

(2) For the purpose of review by the board of a petition for early release or parole eligibility, it is presumed that none of the records reviewed are exempt from disclosure to the sentencing court, prosecuting attorney, and crime victim or surviving family member, in whole or in part. The board may not claim any exemption from disclosure for the records reviewed for an early release petition or parole eligibility review hearing.

(3) The board and its subcommittees must provide comprehensive minutes of all related meetings and hearings on a petition for early release or parole eligibility review hearing. The comprehensive minutes should include, but not be limited to, the board members present, the name of the petitioner seeking review, the purpose and date of the meeting or hearing, a listing of documents reviewed, the names of members of the public who testify, a summary of discussion, the motions or other actions taken, and the votes of board members by name. For the purposes of this subsection, "action" has the same meaning as in RCW 42.30.020. The comprehensive minutes must be publicly and conspicuously posted on the board's web site within thirty days of the meeting or hearing, without any information withheld or redacted. Nothing in this subsection precludes the board from receiving confidential input from the crime victim or surviving family member.

**Sec.**  RCW 9.95.425 and 2014 c 130 s 5 are each amended to read as follows:

(1) Whenever the board or a community corrections officer of this state has reason to believe an offender released under RCW 9.95.420, 10.95.030(3), ((~~or~~)) 9.94A.730, or section 3 of this act has violated a condition of community custody or the laws of this state, any community corrections officer may arrest or cause the arrest and detention of the offender pending a determination by the board whether sanctions should be imposed or the offender's community custody should be revoked. The community corrections officer shall report all facts and circumstances surrounding the alleged violation to the board, with recommendations.

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

**Sec.**  RCW 9.95.430 and 2014 c 130 s 6 are each amended to read as follows:

Any offender released under RCW 9.95.420, 10.95.030(3), ((~~or~~)) 9.94A.730, or section 3 of this act who is arrested and detained in physical custody by the authority of a community corrections officer, or upon the written order of the board, shall not be released from custody on bail or personal recognizance, except upon approval of the board and the issuance by the board of an order reinstating the offender's release on the same or modified conditions. All chiefs of police, marshals of cities and towns, sheriffs of counties, and all police, prison, and peace officers and constables shall execute any such order in the same manner as any ordinary criminal process.

**Sec.**  RCW 9.95.435 and 2014 c 130 s 7 are each amended to read as follows:

(1) If an offender released by the board under RCW 9.95.420, 10.95.030(3), ((~~or~~)) 9.94A.730, or section 3 of this act violates any condition or requirement of community custody, the board may transfer the offender to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition of an alleged violation and subject to the limitations of subsection (2) of this section.

(2) Following the hearing specified in subsection (3) of this section, the board may impose sanctions such as work release, home detention with electronic monitoring, work crew, community restitution, inpatient treatment, daily reporting, curfew, educational or counseling sessions, supervision enhanced through electronic monitoring, or any other sanctions available in the community, or may suspend the release and sanction up to sixty days' confinement in a local correctional facility for each violation, or revoke the release to community custody whenever an offender released by the board under RCW 9.95.420, 10.95.030(3), ((~~or~~)) 9.94A.730, or section 3 of this act violates any condition or requirement of community custody.

(3) If an offender released by the board under RCW 9.95.420, 10.95.030(3), ((~~or~~)) 9.94A.730, or section 3 of this act is accused of violating any condition or requirement of community custody, he or she is entitled to a hearing before the board or a designee of the board prior to the imposition of sanctions. The hearing shall be considered as offender disciplinary proceedings and shall not be subject to chapter 34.05 RCW. The board shall develop hearing procedures and a structure of graduated sanctions consistent with the hearing procedures and graduated sanctions developed pursuant to RCW 9.94A.737. The board may suspend the offender's release to community custody and confine the offender in a correctional institution owned, operated by, or operated under contract with the state prior to the hearing unless the offender has been arrested and confined for a new criminal offense.

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

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

(b) The board shall provide the offender with findings and conclusions which include the evidence relied upon, and the reasons the particular sanction was imposed. The board shall notify the offender of the right to appeal the sanction and the right to file a personal restraint petition under court rules after the final decision of the board;

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

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

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

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

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

**Sec.**  RCW 9.95.440 and 2014 c 130 s 8 are each amended to read as follows:

In the event the board suspends the release status of an offender released under RCW 9.95.420, 10.95.030(3), ((~~or~~)) 9.94A.730, or section 3 of this act by reason of an alleged violation of a condition of release, or pending disposition of a new criminal charge, the board may nullify the suspension order and reinstate release under previous conditions or any new conditions the board determines advisable under RCW 9.94A.704. Before the board may nullify a suspension order and reinstate release, it shall determine that the best interests of society and the offender shall be served by such reinstatement rather than return to confinement.

**Sec.**  RCW 9.95.009 and 2011 1st sp.s. c 40 s 41 are each amended to read as follows:

(1) On July 1, 1986, the board of prison terms and paroles shall be redesignated as the indeterminate sentence review board. The board's membership shall be reduced as follows: On July 1, 1986, and on July 1st of each year until 1998, the number of board members shall be reduced in a manner commensurate with the board's remaining workload as determined by the office of financial management based upon its population forecast for the indeterminate sentencing system and in conjunction with the budget process. To meet the statutory obligations of the indeterminate sentence review board, the number of board members shall not be reduced to fewer than three members, although the office of financial management may designate some or all members as part-time members and specify the extent to which they shall be less than full-time members. Any reduction shall take place by the expiration, on that date, of the term or terms having the least time left to serve.

(2) After July 1, 1984, the board shall continue its functions with respect to persons convicted of crimes committed prior to July 1, 1984, and committed to the department of corrections. When making decisions on duration of confinement, including those relating to persons committed under a mandatory life sentence, and parole release under RCW 9.95.100 and 9.95.110, the board shall consider the purposes, standards, and sentencing ranges under chapter 9.94A RCW of the sentencing reform act and the minimum term recommendations of the sentencing judge and prosecuting attorney, and shall attempt to make decisions reasonably consistent with those ranges, standards, purposes, and recommendations: PROVIDED, That the board and its successors shall give adequate written reasons whenever a minimum term or parole release decision is made which is outside the sentencing ranges under chapter 9.94A RCW of the sentencing reform act. In making such decisions, the board and its successors shall consider the different charging and disposition practices under the indeterminate sentencing system.

(3) Notwithstanding the provisions of subsection (2) of this section, the indeterminate sentence review board shall give public safety considerations the highest priority when making all discretionary decisions on the remaining indeterminate population regarding the ability for parole, parole release, and conditions of parole.

(4) On and after the effective date of this section, the duties of the indeterminate sentence review board shall be performed by the postconviction review board.

**Sec.**  RCW 9.95.030 and 2011 c 336 s 338 are each amended to read as follows:

At the time the convicted person is transported to the custody of the department of corrections, the ((~~indeterminate sentence~~)) postconviction review board shall obtain from the sentencing judge and the prosecuting attorney, a statement of all the facts concerning the convicted person's crime and any other information of which they may be possessed relative to him or her, and the sentencing judge and the prosecuting attorney shall furnish the board with such information. The sentencing judge and prosecuting attorney shall indicate to the board, for its guidance, what, in their judgment, should be the duration of the convicted person's imprisonment.

**Sec.**  RCW 9.95.045 and 1993 c 144 s 1 are each amended to read as follows:

(1) An inmate convicted of murder may petition the ((~~indeterminate sentence~~)) postconviction review board to review the inmate's sentence if the petition alleges the following:

(a) The inmate was sentenced for a murder committed prior to July 23, 1989, which was the effective date of section 1, chapter 408, Laws of 1989, as codified in RCW 9.94A.535(1)(h). RCW 9.94A.535(1)(h) provides that the sentencing court may consider as a mitigating factor evidence that the defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense was a response to that abuse;

(b) RCW 9.94A.535(1)(h), if effective when the defendant committed the crime, would have provided a basis for the defendant to seek a mitigated sentence; and

(c) The sentencing court when determining what sentence to impose, did not consider evidence that the victim subjected the defendant or the defendant's children to a continuing pattern of sexual or physical abuse and the murder was in response to that abuse.

(2) An inmate who seeks to have his or her sentence reviewed under this section must petition the board for review no later than October 1, 1993. The petition may be by letter requesting review.

(3)(a) If the inmate was convicted of a murder committed prior to July 1, 1984, and the inmate is under the jurisdiction of the ((~~indeterminate sentence~~)) postconviction review board, the board shall conduct the review as provided in RCW 9.95.047. If the inmate was sentenced pursuant to chapter 9.94A RCW for a murder committed after June 30, 1984, but before July 23, 1989, the board shall conduct the review and may make appropriate recommendations to the sentencing court as provided in RCW 9.94A.890. The board shall complete its review of the petitions and submit recommendations to the sentencing courts or their successors by October 1, 1994.

(b) When reviewing petitions, the board shall solicit recommendations from the prosecuting attorneys of the counties where the petitioners were convicted, and shall accept input from other interested parties.

**Sec.**  RCW 9.95.055 and 2009 c 28 s 23 are each amended to read as follows:

The ((~~indeterminate sentence~~)) postconviction review board is hereby granted authority, in the event of a declaration by the governor that a war emergency exists, including a general mobilization, and for the duration thereof only, to reduce downward the minimum term, as set by the board, of any inmate under the jurisdiction of the board confined in a state correctional facility, who will be accepted by and inducted into the armed services: PROVIDED, That a reduction downward shall not be made under this section for those inmates who: (1) Are confined for (a) treason; (b) murder in the first degree; or (c) rape of a child in the first degree where the victim is under ten years of age or an equivalent offense under prior law; (2) are being considered for civil commitment as a sexually violent predator under chapter 71.09 RCW; or (3) were sentenced under RCW 9.94A.507 for a crime committed on or after September 1, 2001.

**Sec.**  RCW 9.95.060 and 1999 c 143 s 18 are each amended to read as follows:

When a convicted person seeks appellate review of his or her conviction and is at liberty on bond pending the determination of the proceeding by the supreme court or the court of appeals, credit on his or her sentence will begin from the date such convicted person is returned to custody. The date of return to custody shall be certified to the department of corrections, the ((~~indeterminate sentence~~)) postconviction review board, and the prosecuting attorney of the county in which such convicted person was convicted and sentenced, by the sheriff of such county. If such convicted person does not seek review of the conviction, but is at liberty for a period of time subsequent to the signing of the judgment and sentence, or becomes a fugitive, credit on his sentence will begin from the date such convicted person is returned to custody. The date of return to custody shall be certified as provided in this section. In all other cases, credit on a sentence will begin from the date the judgment and sentence is signed by the court.

**Sec.**  RCW 9.95.070 and 2009 c 28 s 24 are each amended to read as follows:

(1) Every prisoner, convicted of a crime committed before July 1, 1984, who has a favorable record of conduct at a state correctional institution, and who performs in a faithful, diligent, industrious, orderly and peaceable manner the work, duties, and tasks assigned to him or her to the satisfaction of the superintendent of the institution, and in whose behalf the superintendent of the institution files a report certifying that his or her conduct and work have been meritorious and recommending allowance of time credits to him or her, shall upon, but not until, the adoption of such recommendation by the ((~~indeterminate sentence~~)) postconviction review board, be allowed time credit reductions from the term of imprisonment fixed by the board.

(2) Offenders sentenced under RCW 9.94A.507 for a crime committed on or after September 1, 2001, are subject to the earned release provisions for sex offenders established in RCW 9.94A.728.

**Sec.**  RCW 9.95.115 and 2001 2nd sp.s. c 12 s 332 are each amended to read as follows:

The ((~~indeterminate sentence~~)) postconviction review board is hereby granted authority to parole any person sentenced to the custody of the department of corrections, under a mandatory life sentence for a crime committed before July 1, 1984, except those persons sentenced to life without the possibility of parole. No such person shall be granted parole unless the person has been continuously confined therein for a period of twenty consecutive years less earned good time: PROVIDED, That no such person shall be released under parole who is subject to civil commitment as a sexually violent predator under chapter 71.09 RCW.

**Sec.**  RCW 9.95.130 and 2001 2nd sp.s. c 12 s 340 are each amended to read as follows:

From and after the suspension, cancellation, or revocation of the parole of any offender convicted of a crime committed before July 1, 1984, and until his or her return to custody the offender shall be deemed an escapee and a fugitive from justice. The ((~~indeterminate sentence~~)) postconviction review board may deny credit against the maximum sentence any time during which he or she is an escapee and fugitive from justice.

**Sec.**  RCW 9.95.260 and 1999 c 323 s 4 and 1999 c 143 s 29 are each reenacted and amended to read as follows:

(1) The ((~~indeterminate sentence~~)) postconviction review board shall, when requested by the governor, pass on the representations made in support of applications for pardons for convicted persons and make recommendations thereon to the governor.

(2) It will be the duty of the secretary of corrections to exercise supervision over such convicted persons as have been conditionally pardoned by the governor, to the end that such persons shall faithfully comply with the conditions of such pardons. The ((~~indeterminate sentence review~~)) board shall also pass on any representations made in support of applications for restoration of civil rights of convicted persons, and make recommendations to the governor. The department of corrections shall prepare materials and make investigations requested by the ((~~indeterminate sentence review~~)) board in order to assist the board in passing on the representations made in support of applications for pardon or for the restoration of civil rights.

(3) The board shall make no recommendations to the governor in support of an application for pardon until a public hearing has been held under this section or RCW 9.94A.885(3) upon the application. The prosecuting attorney of the county where the conviction was obtained shall be notified at least thirty days prior to the scheduled hearing that an application for pardon has been filed and the date and place at which the hearing on the application for pardon will be held. The board may waive the thirty-day notice requirement in cases where it determines that waiver is necessary to permit timely action on the petition. A copy of the application for pardon shall be sent to the prosecuting attorney. The prosecuting attorney shall make reasonable efforts to notify victims, survivors of victims, witnesses, and the law enforcement agency or agencies that conducted the investigation of the date and place of the hearing. Information regarding victims, survivors of victims, or witnesses receiving this notice are confidential and shall not be available to the offender. The board shall consider written, oral, audio, or videotaped statements regarding the application for pardon received, personally or by representation, from the individuals who receive notice pursuant to this section. This subsection is intended solely for the guidance of the board. Nothing in this section is intended or may be relied upon to create a right or benefit, substantive or procedural, enforceable at law by any person.

**Sec.**  RCW 4.24.550 and 2015 c 261 s 1 are each amended to read as follows:

(1) In addition to the disclosure under subsection (5) of this section, public agencies are authorized to release information to the public regarding sex offenders and kidnapping offenders when the agency determines that disclosure of the information is relevant and necessary to protect the public and counteract the danger created by the particular offender. This authorization applies to information regarding: (a) Any person adjudicated or convicted of a sex offense as defined in RCW 9A.44.128 or a kidnapping offense as defined by RCW 9A.44.128; (b) any person under the jurisdiction of the ((~~indeterminate sentence~~)) postconviction review board as the result of a sex offense or kidnapping offense; (c) any person committed as a sexually violent predator under chapter 71.09 RCW or as a sexual psychopath under chapter 71.06 RCW; (d) any person found not guilty of a sex offense or kidnapping offense by reason of insanity under chapter 10.77 RCW; and (e) any person found incompetent to stand trial for a sex offense or kidnapping offense and subsequently committed under chapter 71.05 or 71.34 RCW.

(2) Except for the information specifically required under subsection (5) of this section, the extent of the public disclosure of relevant and necessary information shall be rationally related to: (a) The level of risk posed by the offender to the community; (b) the locations where the offender resides, expects to reside, or is regularly found; and (c) the needs of the affected community members for information to enhance their individual and collective safety.

(3) Except for the information specifically required under subsection (5) of this section, local law enforcement agencies shall consider the following guidelines in determining the extent of a public disclosure made under this section: (a) For offenders classified as risk level I, the agency shall share information with other appropriate law enforcement agencies and, if the offender is a student, the public or private school regulated under Title 28A RCW or chapter 72.40 RCW which the offender is attending, or planning to attend. The agency may disclose, upon request, relevant, necessary, and accurate information to any victim or witness to the offense, any individual community member who lives near the residence where the offender resides, expects to reside, or is regularly found, and any individual who requests information regarding a specific offender; (b) for offenders classified as risk level II, the agency may also disclose relevant, necessary, and accurate information to public and private schools, child day care centers, family day care providers, public libraries, businesses and organizations that serve primarily children, women, or vulnerable adults, and neighbors and community groups near the residence where the offender resides, expects to reside, or is regularly found; (c) for offenders classified as risk level III, the agency may also disclose relevant, necessary, and accurate information to the public at large; and (d) because more localized notification is not feasible and homeless and transient offenders may present unique risks to the community, the agency may also disclose relevant, necessary, and accurate information to the public at large for offenders registered as homeless or transient.

(4) The county sheriff with whom an offender classified as risk level III is registered shall release a sex offender community notification that conforms to the guidelines established under RCW 4.24.5501.

(5)(a) When funded by federal grants or other sources, the Washington association of sheriffs and police chiefs shall create and maintain a statewide registered kidnapping and sex offender web site, which shall be available to the public. The web site shall post all level III and level II registered sex offenders, level I registered sex offenders only during the time they are out of compliance with registration requirements under RCW 9A.44.130 or if lacking a fixed residence as provided in RCW 9A.44.130, and all registered kidnapping offenders in the state of Washington.

(i) For level III offenders, the web site shall contain, but is not limited to, the registered sex offender's name, relevant criminal convictions, address by hundred block, physical description, and photograph. The web site shall provide mapping capabilities that display the sex offender's address by hundred block on a map. The web site shall allow citizens to search for registered sex offenders within the state of Washington by county, city, zip code, last name, and address by hundred block.

(ii) For level II offenders, and level I sex offenders during the time they are out of compliance with registration requirements under RCW 9A.44.130, the web site shall contain, but is not limited to, the same information and functionality as described in (a)(i) of this subsection, provided that it is permissible under state and federal law. If it is not permissible, the web site shall be limited to the information and functionality that is permissible under state and federal law.

(iii) For kidnapping offenders, the web site shall contain, but is not limited to, the same information and functionality as described in (a)(i) of this subsection, provided that it is permissible under state and federal law. If it is not permissible, the web site shall be limited to the information and functionality that is permissible under state and federal law.

(b) Law enforcement agencies must provide information requested by the Washington association of sheriffs and police chiefs to administer the statewide registered kidnapping and sex offender web site.

(c)(i) Within five business days of the Washington association of sheriffs and police chiefs receiving any public record request under chapter 42.56 RCW for sex offender and kidnapping offender information, records or web site data it holds or maintains pursuant to this section or a unified sex offender registry, the Washington association of sheriffs and police chiefs shall refer the requester in writing to the appropriate law enforcement agency or agencies for submission of such a request. The Washington association of sheriffs and police chiefs shall have no further obligation under chapter 42.56 RCW for responding to such a request.

(ii) This ((~~subparagraph~~)) subsection (5)(c) ((~~of this section~~)) is remedial and applies retroactively.

(6)(a) Law enforcement agencies responsible for the registration and dissemination of information regarding offenders required to register under RCW 9A.44.130 shall assign a risk level classification to all offenders after consideration of: (i) Any available risk level classifications provided by the department of corrections, the department of social and health services, and the ((~~indeterminate sentence~~)) postconviction review board; (ii) the agency's own application of a sex offender risk assessment tool; and (iii) other information and aggravating or mitigating factors known to the agency and deemed rationally related to the risk posed by the offender to the community at large.

(b) A sex offender shall be classified as a risk level I if his or her risk assessment and other information or factors deemed relevant by the law enforcement agency indicate he or she is at a low risk to sexually reoffend within the community at large. A sex offender shall be classified as a risk level II if his or her risk assessment and other information or factors deemed relevant by the law enforcement agency indicate he or she is at a moderate risk to sexually reoffend within the community at large. A sex offender shall be classified as a risk level III if his or her risk assessment and other information or factors deemed relevant by the law enforcement agency indicate he or she is at a high risk to sexually reoffend within the community at large.

(c) The agency shall make a good faith effort to notify the public and residents within a reasonable period of time after the offender registers with the agency.

(d) Agencies may develop a process to allow an offender to petition for review of the offender's assigned risk level classification. The timing, frequency, and process for review are at the sole discretion of the agency.

(7) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470, or units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any discretionary risk level classification decisions or release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity in this section applies to risk level classification decisions and the release of relevant and necessary information regarding any individual for whom disclosure is authorized. The decision of a law enforcement agency or official to classify an offender to a risk level other than the one assigned by the department of corrections, the department of social and health services, or the ((~~indeterminate sentence~~)) postconviction review board, or the release of any relevant and necessary information based on that different classification shall not, by itself, be considered gross negligence or bad faith. The immunity provided under this section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the general public.

(8) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information authorized under this section.

(9) Nothing in this section implies that information regarding persons designated in subsection (1) of this section is confidential except as may otherwise be provided by law.

(10) When a law enforcement agency or official classifies an offender differently than the offender is classified by the end of sentence review committee at the time of the offender's release from confinement, the law enforcement agency or official shall notify the end of sentence review committee and the Washington state patrol and submit its reasons supporting the change in classification.

(11) As used in this section, "law enforcement agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

**Sec.**  RCW 4.24.5501 and 2006 c 137 s 1 are each amended to read as follows:

(1) When funded, the Washington association of sheriffs and police chiefs shall convene a sex offender model policy work group to develop a model policy for law enforcement agencies and other criminal justice personnel. The model policy shall provide guidelines for sex offender registration, community notification, and strategies for sex offender management.

(2) In developing the policy, the association shall consult with representatives of the following agencies and professions: (a) The department of corrections; (b) the department of social and health services; (c) the ((~~indeterminate sentence~~)) postconviction review board; (d) the Washington state council of police officers; (e) local correctional agencies; (f) the Washington association of prosecuting attorneys; (g) the Washington public defender association; (h) the Washington association for the treatment of sexual abusers; (i) the office of the superintendent of public instruction; (j) the criminal justice training commission; (k) the Washington association of criminal defense lawyers; (l) the association of Washington cities; (m) the Washington coalition of sexual assault programs; and (n) victim advocates.

The sex offender model policy work group, once convened, shall first conduct a series of community meetings around the state to assess the practices and needs of communities, identify best practices on sex offender registration, community notification, and strategies for sex offender management. Once the sex offender model policy work group has received input from stakeholders on a final draft of the model policy, the policy shall be presented to the Washington association of sheriffs and police chiefs for adoption or rejection. Following the adoption of a model policy, the sex offender model policy work group shall conduct a series of meetings around the state with local law enforcement agencies and other criminal justice personnel to review the model policy and conduct training as needed. The sex offender model policy work group shall then be dissolved, and, when funded, the Washington association of sheriffs and police chiefs shall be responsible for the continued promotion of the model policy, including annual or biennial regional workshops with local law enforcement agencies and other criminal justice personnel to encourage sex offender registration, community notification, and strategies for sex offender management policies and practices that best fit the needs, characteristics, and risks of each community.

(3) The model policy shall, at a minimum, include recommendations to address the following issues: (a) Procedures for local agencies or officials to accomplish the notifications required under RCW 4.24.550(10), including the identification of best practices for community notification, as they relate to the specific needs and characteristics to each community and the risk posed to that community; (b) contents and form of community notification documents, including procedures for ensuring the accuracy of factual information contained in the notification documents, and ways of protecting the privacy of victims of the offenders' crimes; (c) methods of distributing community notification documents, including distribution to schools; (d) methods of providing follow-up notifications to community residents at specified intervals and of disclosing information about offenders to law enforcement agencies in other jurisdictions if necessary to protect the public; (e) methods of educating community residents at public meetings on how they can use the information in the notification document in a reasonable manner to enhance their individual and collective safety; (f) procedures for educating community members regarding the right of sex offenders not to be the subject of harassment or criminal acts as a result of the notification process; (g) procedures and documents for local law enforcement agencies to provide appropriate notification when a sex offender risk level is reclassified, including strategies to monitor the reclassification of sex offender risk levels by local law enforcement agencies; (h) formulas and instructions on standard sex offender risk assessment instruments; (i) strategies for sex offender management; and (j) other matters the Washington association of sheriffs and police chiefs deems necessary as it relates to sex offender registration, community notification, and management.

**Sec.**  RCW 4.100.070 and 2013 c 175 s 7 are each amended to read as follows:

(1) On or after July 28, 2013, when a court grants judicial relief, such as reversal and vacation of a person's conviction, consistent with the criteria established in RCW 4.100.040, the court must provide to the claimant a copy of RCW 4.100.020 through 4.100.090, 28B.15.395, and 72.09.750 at the time the relief is granted.

(2) The clemency and pardons board or the ((~~indeterminate sentence~~)) postconviction review board, whichever is applicable, upon issuance of a pardon by the governor on grounds consistent with innocence on or after July 28, 2013, must provide a copy of RCW 4.100.020 through 4.100.090, 28B.15.395, and 72.09.750 to the individual pardoned.

(3) If an individual entitled to receive the information required under this section shows that he or she was not provided with the information, he or she has an additional twelve months, beyond the statute of limitations under RCW 4.100.090, to bring a claim under this chapter.

**Sec.**  RCW 7.68.120 and 1995 c 33 s 1 are each amended to read as follows:

Any person who has committed a criminal act which resulted in injury compensated under this chapter may be required to make reimbursement to the department as provided in this section.

(1) Any payment of benefits to or on behalf of a victim under this chapter creates a debt due and owing to the department by any person found to have committed the criminal act in either a civil or criminal court proceeding in which he or she is a party. If there has been a superior or district court order, or an order of the ((~~indeterminate sentence~~)) postconviction review board or the department of social and health services, as provided in subsection (4) of this section, the debt shall be limited to the amount provided for in the order. A court order shall prevail over any other order. If, in a criminal proceeding, a person has been found to have committed the criminal act that results in the payment of benefits to a victim and the court in the criminal proceeding does not enter a restitution order, the department shall, within one year of imposition of the sentence, petition the court for entry of a restitution order.

(2)(a) The department may issue a notice of debt due and owing to the person found to have committed the criminal act, and shall serve the notice on the person in the manner prescribed for the service of a summons in a civil action or by certified mail. The department shall file the notice of debt due and owing along with proof of service with the superior court of the county where the criminal act took place. The person served the notice shall have thirty days from the date of service to respond to the notice by requesting a hearing in superior court.

(b) If a person served a notice of debt due and owing fails to respond within thirty days, the department may seek a default judgment. Upon entry of a judgment in an action brought pursuant to (a) of this subsection, the clerk shall enter the order in the execution docket. The filing fee shall be added to the amount of the debt indicated in the judgment. The judgment shall become a lien upon all real and personal property of the person named in the judgment as in other civil cases. The judgment shall be subject to execution, garnishment, or other procedures for collection of a judgment.

(3)(a) The director, or the director's designee, may issue to any person or organization an order to withhold and deliver property of any kind if there is reason to believe that the person or organization possesses property that is due, owing, or belonging to any person against whom a judgment for a debt due and owing has been entered under subsection (2) of this section. For purposes of this subsection, "person or organization" includes any individual, firm, association, corporation, political subdivision of the state, or agency of the state.

(b) The order to withhold and deliver must be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person or organization upon whom service has been made shall answer the order within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein.

(c) If there is in the possession of the person or organization served with the order any property that might be subject to the claim of the department, the person or organization must immediately withhold such property and deliver the property to the director or the director's authorized representative immediately upon demand.

(d) If the person or organization served the order fails to timely answer the order, the court may render judgment by default against the person or organization for the full amount claimed by the director in the order plus costs.

(e) If an order to withhold and deliver is served upon an employer and the property found to be subject to the notice is wages, the employer may assert in the answer all exemptions to which the wage earner might be entitled as provided by RCW 6.27.150.

(4) Upon being placed on work release pursuant to chapter 72.65 RCW, or upon release from custody of a state correctional facility on parole, any convicted person who owes a debt to the department as a consequence of a criminal act may have the schedule or amount of payments therefor set as a condition of work release or parole by the department of social and health services or ((~~indeterminate sentence~~)) postconviction review board respectively, subject to modification based on change of circumstances. Such action shall be binding on the department.

(5) Any requirement for payment due and owing the department by a convicted person under this chapter may be waived, modified downward or otherwise adjusted by the department in the interest of justice, the well-being of the victim, and the rehabilitation of the individual.

(6) The department shall not seek payment for a debt due and owing if such action would deprive the victim of the crime giving rise to the claim under this chapter of the benefit of any property to which the victim would be entitled under RCW 26.16.030.

**Sec.**  RCW 9.94A.030 and 2018 c 166 s 3 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

(11) "Criminal history" means the list of a defendant's prior convictions and juvenile adjudications, whether in this state, in federal court, or elsewhere, and any issued certificates of restoration of opportunity pursuant to RCW 9.97.020.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(22) "Drug offense" means:

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

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

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

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

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

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

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

(25) "Escape" means:

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

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

(26) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Assault in the second degree;

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

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

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

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(42) "Repetitive domestic violence offense" means any:

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

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

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

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

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

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

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

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

(45) "Serious traffic offense" means:

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

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

(46) "Serious violent offense" is a subcategory of violent offense and means:

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

(ii) Homicide by abuse;

(iii) Murder in the second degree;

(iv) Manslaughter in the first degree;

(v) Assault in the first degree;

(vi) Kidnapping in the first degree;

(vii) Rape in the first degree;

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

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

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

(47) "Sex offense" means:

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

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

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

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

(v) A felony violation of RCW 9A.44.132(1) (failure to register as a sex offender) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130 prior to June 10, 2010, on at least one prior occasion;

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

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

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

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

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

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

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

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

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

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

(55) "Violent offense" means:

(a) Any of the following felonies:

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

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

(iii) Manslaughter in the first degree;

(iv) Manslaughter in the second degree;

(v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;

(vii) Arson in the second degree;

(viii) Assault in the second degree;

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

(x) Extortion in the first degree;

(xi) Robbery in the second degree;

(xii) Drive-by shooting;

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

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

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

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

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

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

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

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

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

(a) Offenders convicted of:

(i) Sexual misconduct with a minor second degree;

(ii) Custodial sexual misconduct second degree;

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

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

(b) Offenders who have:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec.**  RCW 9.94A.730 and 2015 c 134 s 6 are each amended to read as follows:

(1) Notwithstanding any other provision of this chapter, any person convicted of one or more crimes committed prior to the person's eighteenth birthday may petition the ((~~indeterminate sentence~~)) postconviction review board for early release after serving no less than twenty years of total confinement, provided the person has not been convicted for any crime committed subsequent to the person's eighteenth birthday, the person has not committed a disqualifying serious infraction as defined by the department in the twelve months prior to filing the petition for early release, and the current sentence was not imposed under RCW 10.95.030 or 9.94A.507.

(2) No later than five years prior to the date the offender will be eligible to petition for release, the department shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

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

(4) In a hearing conducted under subsection (3) of this section, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be provided by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(5) An offender released by the board is subject to the supervision of the department for a period of time to be determined by the board, up to the length of the court-imposed term of incarceration. The department shall monitor the offender's compliance with conditions of community custody imposed by the court or board and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(6) An offender whose petition for release is denied may file a new petition for release five years from the date of denial or at an earlier date as may be set by the board.

(7) An offender released under the provisions of this section may be returned to the institution at the discretion of the board if the offender is found to have violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. If the board finds that the offender has committed a new violation, the board may return the offender to the institution for up to the remainder of the court-imposed term of incarceration. The offender may file a new petition for release five years from the date of return to the institution or at an earlier date as may be set by the board.

**Sec.**  RCW 9.94A.840 and 1992 c 45 s 1 are each amended to read as follows:

(1)(a) When it appears that a person who has been convicted of a sexually violent offense may meet the criteria of a sexually violent predator as defined in RCW 71.09.020((~~(1)~~)) (18), the agency with jurisdiction over the person shall refer the person in writing to the prosecuting attorney of the county where that person was convicted, three months prior to the anticipated release from total confinement.

(b) The agency shall inform the prosecutor of the following:

(i) The person's name, identifying factors, anticipated future residence, and offense history; and

(ii) Documentation of institutional adjustment and any treatment received.

(2) This section applies to acts committed before, on, or after March 26, 1992.

(3) The agency with jurisdiction, its employees, and officials shall be immune from liability for any good-faith conduct under this section.

(4) As used in this section, "agency with jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement and includes the department of corrections, the ((~~indeterminate sentence~~)) postconviction review board, and the department of social and health services.

**Sec.**  RCW 9.94A.860 and 2016 c 179 s 3 are each amended to read as follows:

(1) The sentencing guidelines commission is hereby created, located within the office of financial management. Except as provided in RCW 9.94A.875, the commission shall serve to advise the governor and the legislature as necessary on issues relating to adult and juvenile sentencing. The commission may meet, as necessary, to accomplish these purposes within funds appropriated.

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

(3) The voting membership consists of the following:

(a) The head of the state agency having general responsibility for adult correction programs, as an ex officio member;

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

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

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

(e) Two prosecuting attorneys;

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

(g) Four persons who are superior court judges;

(h) One person who is the chief law enforcement officer of a county or city;

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

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

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

(l) One person who is an administrator of juvenile court services.

In making the appointments, the governor shall endeavor to assure that the commission membership includes adequate representation and expertise relating to both the adult criminal justice system and the juvenile justice system. In making the appointments, the governor shall seek the recommendations of Washington prosecutors in respect to the prosecuting attorney members, of the Washington state bar association in respect to the defense attorney members, of the superior court judges' association in respect to the members who are judges, of the Washington association of sheriffs and police chiefs in respect to the member who is a law enforcement officer, of the Washington state association of counties in respect to the member who is a county official, of the association of Washington cities in respect to the member who is a city official, of the office of crime victims advocacy and other organizations of crime victims in respect to the member who is a victim of crime or a crime victims' advocate, and of the Washington association of juvenile court administrators in respect to the member who is an administrator of juvenile court services.

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

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

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

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

**Sec.**  RCW 9.94A.8673 and 2011 1st sp.s. c 40 s 37 are each amended to read as follows:

(1) Within funds appropriated for this purpose, the sentencing guidelines commission shall establish and maintain a sex offender policy board.

(2)(a) The board shall serve to advise the governor and the legislature as necessary on issues relating to sex offender management.

(b) At such times as the governor or a legislative committee of jurisdiction may request, the sex offender policy board may be convened to:

(i) Undertake projects to assist policymakers in making informed judgments about issues relating to sex offender policy; and

(ii) Conduct case reviews of sex offense incidents to understand performance of Washington's sex offender prevention and response systems.

(3) The sex offender policy board shall consist of thirteen voting members. Unless the member is specifically named in this section, the following organizations shall designate a person to sit on the board. The voting membership shall consist of the following:

(a) A representative of the Washington association of sheriffs and police chiefs;

(b) A representative of the Washington association of prosecuting attorneys;

(c) A representative of the Washington association of criminal defense lawyers;

(d) The chair of the ((~~indeterminate sentence~~)) postconviction review board or his or her designee;

(e) A representative of the Washington association for the treatment of sex abusers;

(f) The secretary of the department of corrections or his or her designee;

(g) A representative of the Washington state superior court judges' association;

(h) The assistant secretary of the juvenile rehabilitation administration or his or her designee;

(i) The office of crime victims advocacy in the department of commerce;

(j) A representative of the Washington state association of counties;

(k) A representative of the association of Washington cities;

(l) A representative of the Washington association of sexual assault programs; and

(m) The director of the special commitment center or his or her designee.

(4) The board shall choose its chair by majority vote from among its voting membership. The chair's term shall be two years.

(5) As appropriate, the board shall consult with the criminal justice division in the attorney general's office and the Washington institute for public policy.

(6) Members of the board shall receive no compensation but may be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

**Sec.**  RCW 9.94A.890 and 2000 c 28 s 42 are each amended to read as follows:

(1) The sentencing court or the court's successor shall consider recommendations from the ((~~indeterminate sentence~~)) postconviction review board for resentencing offenders convicted of murder if the ((~~indeterminate sentence review~~)) board advises the court of the following:

(a) The offender was convicted for a murder committed prior to July 23, 1989;

(b) RCW 9.94A.535(1)(h), if effective when the offender committed the crime, would have provided a basis for the offender to seek a mitigated sentence; and

(c) Upon review of the sentence, the ((~~indeterminate sentence review~~)) board believes that the sentencing court, when originally sentencing the offender for the murder, did not consider evidence that the victim subjected the offender or the offender's children to a continuing pattern of sexual or physical abuse and the murder was in response to that abuse.

(2) The court may resentence the offender in light of RCW 9.94A.535(1)(h) and impose an exceptional mitigating sentence pursuant to that provision. Prior to resentencing, the court shall consider any other recommendation and evidence concerning the issue of whether the offender committed the crime in response to abuse.

(3) The court shall render its decision regarding reducing the inmate's sentence no later than six months after receipt of the ((~~indeterminate sentence review~~)) board's recommendation to reduce the sentence imposed.

**Sec.**  RCW 9.96.050 and 2011 1st sp.s. c 40 s 22 are each amended to read as follows:

(1)(a) When an offender on parole has performed all obligations of his or her release, including any and all legal financial obligations, for such time as shall satisfy the ((~~indeterminate sentence~~)) postconviction review board that his or her final release is not incompatible with the best interests of society and the welfare of the paroled individual, the board may make a final order of discharge and issue a certificate of discharge to the offender.

(b) The board retains the jurisdiction to issue a certificate of discharge after the expiration of the offender's or parolee's maximum statutory sentence. If not earlier granted and any and all legal financial obligations have been paid, the board shall issue a final order of discharge three years from the date of parole unless the parolee is on suspended or revoked status at the expiration of the three years.

(c) The discharge, regardless of when issued, shall have the effect of restoring all civil rights not already restored by RCW 29A.08.520, and the certification of discharge shall so state.

(d) This restoration of civil rights shall not restore the right to receive, possess, own, or transport firearms.

(e) The board shall issue a certificate of discharge to the offender in person or by mail to the offender's last known address.

(2) A copy of every signed certificate of discharge for offender sentences under the authority of the department of corrections shall be placed in the department's files.

(3) The discharge provided for in this section shall be considered as a part of the sentence of the convicted person and shall not in any manner be construed as affecting the powers of the governor to pardon any such person.

**Sec.**  RCW 9.98.010 and 2011 c 336 s 345 are each amended to read as follows:

(1) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of this state, and whenever during the continuance of the term of imprisonment there is pending in this state any untried indictment, information, or complaint against the prisoner, he or she shall be brought to trial within one hundred twenty days after he or she shall have caused to be delivered to the prosecuting attorney and the superior court of the county in which the indictment, information, or complaint is pending written notice of the place of his or her imprisonment and his or her request for a final disposition to be made of the indictment, information, or complaint: PROVIDED, That for good cause shown in open court, the prisoner or his or her counsel shall have the right to be present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the superintendent having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the ((~~indeterminate sentence~~)) postconviction review board relating to the prisoner.

(2) The written notice and request for final disposition referred to in subsection (1) of this section shall be given or sent by the prisoner to the superintendent having custody of him or her, who shall promptly forward it together with the certificate to the appropriate prosecuting attorney and superior court by certified mail, return receipt requested.

(3) The superintendent having custody of the prisoner shall promptly inform him or her in writing of the source and contents of any untried indictment, information, or complaint against him or her concerning which the superintendent has knowledge and of his or her right to make a request for final disposition thereof.

(4) Escape from custody by the prisoner subsequent to his or her execution of the request for final disposition referred to in subsection (1) of this section shall void the request.

**Sec.**  RCW 9A.44.045 and 1982 c 192 s 12 are each amended to read as follows:

No person convicted of rape in the first degree shall be granted a deferred or suspended sentence except for the purpose of commitment to an inpatient treatment facility: PROVIDED, That every person convicted of rape in the first degree shall be confined for a minimum of three years: PROVIDED FURTHER, That the postconviction review board ((~~of prison terms and paroles~~)) shall have authority to set a period of confinement greater than three years but shall never reduce the minimum three-year period of confinement; nor shall the board release the convicted person during the first three years of confinement as a result of any type of good time calculation; nor shall the department of corrections permit the convicted person to participate in any work release program or furlough program during the first three years of confinement. This section applies only to offenses committed prior to July 1, 1984.

**Sec.**  RCW 9A.46.020 and 2011 c 64 s 1 are each amended to read as follows:

(1) A person is guilty of harassment if:

(a) Without lawful authority, the person knowingly threatens:

(i) To cause bodily injury immediately or in the future to the person threatened or to any other person; or

(ii) To cause physical damage to the property of a person other than the actor; or

(iii) To subject the person threatened or any other person to physical confinement or restraint; or

(iv) Maliciously to do any other act which is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and

(b) The person by words or conduct places the person threatened in reasonable fear that the threat will be carried out. "Words or conduct" includes, in addition to any other form of communication or conduct, the sending of an electronic communication.

(2)(a) Except as provided in (b) of this subsection, a person who harasses another is guilty of a gross misdemeanor.

(b) A person who harasses another is guilty of a class C felony if any of the following apply: (i) The person has previously been convicted in this or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a no-contact or no-harassment order; (ii) the person harasses another person under subsection (1)(a)(i) of this section by threatening to kill the person threatened or any other person; (iii) the person harasses a criminal justice participant who is performing his or her official duties at the time the threat is made; or (iv) the person harasses a criminal justice participant because of an action taken or decision made by the criminal justice participant during the performance of his or her official duties. For the purposes of (b)(iii) and (iv) of this subsection, the fear from the threat must be a fear that a reasonable criminal justice participant would have under all the circumstances. Threatening words do not constitute harassment if it is apparent to the criminal justice participant that the person does not have the present and future ability to carry out the threat.

(3) Any criminal justice participant who is a target for threats or harassment prohibited under subsection (2)(b)(iii) or (iv) of this section, and any family members residing with him or her, shall be eligible for the address confidentiality program created under RCW 40.24.030.

(4) For purposes of this section, a criminal justice participant includes any (a) federal, state, or local law enforcement agency employee; (b) federal, state, or local prosecuting attorney or deputy prosecuting attorney; (c) staff member of any adult corrections institution or local adult detention facility; (d) staff member of any juvenile corrections institution or local juvenile detention facility; (e) community corrections officer, probation, or parole officer; (f) member of the ((~~indeterminate sentence~~)) postconviction review board; (g) advocate from a crime victim/witness program; or (h) defense attorney.

(5) The penalties provided in this section for harassment do not preclude the victim from seeking any other remedy otherwise available under law.

**Sec.**  RCW 9A.46.110 and 2013 c 84 s 29 are each amended to read as follows:

(1) A person commits the crime of stalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime:

(a) He or she intentionally and repeatedly harasses or repeatedly follows another person; and

(b) The person being harassed or followed is placed in fear that the stalker intends to injure the person, another person, or property of the person or of another person. The feeling of fear must be one that a reasonable person in the same situation would experience under all the circumstances; and

(c) The stalker either:

(i) Intends to frighten, intimidate, or harass the person; or

(ii) Knows or reasonably should know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

(2)(a) It is not a defense to the crime of stalking under subsection (1)(c)(i) of this section that the stalker was not given actual notice that the person did not want the stalker to contact or follow the person; and

(b) It is not a defense to the crime of stalking under subsection (1)(c)(ii) of this section that the stalker did not intend to frighten, intimidate, or harass the person.

(3) It shall be a defense to the crime of stalking that the defendant is a licensed private investigator acting within the capacity of his or her license as provided by chapter 18.165 RCW.

(4) Attempts to contact or follow the person after being given actual notice that the person does not want to be contacted or followed constitutes prima facie evidence that the stalker intends to intimidate or harass the person. "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication to the person.

(5)(a) Except as provided in (b) of this subsection, a person who stalks another person is guilty of a gross misdemeanor.

(b) A person who stalks another is guilty of a class B felony if any of the following applies: (i) The stalker has previously been convicted in this state or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a protective order; (ii) the stalking violates any protective order protecting the person being stalked; (iii) the stalker has previously been convicted of a gross misdemeanor or felony stalking offense under this section for stalking another person; (iv) the stalker was armed with a deadly weapon, as defined in RCW 9.94A.825, while stalking the person; (v)(A) the stalker's victim is or was a law enforcement officer; judge; juror; attorney; victim advocate; legislator; community corrections' officer; an employee, contract staff person, or volunteer of a correctional agency; court employee, court clerk, or courthouse facilitator; or an employee of the child protective, child welfare, or adult protective services division within the department of social and health services; and (B) the stalker stalked the victim to retaliate against the victim for an act the victim performed during the course of official duties or to influence the victim's performance of official duties; or (vi) the stalker's victim is a current, former, or prospective witness in an adjudicative proceeding, and the stalker stalked the victim to retaliate against the victim as a result of the victim's testimony or potential testimony.

(6) As used in this section:

(a) "Correctional agency" means a person working for the department of natural resources in a correctional setting or any state, county, or municipally operated agency with the authority to direct the release of a person serving a sentence or term of confinement and includes but is not limited to the department of corrections, the ((~~indeterminate sentence~~)) postconviction review board, and the department of social and health services.

(b) "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that the alleged stalker follows the person while in transit from one location to another.

(c) "Harasses" means unlawful harassment as defined in RCW 10.14.020.

(d) "Protective order" means any temporary or permanent court order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

(e) "Repeatedly" means on two or more separate occasions.

**Sec.**  RCW 10.64.140 and 2009 c 325 s 5 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall require the defendant to sign a statement acknowledging that:

(a) The defendant's right to vote has been lost due to the felony conviction;

(b) If the defendant is registered to vote, the voter registration will be canceled;

(c) The right to vote is provisionally restored as long as the defendant is not under the authority of the department of corrections;

(d) The defendant must reregister before voting;

(e) The provisional right to vote may be revoked if the defendant fails to comply with all the terms of his or her legal financial obligations or an agreement for the payment of legal financial obligations;

(f) The right to vote may be permanently restored by one of the following for each felony conviction:

(i) A certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637;

(ii) A court order issued by the sentencing court restoring the right, as provided in RCW 9.92.066;

(iii) A final order of discharge issued by the ((~~indeterminate sentence~~)) postconviction review board, as provided in RCW 9.96.050; or

(iv) A certificate of restoration issued by the governor, as provided in RCW 9.96.020; and

(g) Voting before the right is restored is a class C felony under RCW 29A.84.660.

(2) For the purposes of this section, a person is under the authority of the department of corrections if the person is:

(a) Serving a sentence of confinement in the custody of the department of corrections; or

(b) Subject to community custody as defined in RCW 9.94A.030.

**Sec.**  RCW 10.77.210 and 1998 c 297 s 45 are each amended to read as follows:

(1) Any person involuntarily detained, hospitalized, or committed pursuant to the provisions of this chapter shall have the right to adequate care and individualized treatment. The person who has custody of the patient or is in charge of treatment shall keep records detailing all medical, expert, and professional care and treatment received by a committed person, and shall keep copies of all reports of periodic examinations of the patient that have been filed with the secretary pursuant to this chapter. Except as provided in RCW 10.77.205 and 4.24.550 regarding the release of information concerning insane offenders who are acquitted of sex offenses and subsequently committed pursuant to this chapter, all records and reports made pursuant to this chapter, shall be made available only upon request, to the committed person, to his or her attorney, to his or her personal physician, to the supervising community corrections officer, to the prosecuting attorney, to the court, to the protection and advocacy agency, or other expert or professional persons who, upon proper showing, demonstrates a need for access to such records. All records and reports made pursuant to this chapter shall also be made available, upon request, to the department of corrections or the ((~~indeterminate sentence~~)) postconviction review board if the person was on parole, probation, or community supervision at the time of detention, hospitalization, or commitment or the person is subsequently convicted for the crime for which he or she was detained, hospitalized, or committed pursuant to this chapter.

(2) All relevant records and reports as defined by the department in rule shall be made available, upon request, to criminal justice agencies as defined in RCW 10.97.030.

**Sec.**  RCW 10.95.020 and 2003 c 53 s 96 are each amended to read as follows:

A person is guilty of aggravated first degree murder, a class A felony, if he or she commits first degree murder as defined by RCW 9A.32.030(1)(a), as now or hereafter amended, and one or more of the following aggravating circumstances exist:

(1) The victim was a law enforcement officer, corrections officer, or firefighter who was performing his or her official duties at the time of the act resulting in death and the victim was known or reasonably should have been known by the person to be such at the time of the killing;

(2) At the time of the act resulting in the death, the person was serving a term of imprisonment, had escaped, or was on authorized or unauthorized leave in or from a state facility or program for the incarceration or treatment of persons adjudicated guilty of crimes;

(3) At the time of the act resulting in death, the person was in custody in a county or county-city jail as a consequence of having been adjudicated guilty of a felony;

(4) The person committed the murder pursuant to an agreement that he or she would receive money or any other thing of value for committing the murder;

(5) The person solicited another person to commit the murder and had paid or had agreed to pay money or any other thing of value for committing the murder;

(6) The person committed the murder to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group;

(7) The murder was committed during the course of or as a result of a shooting where the discharge of the firearm, as defined in RCW 9.41.010, is either from a motor vehicle or from the immediate area of a motor vehicle that was used to transport the shooter or the firearm, or both, to the scene of the discharge;

(8) The victim was:

(a) A judge; juror or former juror; prospective, current, or former witness in an adjudicative proceeding; prosecuting attorney; deputy prosecuting attorney; defense attorney; a member of the ((~~indeterminate sentence~~)) postconviction review board; or a probation or parole officer; and

(b) The murder was related to the exercise of official duties performed or to be performed by the victim;

(9) The person committed the murder to conceal the commission of a crime or to protect or conceal the identity of any person committing a crime, including, but specifically not limited to, any attempt to avoid prosecution as a persistent offender as defined in RCW 9.94A.030;

(10) There was more than one victim and the murders were part of a common scheme or plan or the result of a single act of the person;

(11) The murder was committed in the course of, in furtherance of, or in immediate flight from one of the following crimes:

(a) Robbery in the first or second degree;

(b) Rape in the first or second degree;

(c) Burglary in the first or second degree or residential burglary;

(d) Kidnapping in the first degree; or

(e) Arson in the first degree;

(12) The victim was regularly employed or self-employed as a newsreporter and the murder was committed to obstruct or hinder the investigative, research, or reporting activities of the victim;

(13) At the time the person committed the murder, there existed a court order, issued in this or any other state, which prohibited the person from either contacting the victim, molesting the victim, or disturbing the peace of the victim, and the person had knowledge of the existence of that order;

(14) At the time the person committed the murder, the person and the victim were "family or household members" as that term is defined in \*RCW 10.99.020(1), and the person had previously engaged in a pattern or practice of three or more of the following crimes committed upon the victim within a five-year period, regardless of whether a conviction resulted:

(a) Harassment as defined in RCW 9A.46.020; or

(b) Any criminal assault.

**Sec.**  RCW 10.95.030 and 2015 c 134 s 5 are each amended to read as follows:

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

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

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

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

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

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

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

(3)(a)(i) Any person convicted of the crime of aggravated first degree murder for an offense committed prior to the person's sixteenth birthday shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of twenty-five years.

(ii) Any person convicted of the crime of aggravated first degree murder for an offense committed when the person is at least sixteen years old but less than eighteen years old shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of no less than twenty-five years. A minimum term of life may be imposed, in which case the person will be ineligible for parole or early release.

(b) In setting a minimum term, the court must take into account mitigating factors that account for the diminished culpability of youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but not limited to, the age of the individual, the youth's childhood and life experience, the degree of responsibility the youth was capable of exercising, and the youth's chances of becoming rehabilitated.

(c) A person sentenced under this subsection shall serve the sentence in a facility or institution operated, or utilized under contract, by the state. During the minimum term of total confinement, the person shall not be eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave or absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (i) In the case of an offender in need of emergency medical treatment; or (ii) for an extraordinary medical placement when authorized under RCW 9.94A.728((~~(3)~~)) (1)(c).

(d) Any person sentenced pursuant to this subsection shall be subject to community custody under the supervision of the department of corrections and the authority of the ((~~indeterminate sentence~~)) postconviction review board. As part of any sentence under this subsection, the court shall require the person to comply with any conditions imposed by the board.

(e) No later than five years prior to the expiration of the person's minimum term, the department of corrections shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

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

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

(h) An offender released by the board is subject to the supervision of the department of corrections for a period of time to be determined by the board. The department shall monitor the offender's compliance with conditions of community custody imposed by the court or board and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(i) An offender released or discharged under this section may be returned to the institution at the discretion of the board if the offender is found to have violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. The board shall set a new minimum term of incarceration not to exceed five years.

**Sec.**  RCW 10.98.160 and 2011 1st sp.s. c 40 s 33 are each amended to read as follows:

In the development and modification of the procedures, definitions, and reporting capabilities of the section, the department, the office of financial management, and the responsible agencies and persons shall consider the needs of other criminal justice agencies such as the administrative office of the courts, local law enforcement agencies, local jails, the ((~~indeterminate sentence~~)) postconviction review board, the clemency board, prosecuting attorneys, and affected state agencies such as the office of financial management and legislative committees dealing with criminal justice issues. The Washington integrated justice information board shall review and provide recommendations to state justice agencies and the courts for development and modification of the statewide justice information network.

**Sec.**  RCW 10.110.020 and 2015 c 267 s 1 are each amended to read as follows:

Any individual in custody for a violent offense or a sex offense as those terms are defined in RCW 9.94A.030 who is brought by, or accompanied by, an officer to a hospital must continue to be accompanied or otherwise secured by an officer during the time that the individual is receiving care at the hospital. However, this section does not apply to an individual being supervised by the department of corrections if the individual's custody is the result solely of a sanction imposed by the department of corrections, the ((~~indeterminate sentence~~)) postconviction review board, or the court, in response to a violation of conditions.

**Sec.**  RCW 29A.08.520 and 2013 c 11 s 19 are each amended to read as follows:

(1) For a felony conviction in a Washington state court, the right to vote is provisionally restored as long as the person is not under the authority of the department of corrections. For a felony conviction in a federal court or any state court other than a Washington state court, the right to vote is restored as long as the person is no longer incarcerated.

(2)(a) Once the right to vote has been provisionally restored, the sentencing court may revoke the provisional restoration of voting rights if the sentencing court determines that a person has willfully failed to comply with the terms of his or her order to pay legal financial obligations.

(b) If the person has failed to make three payments in a twelve‑month period and the county clerk or restitution recipient requests, the prosecutor shall seek revocation of the provisional restoration of voting rights from the court.

(c) To the extent practicable, the prosecutor and county clerk shall inform a restitution recipient of the recipient's right to ask for the revocation of the provisional restoration of voting rights.

(3) If the court revokes the provisional restoration of voting rights, the revocation shall remain in effect until, upon motion by the person whose provisional voting rights have been revoked, the person shows that he or she has made a good faith effort to pay as defined in RCW 10.82.090.

(4) The county clerk shall enter into a database maintained by the administrator for the courts the names of all persons whose provisional voting rights have been revoked, and update the database for any person whose voting rights have subsequently been restored pursuant to subsection (6) of this section.

(5) At least twice a year, the secretary of state shall compare the list of registered voters to a list of felons who are not eligible to vote as provided in subsections (1) and (3) of this section. If a registered voter is not eligible to vote as provided in this section, the secretary of state or county auditor shall confirm the match through a date of birth comparison and suspend the voter registration from the official state voter registration list. The secretary of state or county auditor shall send to the person at his or her last known voter registration address and at the department of corrections, if the person is under the authority of the department, a notice of the proposed cancellation and an explanation of the requirements for provisionally and permanently restoring the right to vote and reregistering. To the extent possible, the secretary of state shall time the comparison required by this subsection to allow notice and cancellation of voting rights for ineligible voters prior to a primary or general election.

(6) The right to vote may be permanently restored by one of the following for each felony conviction:

(a) A certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637;

(b) A court order restoring the right, as provided in RCW 9.92.066;

(c) A final order of discharge issued by the ((~~indeterminate sentence~~)) postconviction review board, as provided in RCW 9.96.050; or

(d) A certificate of restoration issued by the governor, as provided in RCW 9.96.020.

(7) For the purposes of this section, a person is under the authority of the department of corrections if the person is:

(a) Serving a sentence of confinement in the custody of the department of corrections; or

(b) Subject to community custody as defined in RCW 9.94A.030.

**Sec.**  RCW 34.05.030 and 2015 3rd sp.s. c 1 s 309 are each amended to read as follows:

(1) This chapter shall not apply to:

(a) The state militia, or

(b) The board of clemency and pardons, or

(c) The department of corrections or the ((~~indeterminate sentencing~~)) postconviction review board with respect to persons who are in their custody or are subject to the jurisdiction of those agencies.

(2) The provisions of RCW 34.05.410 through 34.05.598 shall not apply:

(a) To adjudicative proceedings of the board of industrial insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

(b) Except for actions pursuant to chapter 46.29 RCW, to the denial, suspension, or revocation of a driver's license by the department of licensing;

(c) To the department of labor and industries where another statute expressly provides for review of adjudicative proceedings of a department action, order, decision, or award before the board of industrial insurance appeals;

(d) To actions of the Washington personnel resources board, the director of financial management, and the department of enterprise services when carrying out their duties under chapter 41.06 RCW;

(e) To adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261; or

(f) To the extent they are inconsistent with any provisions of chapter 43.43 RCW.

(3) Unless a party makes an election for a formal hearing pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not apply to a review hearing conducted by the board of tax appeals.

(4) The rule-making provisions of this chapter do not apply to:

(a) Reimbursement unit values, fee schedules, arithmetic conversion factors, and similar arithmetic factors used to determine payment rates that apply to goods and services purchased under contract for clients eligible under chapter 74.09 RCW; and

(b) Adjustments by the department of revenue of the amount of the surcharge imposed under RCW 82.04.261.

(5) All other agencies, whether or not formerly specifically excluded from the provisions of all or any part of the administrative procedure act, shall be subject to the entire act.

**Sec.**  RCW 42.17A.705 and 2017 3rd sp.s. c 6 s 111 are each amended to read as follows:

For the purposes of RCW 42.17A.700, "executive state officer" includes:

(1) The chief administrative law judge, the director of agriculture, the director of the department of services for the blind, the secretary of children, youth, and families, the director of the state system of community and technical colleges, the director of commerce, the director of the consolidated technology services agency, the secretary of corrections, the director of ecology, the commissioner of employment security, the chair of the energy facility site evaluation council, the director of enterprise services, the secretary of the state finance committee, the director of financial management, the director of fish and wildlife, the executive secretary of the forest practices appeals board, the director of the gambling commission, the secretary of health, the administrator of the Washington state health care authority, the executive secretary of the health care facilities authority, the executive secretary of the higher education facilities authority, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the executive secretary of the ((~~indeterminate sentence~~)) postconviction review board, the executive director of the state investment board, the director of labor and industries, the director of licensing, the director of the lottery commission, the director of the office of minority and women's business enterprises, the director of parks and recreation, the executive director of the public disclosure commission, the executive director of the Puget Sound partnership, the director of the recreation and conservation office, the director of retirement systems, the director of revenue, the secretary of social and health services, the chief of the Washington state patrol, the executive secretary of the board of tax appeals, the secretary of transportation, the secretary of the utilities and transportation commission, the director of veterans affairs, the president of each of the regional and state universities and the president of The Evergreen State College, and each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Central Washington University board of trustees, the boards of trustees of each community college and each technical college, each member of the state board for community and technical colleges, state convention and trade center board of directors, Eastern Washington University board of trustees, Washington economic development finance authority, Washington energy northwest executive board, The Evergreen State College board of trustees, executive ethics board, fish and wildlife commission, forest practices appeals board, forest practices board, gambling commission, Washington health care facilities authority, student achievement council, higher education facilities authority, horse racing commission, state housing finance commission, human rights commission, ((~~indeterminate sentence~~)) postconviction review board, board of industrial insurance appeals, state investment board, commission on judicial conduct, legislative ethics board, life sciences discovery fund authority board of trustees, state liquor and cannabis board, lottery commission, Pacific Northwest electric power and conservation planning council, parks and recreation commission, Washington personnel resources board, board of pilotage commissioners, pollution control hearings board, public disclosure commission, public employees' benefits board, recreation and conservation funding board, salmon recovery funding board, shorelines hearings board, board of tax appeals, transportation commission, University of Washington board of regents, utilities and transportation commission, Washington State University board of regents, and Western Washington University board of trustees.

**Sec.**  RCW 43.43.745 and 1994 c 129 s 7 are each amended to read as follows:

(1) It shall be the duty of the sheriff or director of public safety of every county, of the chief of police of each city or town, or of every chief officer of other law enforcement agencies operating within this state, to record the fingerprints of all persons held in or remanded to their custody when convicted of any crime as provided for in RCW 43.43.735 for which the penalty of imprisonment might be imposed and to disseminate and file such fingerprints in the same manner as those recorded upon arrest pursuant to RCW 43.43.735 and 43.43.740.

(2) Every time the secretary authorizes a furlough as provided for in RCW 72.66.012 the department of corrections shall notify, thirty days prior to the beginning of such furlough, the sheriff or director of public safety of the county to which the prisoner is being furloughed, the nearest Washington state patrol district facility in the county wherein the furloughed prisoner is to be residing, and other similar criminal justice agencies that the named prisoner has been granted a furlough, the place to which furloughed, and the dates and times during which the prisoner will be on furlough status. In the case of an emergency furlough the thirty-day time period shall not be required but notification shall be made as promptly as possible and before the prisoner is released on furlough.

(3) Disposition of the charge for which the arrest was made shall be reported to the section at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, county prosecutor, city attorney, or court having jurisdiction over the offense: PROVIDED, That the chief shall promulgate rules pursuant to chapter 34.05 RCW to carry out the provisions of this subsection.

(4) Whenever a person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, is released on an order of the ((~~state indeterminate sentence~~)) postconviction review board, or is discharged from custody on expiration of sentence, the department of corrections shall promptly notify the sheriff or director of public safety, the nearest Washington state patrol district facility, and other similar criminal justice agencies that the named person has been released or discharged, the place to which such person has been released or discharged, and the conditions of his or her release or discharge.

Local law enforcement agencies shall require persons convicted of sex offenses to register pursuant to RCW 9A.44.130. In addition, nothing in this section shall be construed to prevent any local law enforcement authority from recording the residency and other information concerning any convicted felon or other person convicted of a criminal offense when such information is obtained from a source other than from registration pursuant to RCW 9A.44.130 which source may include any officer or other agency or subdivision of the state.

(5) The existence of the notice requirement in subsection (2) of this section will not require any extension of the release date in the event the release plan changes after notification.

**Sec.**  RCW 69.50.410 and 2003 c 53 s 342 are each amended to read as follows:

(1) Except as authorized by this chapter it is a class C felony for any person to sell for profit any controlled substance or counterfeit substance classified in Schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana.

For the purposes of this section only, the following words and phrases shall have the following meanings:

(a) "To sell" means the passing of title and possession of a controlled substance from the seller to the buyer for a price whether or not the price is paid immediately or at a future date.

(b) "For profit" means the obtaining of anything of value in exchange for a controlled substance.

(c) "Price" means anything of value.

(2)(a) Any person convicted of a violation of subsection (1) of this section shall receive a sentence of not more than five years in a correctional facility of the department of social and health services for the first offense.

(b) Any person convicted on a second or subsequent cause, the sale having transpired after prosecution and conviction on the first cause, of subsection (1) of this section shall receive a mandatory sentence of five years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for the second or subsequent violation of subsection (1) of this section.

(3)(a) Any person convicted of a violation of subsection (1) of this section by selling heroin shall receive a mandatory sentence of two years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for such violation.

(b) Any person convicted on a second or subsequent sale of heroin, the sale having transpired after prosecution and conviction on the first cause of the sale of heroin shall receive a mandatory sentence of ten years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for this second or subsequent violation: PROVIDED, That the ((~~indeterminate sentence~~)) postconviction review board under RCW 9.95.040 shall not reduce the minimum term imposed for a violation under this subsection.

(4) Whether or not a mandatory minimum term has expired, an offender serving a sentence under this section may be granted an extraordinary medical placement when authorized under RCW 9.94A.728((~~(4)~~)) (1)(c).

(5) In addition to the sentences provided in subsection (2) of this section, any person convicted of a violation of subsection (1) of this section shall be fined in an amount calculated to at least eliminate any and all proceeds or profits directly or indirectly gained by such person as a result of sales of controlled substances in violation of the laws of this or other states, or the United States, up to the amount of five hundred thousand dollars on each count.

(6) Any person, addicted to the use of controlled substances, who voluntarily applies to the department of social and health services for the purpose of participating in a rehabilitation program approved by the department for addicts of controlled substances shall be immune from prosecution for subsection (1) offenses unless a filing of an information or indictment against such person for a violation of subsection (1) of this section is made prior to his or her voluntary participation in the program of the department of social and health services. All applications for immunity under this section shall be sent to the department of social and health services in Olympia. It shall be the duty of the department to stamp each application received pursuant to this section with the date and time of receipt.

(7) This section shall not apply to offenses defined and punishable under the provisions of RCW 69.50.401 through 69.50.4015.

**Sec.**  RCW 70.02.260 and 2018 c 201 s 8005 are each amended to read as follows:

(1)(a) A mental health service agency shall release to the persons authorized under subsection (2) of this section, upon request:

(i) The fact, place, and date of an involuntary commitment, the fact and date of discharge or release, and the last known address of a person who has been committed under chapter 71.05 RCW.

(ii) Information and records related to mental health services, in the format determined under subsection (9) of this section, concerning a person who:

(A) Is currently committed to the custody or supervision of the department of corrections or the ((~~indeterminate sentence~~)) postconviction review board under chapter 9.94A or 9.95 RCW;

(B) Has been convicted or found not guilty by reason of insanity of a serious violent offense; or

(C) Was charged with a serious violent offense and the charges were dismissed under RCW 10.77.086.

(b) Legal counsel may release such information to the persons authorized under subsection (2) of this section on behalf of the mental health service agency, so long as nothing in this subsection requires the disclosure of attorney work product or attorney-client privileged information.

(2) The information subject to release under subsection (1) of this section must be released to law enforcement officers, personnel of a county or city jail, designated mental health professionals or designated crisis responders, as appropriate, public health officers, therapeutic court personnel as defined in RCW 71.05.020, or personnel of the department of corrections, including the ((~~indeterminate sentence~~)) postconviction review board and personnel assigned to perform board-related duties, when such information is requested during the course of business and for the purpose of carrying out the responsibilities of the requesting person's office. No mental health service agency or person employed by a mental health service agency, or its legal counsel, may be liable for information released to or used under the provisions of this section or rules adopted under this section except under RCW 71.05.680.

(3) A person who requests information under subsection (1)(a)(ii) of this section must comply with the following restrictions:

(a) Information must be requested only for the purposes permitted by this subsection and for the purpose of carrying out the responsibilities of the requesting person's office. Appropriate purposes for requesting information under this section include:

(i) Completing presentence investigations or risk assessment reports;

(ii) Assessing a person's risk to the community;

(iii) Assessing a person's risk of harm to self or others when confined in a city or county jail;

(iv) Planning for and provision of supervision of an offender, including decisions related to sanctions for violations of conditions of community supervision; and

(v) Responding to an offender's failure to report for department of corrections supervision;

(b) Information may not be requested under this section unless the requesting person has reasonable suspicion that the individual who is the subject of the information:

(i) Has engaged in activity indicating that a crime or a violation of community custody or parole has been committed or, based upon his or her current or recent past behavior, is likely to be committed in the near future; or

(ii) Is exhibiting signs of a deterioration in mental functioning which may make the individual appropriate for civil commitment under chapter 71.05 RCW; and

(c) Any information received under this section must be held confidential and subject to the limitations on disclosure outlined in this chapter, except:

(i) The information may be shared with other persons who have the right to request similar information under subsection (2) of this section, solely for the purpose of coordinating activities related to the individual who is the subject of the information in a manner consistent with the official responsibilities of the persons involved;

(ii) The information may be shared with a prosecuting attorney acting in an advisory capacity for a person who receives information under this section. A prosecuting attorney under this subsection is subject to the same restrictions and confidentiality limitations as the person who requested the information; and

(iii) As provided in RCW 72.09.585.

(4) A request for information and records related to mental health services under this section does not require the consent of the subject of the records. The request must be provided in writing, except to the extent authorized in subsection (5) of this section. A written request may include requests made by email or facsimile so long as the requesting person is clearly identified. The request must specify the information being requested.

(5) In the event of an emergency situation that poses a significant risk to the public or the offender, a mental health service agency, or its legal counsel, shall release information related to mental health services delivered to the offender and, if known, information regarding where the offender is likely to be found to the department of corrections or law enforcement upon request. The initial request may be written or oral. All oral requests must be subsequently confirmed in writing. Information released in response to an oral request is limited to a statement as to whether the offender is or is not being treated by the mental health service agency and the address or information about the location or whereabouts of the offender.

(6) Disclosure under this section to state or local law enforcement authorities is mandatory for the purposes of the federal health insurance portability and accountability act.

(7) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(8) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under this chapter.

(9) In collaboration with interested organizations, the authority shall develop a standard form for requests for information related to mental health services made under this section and a standard format for information provided in response to the requests. Consistent with the goals of the health information privacy provisions of the federal health insurance portability and accountability act, in developing the standard form for responsive information, the authority shall design the form in such a way that the information disclosed is limited to the minimum necessary to serve the purpose for which the information is requested.

**Sec.**  RCW 71.05.232 and 2004 c 166 s 18 are each amended to read as follows:

(1) When a state hospital admits a person for evaluation or treatment under this chapter who has a history of one or more violent acts and:

(a) Has been transferred from a correctional facility; or

(b) Is or has been under the authority of the department of corrections or the ((~~indeterminate sentence~~)) postconviction review board, the state hospital shall consult with the appropriate corrections and chemical dependency personnel and the appropriate forensic staff at the state hospital to conduct a discharge review to determine whether the person presents a likelihood of serious harm and whether the person is appropriate for release to a less restrictive alternative.

(2) When a state hospital returns a person who was reviewed under subsection (1) of this section to a correctional facility, the hospital shall notify the correctional facility that the person was subject to a discharge review pursuant to this section.

**Sec.**  RCW 71.06.091 and 2012 c 117 s 435 are each amended to read as follows:

A sexual psychopath committed pursuant to RCW 71.06.060 shall be retained by the superintendent of the institution involved until in the superintendent's opinion he or she is safe to be at large, or until he or she has received the maximum benefit of treatment, or is not amenable to treatment, but the superintendent is unable to render an opinion that he or she is safe to be at large. Thereupon, the superintendent of the institution involved shall so inform whatever court committed the sexual psychopath. The court then may order such further examination and investigation of such person as seems necessary, and may at its discretion, summon such person before it for further hearing, together with any witnesses whose testimony may be pertinent, and together with any relevant documents and other evidence. On the basis of such reports, investigation, and possible hearing, the court shall determine whether the person before it shall be released unconditionally from custody as a sexual psychopath, released conditionally, returned to the custody of the institution as a sexual psychopath, or transferred to the department of corrections to serve the original sentence imposed upon him or her. The power of the court to grant conditional release for any such person before it shall be the same as its power to grant, amend, and revoke probation as provided by chapter 9.95 RCW. When the sexual psychopath has entered upon the conditional release, the ((~~indeterminate sentence~~)) postconviction review board shall supervise such person pursuant to the terms and conditions of the conditional release, as set by the court: PROVIDED, That the superintendent of the institution involved shall never release the sexual psychopath from custody without a court release as herein set forth.

**Sec.**  RCW 71.06.100 and 2012 c 117 s 436 are each amended to read as follows:

Where under RCW 71.06.091 the superintendent renders his or her opinion to the committing court, he or she shall provide the committing court, and, in the event of conditional release, the ((~~indeterminate sentence~~)) postconviction review board, with a copy of the hospital medical record concerning the sexual psychopath.

**Sec.**  RCW 71.06.270 and 1983 c 196 s 5 are each amended to read as follows:

The records, files, and other written information prepared by the department of social and health services for individuals committed under this chapter shall be made available upon request to the department of corrections or the postconviction review board ((~~of prison terms and paroles~~)) for persons who are the subject of the records who are committed to the custody of the department of corrections or the board of prison terms and paroles.

**Sec.**  RCW 71.09.025 and 2009 c 409 s 2 are each amended to read as follows:

(1)(a) When it appears that a person may meet the criteria of a sexually violent predator as defined in RCW 71.09.020((~~(16)~~)) (18), the agency with jurisdiction shall refer the person in writing to the prosecuting attorney of the county in which an action under this chapter may be filed pursuant to RCW 71.09.030 and the attorney general, three months prior to:

(i) The anticipated release from total confinement of a person who has been convicted of a sexually violent offense;

(ii) The anticipated release from total confinement of a person found to have committed a sexually violent offense as a juvenile;

(iii) Release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to RCW 10.77.086(4); or

(iv) Release of a person who has been found not guilty by reason of insanity of a sexually violent offense pursuant to RCW 10.77.020(3).

(b) The agency shall provide the prosecuting agency with all relevant information including but not limited to the following information:

(i) A complete copy of the institutional records compiled by the department of corrections relating to the person, and any such out-of-state department of corrections' records, if available;

(ii) A complete copy, if applicable, of any file compiled by the ((~~indeterminate sentence~~)) postconviction review board relating to the person;

(iii) All records relating to the psychological or psychiatric evaluation and/or treatment of the person;

(iv) A current record of all prior arrests and convictions, and full police case reports relating to those arrests and convictions; and

(v) A current mental health evaluation or mental health records review.

(c) The prosecuting agency has the authority, consistent with RCW 72.09.345((~~(3)~~)) (4), to obtain all records relating to the person if the prosecuting agency deems such records are necessary to fulfill its duties under this chapter. The prosecuting agency may only disclose such records in the course of performing its duties pursuant to this chapter, unless otherwise authorized by law.

(d) The prosecuting agency has the authority to utilize the inquiry judge procedures of chapter 10.27 RCW prior to the filing of any action under this chapter to seek the issuance of compulsory process for the production of any records necessary for a determination of whether to seek the civil commitment of a person under this chapter. Any records obtained pursuant to this process may only be disclosed by the prosecuting agency in the course of performing its duties pursuant to this chapter, or unless otherwise authorized by law.

(2) The agency, its employees, and officials shall be immune from liability for any good-faith conduct under this section.

(3) As used in this section, "agency with jurisdiction" means that agency with the authority to direct the release of a person serving a sentence or term of confinement and includes the department of corrections, the ((~~indeterminate sentence~~)) postconviction review board, and the department of social and health services.

**Sec.**  RCW 72.02.100 and 2017 c 214 s 1 are each amended to read as follows:

(1) Any person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, who is thereafter released upon an order of parole of the ((~~indeterminate sentence~~)) postconviction review board, or who is discharged from custody upon expiration of sentence, or who is ordered discharged from custody by a court of appropriate jurisdiction, shall be entitled to retain his or her earnings from labor or employment while in confinement and shall be supplied by the superintendent of the state correctional facility with suitable and presentable clothing, the sum of forty dollars for subsistence, and transportation by the least expensive method of public transportation not to exceed the cost of one hundred dollars to his or her place of residence or the place designated in his or her parole plan, or to the place from which committed if such person is being discharged on expiration of sentence, or discharged from custody by a court of appropriate jurisdiction: PROVIDED, That up to sixty additional dollars may be made available to the parolee for necessary personal and living expenses upon application to and approval by such person's community corrections officer. If in the opinion of the superintendent suitable arrangements have been made to provide the person to be released with suitable clothing and/or the expenses of transportation, the superintendent may consent to such arrangement. If the superintendent has reasonable cause to believe that the person to be released has ample funds, with the exception of earnings from labor or employment while in confinement, to assume the expenses of clothing, transportation, or the expenses for which payments made pursuant to this section or RCW 72.02.110 or any one or more of such expenses, the person released shall be required to assume such expenses.

(2) Within existing resources, the department of corrections may provide temporary housing assistance for a person being released from the Washington corrections center for women or mission creek corrections center for women through the use of rental vouchers, for a period not to exceed three months, if such assistance will support the person's release into the community. The department's authority to provide vouchers under this section is independent of its authority under RCW 9.94A.729.

**Sec.**  RCW 72.02.110 and 2012 c 117 s 456 are each amended to read as follows:

As state, federal or other funds are available, the secretary of corrections or his or her designee is authorized, in his or her discretion, not to provide the forty dollars subsistence money or the optional sixty dollars to a person or persons released as described in RCW 72.02.100, and instead to utilize the authorization and procedure contained in this section relative to such person or persons.

Any person designated by the secretary serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, who is thereafter released upon an order of parole of the ((~~indeterminate sentence~~)) postconviction review board, or is discharged from custody upon expiration of sentence, or is ordered discharged from custody by a court of appropriate jurisdiction, shall receive the sum of fifty-five dollars per week for a period of up to six weeks. The initial weekly payment shall be made to such person upon his or her release or parole by the superintendent of the institution. Subsequent weekly payments shall be made to such person by the community corrections officer at the office of such officer. In addition to the initial six weekly payments provided for in this section, a community corrections officer and his or her supervisor may, at their discretion, continue such payments up to a maximum of twenty additional weeks when they are satisfied that such person is actively seeking employment and that such payments are necessary to continue the efforts of such person to gain employment: PROVIDED, That if, at the time of release or parole, in the opinion of the superintendent funds are otherwise available to such person, with the exception of earnings from labor or employment while in confinement, such weekly sums of money or part thereof shall not be provided to such person.

When a person receiving such payments provided for in this section becomes employed, he or she may continue to receive payments for two weeks after the date he or she becomes employed but payments made after he or she becomes employed shall be discontinued as of the date he or she is first paid for such employment: PROVIDED, That no person shall receive payments for a period exceeding the twenty-six week maximum as established in this section.

The secretary of corrections may annually adjust the amount of weekly payment provided for in this section to reflect changes in the cost of living and the purchasing power of the sum set for the previous year.

**Sec.**  RCW 72.02.220 and 1988 c 143 s 10 are each amended to read as follows:

The ((~~indeterminate sentence~~)) postconviction review board and other state agencies shall cooperate with the department in obtaining necessary investigative materials concerning offenders committed to the reception unit and supply the reception unit with necessary information regarding social histories and community background.

**Sec.**  RCW 72.02.270 and 1993 c 144 s 6 are each amended to read as follows:

The department shall advise all inmates in the department's custody who were convicted of a murder that the inmate committed prior to July 23, 1989, about the provisions in RCW 9.95.045, 9.95.047, and 9.94A.890. The department shall advise the inmates of the method and deadline for submitting petitions to the ((~~indeterminate sentence~~)) postconviction review board for review of the inmate's sentence. The department shall issue the notice to the inmates no later than July 1, 1993.

**Sec.**  RCW 72.04A.050 and 1981 c 136 s 81 are each amended to read as follows:

The powers and duties of the state board of prison terms and paroles, relating to (1) the supervision of parolees of any of the state penal institutions, (2) the supervision of persons placed on probation by the courts, and (3) duties with respect to persons conditionally pardoned by the governor, are transferred to the secretary of corrections.

This section shall not be construed as affecting any of the remaining powers and duties of the postconviction review board ((~~of prison terms and paroles~~)) including, but not limited to, the following:

(1) The fixing of minimum terms of confinement of convicted persons, or the reconsideration of its determination of minimum terms of confinement;

(2) Determining when and under what conditions a convicted person may be released from custody on parole, and the revocation or suspension of parole or the modification or revision of the conditions of the parole, of any convicted person.

**Sec.**  RCW 72.04A.070 and 1981 c 136 s 82 are each amended to read as follows:

The secretary of corrections shall cause to be prepared plans and recommendations for the conditions of supervision under which each inmate of any state penal institutions who is eligible for parole may be released from custody. Such plans and recommendations shall be submitted to the postconviction review board ((~~of prison terms and paroles~~)) which may, at its discretion, approve, reject, or revise or amend such plans and recommendations for the conditions of supervision of release of inmates on parole, and, in addition, the board may stipulate any special conditions of supervision to be carried out by a probation and parole officer.

**Sec.**  RCW 72.04A.080 and 1981 c 136 s 83 are each amended to read as follows:

Each inmate hereafter released on parole shall be subject to the supervision of the department of corrections, and the probation and parole officers of the department shall be charged with the preparation of progress reports of parolees and to give guidance and supervision to such parolees within the conditions of a parolee's release from custody. Copies of all progress reports prepared by the probation and parole officers shall be supplied to the postconviction review board ((~~of prison terms and paroles~~)) for their files and records.

**Sec.**  RCW 72.04A.090 and 2012 c 117 s 457 are each amended to read as follows:

Whenever a parolee breaches a condition or conditions under which he or she was granted parole, or violates any law of the state or rules and regulations of the ((~~indeterminate sentencing [sentence]~~)) postconviction review board, any probation and parole officer may arrest, or cause the arrest and suspension of parole of, such parolee without a warrant, pending a determination by the board. The facts and circumstances of such conduct of the parolee shall be reported by the probation and parole officer, with recommendations, to the ((~~indeterminate sentence review~~)) board, who may order the revocation or suspension of parole, revise or modify the conditions of parole or take such other action as may be deemed appropriate in accordance with RCW 9.95.120. The ((~~indeterminate sentence~~)) postconviction review board, after consultation with the secretary of corrections, shall make all rules and regulations concerning procedural matters, which shall include the time when state probation and parole officers shall file with the board reports required by this section, procedures pertaining thereto and the filing of such information as may be necessary to enable the ((~~indeterminate sentence review~~)) board to perform its functions under this section.

The probation and parole officers shall have like authority and power regarding the arrest and detention of a probationer who has breached a condition or conditions under which he or she was granted probation by the superior court, or violates any law of the state, pending a determination by the superior court.

In the event a probation and parole officer shall arrest or cause the arrest and suspension of parole of a parolee or probationer in accordance with the provisions of this section, such parolee or probationer shall be confined and detained in the county jail of the county in which the parolee or probationer was taken into custody, and the sheriff of such county shall receive and keep in the county jail, where room is available, all prisoners delivered thereto by the probation and parole officer, and such parolees shall not be released from custody on bail or personal recognizance, except upon approval of the ((~~indeterminate sentence~~)) postconviction review board and the issuance by the board of an order of reinstatement on parole on the same or modified conditions of parole.

**Sec.**  RCW 72.09.335 and 2017 c 144 s 1 are each amended to read as follows:

(1) The department shall determine placement for sex offender treatment by assessing the offender's risk for sexual reoffense as the primary factor. The department shall offer offenders the opportunity for sex offender treatment during incarceration based on the following priority:

(a) Offenders who are assessed as high risk for sexual reoffense;

(b) Offenders sentenced under RCW 9.94A.507 who are assessed as moderate risk for sexual reoffense;

(c) Offenders not sentenced under RCW 9.94A.507 who are assessed as moderate risk for sexual reoffense;

(d) Offenders sentenced under RCW 9.94A.507 who are assessed as low risk for sexual reoffense but whose potential release under RCW 9.95.420 will require participation in sex offender treatment, as determined by the ((~~indeterminate sentence~~)) postconviction review board.

(2) As capacity allows, offenders not sentenced under RCW 9.94A.507 who are assessed as low risk for sexual reoffense may be offered the opportunity for sex offender treatment during incarceration.

(3) This section creates no enforceable right to participate in sex offender treatment.

**Sec.**  RCW 72.09.337 and 2017 3rd sp.s. c 6 s 631 are each amended to read as follows:

The secretary of corrections, the secretary of social and health services, the secretary of children, youth, and families, and the ((~~indeterminate sentence~~)) postconviction review board may adopt rules to implement chapter 12, Laws of 2001 2nd sp. sess.

**Sec.**  RCW 72.09.370 and 2018 c 201 s 9012 are each amended to read as follows:

(1) The offender reentry community safety program is established to provide intensive services to offenders identified under this subsection and to thereby promote public safety. The secretary shall identify offenders in confinement or partial confinement who: (a) Are reasonably believed to be dangerous to themselves or others; and (b) have a mental disorder. In determining an offender's dangerousness, the secretary shall consider behavior known to the department and factors, based on research, that are linked to an increased risk for dangerousness of offenders with mental illnesses and shall include consideration of an offender's chemical dependency or abuse.

(2) Prior to release of an offender identified under this section, a team consisting of representatives of the department of corrections, the health care authority, and, as necessary, the ((~~indeterminate sentence~~)) postconviction review board, divisions or administrations within the department of social and health services, specifically including the division of developmental disabilities, the appropriate behavioral health organization, and the providers, as appropriate, shall develop a plan, as determined necessary by the team, for delivery of treatment and support services to the offender upon release. In developing the plan, the offender shall be offered assistance in executing a mental health directive under chapter 71.32 RCW, after being fully informed of the benefits, scope, and purposes of such directive. The team may include a school district representative for offenders under the age of twenty-one. The team shall consult with the offender's counsel, if any, and, as appropriate, the offender's family and community. The team shall notify the crime victim/witness program, which shall provide notice to all people registered to receive notice under RCW 72.09.712 of the proposed release plan developed by the team. Victims, witnesses, and other interested people notified by the department may provide information and comments to the department on potential safety risk to specific individuals or classes of individuals posed by the specific offender. The team may recommend: (a) That the offender be evaluated by the designated crisis responder, as defined in chapter 71.05 RCW; (b) department-supervised community treatment; or (c) voluntary community mental health or chemical dependency or abuse treatment.

(3) Prior to release of an offender identified under this section, the team shall determine whether or not an evaluation by a designated crisis responder is needed. If an evaluation is recommended, the supporting documentation shall be immediately forwarded to the appropriate designated crisis responder. The supporting documentation shall include the offender's criminal history, history of judicially required or administratively ordered involuntary antipsychotic medication while in confinement, and any known history of involuntary civil commitment.

(4) If an evaluation by a designated crisis responder is recommended by the team, such evaluation shall occur not more than ten days, nor less than five days, prior to release.

(5) A second evaluation by a designated crisis responder shall occur on the day of release if requested by the team, based upon new information or a change in the offender's mental condition, and the initial evaluation did not result in an emergency detention or a summons under chapter 71.05 RCW.

(6) If the designated crisis responder determines an emergency detention under chapter 71.05 RCW is necessary, the department shall release the offender only to a state hospital or to a consenting evaluation and treatment facility. The department shall arrange transportation of the offender to the hospital or facility.

(7) If the designated crisis responder believes that a less restrictive alternative treatment is appropriate, he or she shall seek a summons, pursuant to the provisions of chapter 71.05 RCW, to require the offender to appear at an evaluation and treatment facility. If a summons is issued, the offender shall remain within the corrections facility until completion of his or her term of confinement and be transported, by corrections personnel on the day of completion, directly to the identified evaluation and treatment facility.

(8) The secretary shall adopt rules to implement this section.

**Sec.**  RCW 72.09.585 and 2018 c 201 s 9015 are each amended to read as follows:

(1) When the department is determining an offender's risk management level, the department shall inquire of the offender and shall be told whether the offender is subject to court-ordered treatment for mental health services or chemical dependency services. The department shall request and the offender shall provide an authorization to release information form that meets applicable state and federal requirements and shall provide the offender with written notice that the department will request the offender's mental health and substance use disorder treatment information. An offender's failure to inform the department of court-ordered treatment is a violation of the conditions of supervision if the offender is in the community and an infraction if the offender is in confinement, and the violation or infraction is subject to sanctions.

(2) When an offender discloses that he or she is subject to court-ordered mental health services or chemical dependency treatment, the department shall provide the mental health services provider or chemical dependency treatment provider with a written request for information and any necessary authorization to release information forms. The written request shall comply with rules adopted by the health care authority or protocols developed jointly by the department and the health care authority. A single request shall be valid for the duration of the offender's supervision in the community. Disclosures of information related to mental health services made pursuant to a department request shall not require consent of the offender.

(3) The information received by the department under RCW 71.05.445 or 70.02.250 may be released to the ((~~indeterminate sentence~~)) postconviction review board as relevant to carry out its responsibility of planning and ensuring community protection with respect to persons under its jurisdiction. Further disclosure by the ((~~indeterminate sentence review~~)) board is subject to the limitations set forth in subsections (5) and (6) of this section and must be consistent with the written policy of the ((~~indeterminate sentence review~~)) board. The decision to disclose or not shall not result in civil liability for the ((~~indeterminate sentence review~~)) board or staff assigned to perform board-related duties provided that the decision was reached in good faith and without gross negligence.

(4) The information received by the department under RCW 71.05.445 or 70.02.250 may be used to meet the statutory duties of the department to provide evidence or report to the court. Disclosure to the public of information provided to the court by the department related to mental health services shall be limited in accordance with RCW 9.94A.500 or this section.

(5) The information received by the department under RCW 71.05.445 or 70.02.250 may be disclosed by the department to other state and local agencies as relevant to plan for and provide offenders transition, treatment, and supervision services, or as relevant and necessary to protect the public and counteract the danger created by a particular offender, and in a manner consistent with the written policy established by the secretary. The decision to disclose or not shall not result in civil liability for the department or its employees so long as the decision was reached in good faith and without gross negligence. The information received by a state or local agency from the department shall remain confidential and subject to the limitations on disclosure set forth in chapters 70.02, 71.05, and 71.34 RCW and, subject to these limitations, may be released only as relevant and necessary to counteract the danger created by a particular offender.

(6) The information received by the department under RCW 71.05.445 or 70.02.250 may be disclosed by the department to individuals only with respect to offenders who have been determined by the department to have a high risk of reoffending by a risk assessment, as defined in RCW 9.94A.030, only as relevant and necessary for those individuals to take reasonable steps for the purpose of self-protection, or as provided in RCW 72.09.370(2). The information may not be disclosed for the purpose of engaging the public in a system of supervision, monitoring, and reporting offender behavior to the department. The department must limit the disclosure of information related to mental health services to the public to descriptions of an offender's behavior, risk he or she may present to the community, and need for mental health treatment, including medications, and shall not disclose or release to the public copies of treatment documents or records, except as otherwise provided by law. All disclosure of information to the public must be done in a manner consistent with the written policy established by the secretary. The decision to disclose or not shall not result in civil liability for the department or its employees so long as the decision was reached in good faith and without gross negligence. Nothing in this subsection prevents any person from reporting to law enforcement or the department behavior that he or she believes creates a public safety risk.

**Sec.**  RCW 72.60.102 and 1989 c 185 s 11 are each amended to read as follows:

From and after July 1, 1973, any inmate employed in classes I, II, and IV of correctional industries as defined in RCW 72.09.100 is eligible for industrial insurance benefits as provided by Title 51 RCW. However, eligibility for benefits for either the inmate or the inmate's dependents or beneficiaries for temporary disability or permanent total disability as provided in RCW 51.32.090 or 51.32.060, respectively, shall not take effect until the inmate is released pursuant to an order of parole by the ((~~indeterminate sentence~~)) postconviction review board, or discharged from custody upon expiration of the sentence, or discharged from custody by order of a court of appropriate jurisdiction. Nothing in this section shall be construed to confer eligibility for any industrial insurance benefits to any inmate who is employed in class III or V of correctional industries as defined in RCW 72.09.100.

**Sec.**  RCW 72.64.065 and 2012 c 117 s 480 are each amended to read as follows:

From and after July 1, 1973, any inmate working in a department of natural resources adult honor camp established and operated pursuant to RCW 72.64.050, 72.64.060, and 72.64.100 shall be eligible for the benefits provided by Title 51 RCW, as now or hereafter amended, relating to industrial insurance, with the exceptions herein provided.

No inmate as herein described, until released upon an order of parole by the ((~~state indeterminate sentence~~)) postconviction review board, or discharged from custody upon expiration of sentence, or discharged from custody by order of a court of appropriate jurisdiction, or his or her dependents or beneficiaries, shall be entitled to any payment for temporary disability or permanent total disability as provided for in RCW 51.32.090 or 51.32.060 respectively, as now or hereafter enacted, or to the benefits of chapter 51.36 RCW relating to medical aid.

Any and all premiums or assessments as may arise under this section pursuant to the provisions of Title 51 RCW shall be the obligation of and be paid by the state department of natural resources.

**Sec.**  RCW 72.65.130 and 1971 ex.s. c 58 s 1 are each amended to read as follows:

This chapter shall not be construed as affecting the authority of the postconviction review board ((~~of prison terms and paroles~~)) pursuant to the provisions of chapter 9.95 RCW over any person who has been approved for participation in the work release program.

**Sec.**  RCW 72.68.031 and 2012 c 117 s 499 are each amended to read as follows:

When, in the judgment of the secretary, the welfare of any person committed to or confined in any state correctional institution or facility necessitates that such person be transferred or moved for observation, diagnosis, or treatment to any state institution or facility for the care of the mentally ill, the secretary, with the consent of the secretary of social and health services, is authorized to order and effect such move or transfer: PROVIDED, That the sentence of such person shall continue to run as if he or she remained confined in a correctional institution or facility, and that such person shall not continue so detained or confined beyond the maximum term to which he or she was sentenced: PROVIDED, FURTHER, That the secretary and the ((~~indeterminate sentence~~)) postconviction review board shall adopt and implement procedures to assure that persons so transferred shall, while detained or confined at such institution or facility for the care of the mentally ill, be provided with substantially similar opportunities for parole or early release evaluation and determination as persons detained or confined in the state correctional institutions or facilities.

**Sec.**  RCW 72.70.040 and 1979 c 141 s 291 are each amended to read as follows:

The secretary and members of the postconviction review board ((~~of prison terms and paroles~~)) are hereby authorized and directed to hold such hearings as may be requested by any other party state pursuant to Article IV(f) of the Western Interstate Corrections Compact. Additionally, the secretary and members of the board ((~~of prison terms and paroles~~)) may hold out-of-state hearings in connection with the case of any inmate of this state confined in an institution of another state party to the Western Interstate Corrections Compact.

NEW SECTION. **Sec.**  This act applies retroactively to persons incarcerated on the effective date of this section, regardless of the date of the offense or conviction.

NEW SECTION. **Sec.**  This act does not create any right or entitlement to release from incarceration before the end of a term of incarceration imposed by the court, but instead creates a right to petition and have a potential hearing by the postconviction review board on the petition.

**--- END ---**