

**SSB 5848 - S AMD 10000**  
By Senator Darneille

**PULLED 09/17/2019**

1 Strike everything after the enacting clause and insert the  
2 following:

3 **"Sec. 1.** RCW 9.94A.589 and 2015 2nd sp.s. c 3 s 13 are each  
4 amended to read as follows:

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

21 (b) Whenever a person is convicted of two or more serious violent  
22 offenses arising from separate and distinct criminal conduct, the  
23 standard sentence range for the offense with the highest seriousness  
24 level under RCW 9.94A.515 shall be determined using the offender's  
25 prior convictions and other current convictions that are not serious  
26 violent offenses in the offender score and the standard sentence  
27 range for other serious violent offenses shall be determined by using  
28 an offender score of zero. The standard sentence range for any  
29 offenses that are not serious violent offenses shall be determined  
30 according to (a) of this subsection. All sentences imposed under this  
31 subsection (1)(b) shall be served consecutively to each other and  
32 concurrently with sentences imposed under (a) of this subsection.  
33 However, unless the court expressly orders that the community custody

1 terms run consecutively to each other, the terms of community custody  
2 shall run concurrently to each other even if the court orders the  
3 confinement terms to run consecutively to each other.

4 (c) If an offender is convicted under RCW 9.41.040 for unlawful  
5 possession of a firearm in the first or second degree and for the  
6 felony crimes of theft of a firearm or possession of a stolen  
7 firearm, or both, the standard sentence range for each of these  
8 current offenses shall be determined by using all other current and  
9 prior convictions, except other current convictions for the felony  
10 crimes listed in this subsection (1)(c), as if they were prior  
11 convictions. The offender shall serve consecutive sentences for each  
12 conviction of the felony crimes listed in this subsection (1)(c), and  
13 for each firearm unlawfully possessed.

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

17 (2) (a) (~~Except as provided in (b) of this subsection,~~) Whenever  
18 a person while under sentence for conviction of a felony commits  
19 another felony and is sentenced to another term of confinement, the  
20 latter term of confinement shall not begin until expiration of all  
21 prior terms of confinement. However, any terms of community custody  
22 shall run concurrently to each other, unless the court pronouncing  
23 the current sentence expressly orders that they be served  
24 consecutively.

25 (b) Whenever a second or later felony conviction results in  
26 consecutive community (~~supervision~~) custody with conditions not  
27 currently in effect, under the prior sentence or sentences of  
28 community (~~supervision~~) custody the court may require that the  
29 conditions of community (~~supervision~~) custody contained in the  
30 second or later sentence begin during the immediate term of community  
31 (~~supervision~~) custody and continue throughout the duration of the  
32 consecutive term of community (~~supervision~~) custody.

33 (3) Subject to subsections (1) and (2) of this section, whenever  
34 a person is sentenced for a felony that was committed while the  
35 person was not under sentence for conviction of a felony, the  
36 sentence shall run concurrently with any felony sentence which has  
37 been imposed by any court in this or another state or by a federal  
38 court subsequent to the commission of the crime being sentenced  
39 unless the court pronouncing the current sentence expressly orders  
40 that (~~they~~) the confinement terms be served consecutively to each

1 other. Unless the court expressly orders that the community custody  
2 terms run consecutively, such terms of community custody run  
3 concurrently to each other even if the court orders the confinement  
4 terms to run consecutively to each other.

5 (4) Whenever any person granted probation under RCW 9.95.210 or  
6 9.92.060, or both, has the probationary sentence revoked and a prison  
7 sentence imposed, that sentence shall run consecutively to any  
8 sentence imposed pursuant to this chapter, unless the court  
9 pronouncing the subsequent sentence expressly orders that they be  
10 served concurrently.

11 (5) In the case of consecutive sentences, all periods of total  
12 confinement shall be served before any partial confinement, community  
13 restitution, community supervision, or any other requirement or  
14 conditions of any of the sentences. Except for exceptional sentences  
15 as authorized under RCW 9.94A.535, if two or more sentences that run  
16 consecutively include periods of community supervision, the aggregate  
17 of the community supervision period shall not exceed twenty-four  
18 months.

19 **Sec. 2.** RCW 9.94B.050 and 2003 c 379 s 4 are each amended to  
20 read as follows:

21 When a court sentences an offender to a term of total confinement  
22 in the custody of the department for any of the offenses specified in  
23 this section, the court shall also sentence the offender to a term of  
24 community placement as provided in this section. Except as provided  
25 in RCW 9.94A.501, the department shall supervise any sentence of  
26 community placement imposed under this section.

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

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

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

33 (i) Assault in the second degree;

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (e) The residence location and living arrangements shall be  
38 subject to the prior approval of the department during the period of  
39 community placement.

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

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

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

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

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

11 (e) The offender shall comply with any crime-related  
12 prohibitions.

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

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

21 **Sec. 3.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to  
22 read as follows:

23 (1)(a) The term of the sentence of an offender committed to a  
24 correctional facility operated by the department may be reduced by  
25 earned release time in accordance with procedures that shall be  
26 developed and adopted by the correctional agency having jurisdiction  
27 in which the offender is confined. The earned release time shall be  
28 for good behavior and good performance, as determined by the  
29 correctional agency having jurisdiction. The correctional agency  
30 shall not credit the offender with earned release credits in advance  
31 of the offender actually earning the credits.

32 (b) Any program established pursuant to this section shall allow  
33 an offender to earn early release credits for presentence  
34 incarceration. If an offender is transferred from a county jail to  
35 the department, the administrator of a county jail facility shall  
36 certify to the department the amount of time spent in custody at the  
37 facility and the number of days of early release credits lost or not  
38 earned. The department may approve a jail certification from a  
39 correctional agency that calculates early release time based on the

1 actual amount of confinement time served by the offender before  
2 sentencing when an erroneous calculation of confinement time served  
3 by the offender before sentencing appears on the judgment and  
4 sentence. The department must adjust an offender's rate of early  
5 release listed on the jail certification to be consistent with the  
6 rate applicable to offenders in the department's facilities. However,  
7 the department is not authorized to adjust the number of presentence  
8 early release days that the jail has certified as lost or not earned.

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

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

16 (a) In the case of an offender sentenced pursuant to RCW  
17 10.95.030(3) or 10.95.035, the offender may not receive any earned  
18 early release time during the minimum term of confinement imposed by  
19 the court; for any remaining portion of the sentence served by the  
20 offender, the aggregate earned release time may not exceed ten  
21 percent of the sentence.

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

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

30 (d) An offender is qualified to earn up to fifty percent of  
31 aggregate earned release time if he or she:

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

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

35 (A) A sex offense;

36 (B) A violent offense;

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

38 (D) A felony that is domestic violence as defined in RCW  
39 10.99.020;

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

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

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

7 (iii) Has no prior conviction for the offenses listed in (d)(ii)  
8 of this subsection;

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

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

15 (e) In no other case shall the aggregate earned release time  
16 exceed one-third of the total sentence.

17 (4) The department shall perform a risk assessment of each  
18 offender who may qualify for earned early release under subsection  
19 (3)(d) of this section utilizing the risk assessment tool recommended  
20 by the Washington state institute for public policy. Subsection  
21 (3)(d) of this section does not apply to offenders convicted after  
22 July 1, 2010.

23 (5)(a) A person who is eligible for earned early release as  
24 provided in this section and who will be supervised by the department  
25 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to  
26 community custody in lieu of earned release time;

27 (b) The department shall, as a part of its program for release to  
28 the community in lieu of earned release, require the offender to  
29 propose a release plan that includes an approved residence and living  
30 arrangement. All offenders with community custody terms eligible for  
31 release to community custody in lieu of earned release shall provide  
32 an approved residence and living arrangement prior to release to the  
33 community;

34 (c) The department may deny transfer to community custody in lieu  
35 of earned release time if the department determines an offender's  
36 release plan, including proposed residence location and living  
37 arrangements, may violate the conditions of the sentence or  
38 conditions of supervision, place the offender at risk to violate the  
39 conditions of the sentence, place the offender at risk to reoffend,  
40 or present a risk to victim safety or community safety. The

1 department's authority under this section is independent of any  
2 court-ordered condition of sentence or statutory provision regarding  
3 conditions for community custody;

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

6 (i) Transfer an offender to partial confinement in lieu of earned  
7 early release for a period not to exceed three months. The three  
8 months in partial confinement is in addition to that portion of the  
9 offender's term of confinement that may be served in partial  
10 confinement as provided in RCW 9.94A.728(~~(5)~~) (1)(e);

11 (ii) Provide rental vouchers to the offender for a period not to  
12 exceed three months if rental assistance will result in an approved  
13 release plan;

14 (iii) Subject to the availability of amounts appropriated for  
15 this specific purpose, and if rental assistance will result in an  
16 approved release plan for the offender, the department may extend the  
17 rental voucher period to a length not to exceed six months in total.

18 A voucher must be provided in conjunction with additional  
19 transition support programming or services that enable an offender to  
20 participate in services including, but not limited to, substance  
21 abuse treatment, mental health treatment, sex offender treatment,  
22 educational programming, or employment programming;

23 (e) The department shall maintain a list of housing providers  
24 that meets the requirements of RCW 72.09.285. If more than two  
25 voucher recipients will be residing per dwelling unit, as defined in  
26 RCW 59.18.030, rental vouchers for those recipients may only be paid  
27 to a housing provider on the department's list;

28 (f) For each offender who is the recipient of a rental voucher,  
29 the department shall gather data as recommended by the Washington  
30 state institute for public policy in order to best demonstrate  
31 whether rental vouchers are effective in reducing recidivism.

32 (6) An offender serving a term of confinement imposed under RCW  
33 9.94A.670(5)(a) is not eligible for earned release credits under this  
34 section.

35 **Sec. 4.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to  
36 read as follows:

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



- 1 (1) "Board" means the indeterminate sentence review board created  
2 under chapter 9.95 RCW.
- 3 (2) "Collect," or any derivative thereof, "collect and remit," or  
4 "collect and deliver," when used with reference to the department,  
5 means that the department, either directly or through a collection  
6 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
7 and enforcing the offender's sentence with regard to the legal  
8 financial obligation, receiving payment thereof from the offender,  
9 and, consistent with current law, delivering daily the entire payment  
10 to the superior court clerk without depositing it in a departmental  
11 account.
- 12 (3) "Commission" means the sentencing guidelines commission.
- 13 (4) "Community corrections officer" means an employee of the  
14 department who is responsible for carrying out specific duties in  
15 supervision of sentenced offenders and monitoring of sentence  
16 conditions.
- 17 (5) "Community custody" means that portion of an offender's  
18 sentence of confinement in lieu of earned release time or imposed as  
19 part of a sentence under this chapter and served in the community  
20 subject to controls placed on the offender's movement and activities  
21 by the department.
- 22 (6) "Community protection zone" means the area within eight  
23 hundred eighty feet of the facilities and grounds of a public or  
24 private school.
- 25 (7) "Community restitution" means compulsory service, without  
26 compensation, performed for the benefit of the community by the  
27 offender.
- 28 (8) "Confinement" means total or partial confinement.
- 29 (9) "Conviction" means an adjudication of guilt pursuant to Title  
30 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,  
31 and acceptance of a plea of guilty.
- 32 (10) "Crime-related prohibition" means an order of a court  
33 prohibiting conduct that directly relates to the circumstances of the  
34 crime for which the offender has been convicted, and shall not be  
35 construed to mean orders directing an offender affirmatively to  
36 participate in rehabilitative programs or to otherwise perform  
37 affirmative conduct. However, affirmative acts necessary to monitor  
38 compliance with the order of a court may be required by the  
39 department.

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

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

9 (b) A conviction may be removed from a defendant's criminal  
10 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
11 9.95.240, or a similar out-of-state statute, or if the conviction has  
12 been vacated pursuant to a governor's pardon.

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

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

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

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

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

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

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

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

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

8 (f) To provide the gang with any advantage in, or any control or  
9 dominance over any criminal market sector, including, but not limited  
10 to, manufacturing, delivering, or selling any controlled substance  
11 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
12 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
13 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual  
14 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter  
15 9.68 RCW).

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

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

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

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

34 (19) "Disposable earnings" means that part of the earnings of an  
35 offender remaining after the deduction from those earnings of any  
36 amount required by law to be withheld. For the purposes of this  
37 definition, "earnings" means compensation paid or payable for  
38 personal services, whether denominated as wages, salary, commission,  
39 bonuses, or otherwise, and, notwithstanding any other provision of  
40 law making the payments exempt from garnishment, attachment, or other

1 process to satisfy a court-ordered legal financial obligation,  
2 specifically includes periodic payments pursuant to pension or  
3 retirement programs, or insurance policies of any type, but does not  
4 include payments made under Title 50 RCW, except as provided in RCW  
5 50.40.020 and 50.40.050, or Title 74 RCW.

6 (20) "Domestic violence" has the same meaning as defined in RCW  
7 10.99.020 and 26.50.010.

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

12 (22) "Drug offense" means:

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

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

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

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

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

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

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

37 (25) "Escape" means:

38 (a) Sexually violent predator escape (RCW 9A.76.115), escape in  
39 the first degree (RCW 9A.76.110), escape in the second degree (RCW  
40 9A.76.120), willful failure to return from furlough (RCW 72.66.060),

1 willful failure to return from work release (RCW 72.65.070), or  
2 willful failure to be available for supervision by the department  
3 while in community custody (RCW 72.09.310); or

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

7 (26) "Felony traffic offense" means:

8 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
9 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
10 run injury-accident (RCW 46.52.020(4)), felony driving while under  
11 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),  
12 or felony physical control of a vehicle while under the influence of  
13 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

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

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

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

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

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

39 (31) "Legal financial obligation" means a sum of money that is  
40 ordered by a superior court of the state of Washington for legal

1 financial obligations which may include restitution to the victim,  
2 statutorily imposed crime victims' compensation fees as assessed  
3 pursuant to RCW 7.68.035, court costs, county or interlocal drug  
4 funds, court-appointed attorneys' fees, and costs of defense, fines,  
5 and any other financial obligation that is assessed to the offender  
6 as a result of a felony conviction. Upon conviction for vehicular  
7 assault while under the influence of intoxicating liquor or any drug,  
8 RCW 46.61.522(1)(b), or vehicular homicide while under the influence  
9 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal  
10 financial obligations may also include payment to a public agency of  
11 the expense of an emergency response to the incident resulting in the  
12 conviction, subject to RCW 38.52.430.

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

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

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

21 (b) Assault in the second degree;

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

23 (d) Child molestation in the second degree;

24 (e) Controlled substance homicide;

25 (f) Extortion in the first degree;

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

27 (h) Indecent liberties;

28 (i) Kidnapping in the second degree;

29 (j) Leading organized crime;

30 (k) Manslaughter in the first degree;

31 (l) Manslaughter in the second degree;

32 (m) Promoting prostitution in the first degree;

33 (n) Rape in the third degree;

34 (o) Robbery in the second degree;

35 (p) Sexual exploitation;

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

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

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

7 (t) Any other felony with a deadly weapon verdict under RCW  
8 9.94A.825;

9 (u) Any felony offense in effect at any time prior to December 2,  
10 1993, that is comparable to a most serious offense under this  
11 subsection, or any federal or out-of-state conviction for an offense  
12 that under the laws of this state would be a felony classified as a  
13 most serious offense under this subsection;

14 (v)(i) A prior conviction for indecent liberties under RCW  
15 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.  
16 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),  
17 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW  
18 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,  
19 until July 1, 1988;

20 (ii) A prior conviction for indecent liberties under RCW  
21 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
22 if: (A) The crime was committed against a child under the age of  
23 fourteen; or (B) the relationship between the victim and perpetrator  
24 is included in the definition of indecent liberties under RCW  
25 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,  
26 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,  
27 1993, through July 27, 1997;

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

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

36 (35) "Offender" means a person who has committed a felony  
37 established by state law and is eighteen years of age or older or is  
38 less than eighteen years of age but whose case is under superior  
39 court jurisdiction under RCW 13.04.030 or has been transferred by the  
40 appropriate juvenile court to a criminal court pursuant to RCW

1 13.40.110. In addition, for the purpose of community custody  
2 requirements under this chapter, "offender" also means a misdemeanor  
3 or gross misdemeanor probationer ordered by a superior court to  
4 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and  
5 supervised by the department pursuant to RCW 9.94A.501 and  
6 9.94A.5011. Throughout this chapter, the terms "offender" and  
7 "defendant" are used interchangeably.

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

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

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

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

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

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

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

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

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

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

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

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

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

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



- 1 (xii) Burglary 2 (RCW 9A.52.030);
- 2 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
- 3 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
- 4 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
- 5 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
- 6 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
- 7 9A.56.070);
- 8 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
- 9 9A.56.075);
- 10 (xix) Extortion 1 (RCW 9A.56.120);
- 11 (xx) Extortion 2 (RCW 9A.56.130);
- 12 (xxi) Intimidating a Witness (RCW 9A.72.110);
- 13 (xxii) Tampering with a Witness (RCW 9A.72.120);
- 14 (xxiii) Reckless Endangerment (RCW 9A.36.050);
- 15 (xxiv) Coercion (RCW 9A.36.070);
- 16 (xxv) Harassment (RCW 9A.46.020); or
- 17 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

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

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

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

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

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

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

37 (b) (i) Has been convicted of: (A) Rape in the first degree, rape  
38 of a child in the first degree, child molestation in the first  
39 degree, rape in the second degree, rape of a child in the second  
40 degree, or indecent liberties by forcible compulsion; (B) any of the

1 following offenses with a finding of sexual motivation: Murder in the  
2 first degree, murder in the second degree, homicide by abuse,  
3 kidnapping in the first degree, kidnapping in the second degree,  
4 assault in the first degree, assault in the second degree, assault of  
5 a child in the first degree, assault of a child in the second degree,  
6 or burglary in the first degree; or (C) an attempt to commit any  
7 crime listed in this subsection (38)(b)(i); and

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

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

1 28A.225.010; and (B) "teacher, counselor, volunteer, or other person  
2 in authority" does not include the parent or legal guardian of the  
3 victim.

4 (40) "Private school" means a school regulated under chapter  
5 28A.195 or 28A.205 RCW.

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

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

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

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

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

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

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

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

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

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

31 (45) "Serious traffic offense" means:

32 (a) Nonfelony driving while under the influence of intoxicating  
33 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
34 while under the influence of intoxicating liquor or any drug (RCW  
35 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
36 attended vehicle (RCW 46.52.020(5)); or

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

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

- 3 (a) (i) Murder in the first degree;
- 4 (ii) Homicide by abuse;
- 5 (iii) Murder in the second degree;
- 6 (iv) Manslaughter in the first degree;
- 7 (v) Assault in the first degree;
- 8 (vi) Kidnapping in the first degree;
- 9 (vii) Rape in the first degree;
- 10 (viii) Assault of a child in the first degree; or
- 11 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
12 commit one of these felonies; or

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

16 (47) "Sex offense" means:

- 17 (a) (i) A felony that is a violation of chapter 9A.44 RCW other  
18 than RCW 9A.44.132;
- 19 (ii) A violation of RCW 9A.64.020;
- 20 (iii) A felony that is a violation of chapter 9.68A RCW other  
21 than RCW 9.68A.080;
- 22 (iv) A felony that is, under chapter 9A.28 RCW, a criminal  
23 attempt, criminal solicitation, or criminal conspiracy to commit such  
24 crimes; or
- 25 (v) A felony violation of RCW 9A.44.132(1) (failure to register  
26 as a sex offender) if the person has been convicted of violating RCW  
27 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130  
28 prior to June 10, 2010, on at least one prior occasion;

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

32 (c) A felony with a finding of sexual motivation under RCW  
33 9.94A.835 or 13.40.135; or

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

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

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

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

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

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

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

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

23 (55) "Violent offense" means:

24 (a) Any of the following felonies:

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

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

29 (iii) Manslaughter in the first degree;

30 (iv) Manslaughter in the second degree;

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

32 (vi) Kidnapping in the second degree;

33 (vii) Arson in the second degree;

34 (viii) Assault in the second degree;

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

36 (x) Extortion in the first degree;

37 (xi) Robbery in the second degree;

38 (xii) Drive-by shooting;

39 (xiii) Vehicular assault, when caused by the operation or driving  
40 of a vehicle by a person while under the influence of intoxicating

1 liquor or any drug or by the operation or driving of a vehicle in a  
2 reckless manner; and

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

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

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

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

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

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

26 (59) "Expectant parent" means a pregnant or other parent awaiting  
27 the birth of his or her child, or an adoptive parent or person in  
28 process of a final adoption.

29 **Sec. 5.** RCW 9.94A.655 and 2018 c 58 s 45 are each amended to  
30 read as follows:

31 (1) An offender is eligible for the parenting sentencing  
32 alternative if:

33 (a) The high end of the standard sentence range for the current  
34 offense is greater than one year;

35 (b) The offender has no prior or current conviction for a felony  
36 (~~that is a~~) sex offense or a serious violent offense;

37 (c) The offender has (~~not been found by the United States~~  
38 ~~attorney general to be subject to a deportation detainer or order and~~  
39 ~~does not become subject to a deportation order during the period of~~

1 ~~the sentence))~~ a current or prior conviction for a nonviolent  
2 offense, or the offender has a current or prior conviction for a  
3 violent offense and has been determined to be a low risk to reoffend;

4 (d) The offender signs any release of information waivers  
5 required to allow information regarding current or prior child  
6 welfare cases to be shared with the department and the court; and

7 (e) The offender (~~has physical custody of his or her minor child~~  
8 ~~or is a legal guardian or custodian with physical custody of a child~~  
9 ~~under the age of eighteen at the time of the current offense)) is:~~

10 (i) A parent with physical custody of a minor child;

11 (ii) An expectant parent;

12 (iii) A legal guardian of a minor child; or

13 (iv) A biological parent, adoptive parent, custodian, or  
14 stepparent with a proven, established, ongoing, and substantial  
15 relationship with a minor child that existed at the time of the  
16 offense.

17 (2) Prior juvenile adjudications are not considered offenses when  
18 considering eligibility for the parenting sentencing alternative.

19 (3) To assist the court in making its determination, the court  
20 may order the department to complete (~~either~~) a risk assessment  
21 report, including a family impact statement or a chemical dependency  
22 screening report as provided in RCW 9.94A.500, (~~or both reports~~)  
23 prior to sentencing.

24 (~~(3)~~) (4) If the court is considering this alternative, the  
25 court shall request that the department contact the department of  
26 children, youth, and families to determine if the agency has an open  
27 child welfare case or prior substantiated referral of abuse or  
28 neglect involving the offender or if the agency is aware of any  
29 substantiated case of abuse or neglect with a tribal child welfare  
30 agency involving the offender.

31 (a) If the offender has an open child welfare case, the  
32 department will provide the release of information waiver and request  
33 that the department of children, youth, and families or the tribal  
34 child welfare agency provide a report to the court. The department of  
35 children, youth, and families shall provide a copy of the most recent  
36 court order, if any, or if there is no court involvement or no court  
37 order, the agency shall report within seven business days of the  
38 request that includes, at the minimum, the following:

39 (i) Legal status of the child welfare case;

1 (ii) Length of time the department of children, youth, and  
2 families has ~~((been involved with))~~ had an open child welfare case  
3 involving the offender;

4 (iii) Legal status of the case ~~((and permanent plan))~~; and

5 (iv) Any special needs of the child(~~(+~~

6 ~~(v) Whether or not the offender has been cooperative with~~  
7 ~~services ordered by a juvenile court under a child welfare case;~~  
8 ~~and))~~.

9 ~~((vi))~~ (b) The department of corrections shall report if the  
10 ~~((offender))~~ individual has been convicted of a crime against a  
11 child.

12 ~~((b))~~ (c) If a report is required from a tribal child welfare  
13 agency, the department shall attempt to obtain information that is  
14 similar to what is required for the report provided by the department  
15 of children, youth, and families in a timely manner.

16 ~~((e))~~ (d) If the offender does not have an open child welfare  
17 case with the department of children, youth, and families or with a  
18 tribal child welfare agency but has prior involvement, the department  
19 will obtain information from the department of children, youth, and  
20 families on the number and type of past substantiated referrals of  
21 abuse or neglect and report that information to the court. If the  
22 department of children, youth, and families has never had any  
23 substantiated referrals or an open case with the offender, the  
24 department will inform the court.

25 ~~((4))~~ (5) The existence of a prior substantiated referral of  
26 child abuse or neglect or of an open child welfare case shall not,  
27 alone, disqualify the parent from applying or participating in this  
28 alternative. The court shall consider whether the child-parent  
29 relationship can be readily maintained during parental incarceration;  
30 and whether due to the existence of an open child welfare case,  
31 parental incarceration exacerbates the likelihood of termination of  
32 the child-parent relationship.

33 (6) If the sentencing court determines that the offender is  
34 eligible for a sentencing alternative under this section and that the  
35 sentencing alternative is appropriate and should be imposed, the  
36 court shall waive imposition of a sentence within the standard  
37 sentence range and impose a sentence consisting of twelve months of  
38 community custody. The court shall consider the offender's criminal  
39 history when determining if the alternative is appropriate.



1       (~~(5)~~) (7) When a court imposes a sentence of community custody  
2 under this section:

3       (a) The court may impose conditions as provided in RCW 9.94A.703  
4 and may impose other affirmative conditions as the court considers  
5 appropriate.

6       (b) The department may impose conditions as authorized in RCW  
7 9.94A.704 that may include, but are not limited to:

- 8       (i) Parenting classes;  
9       (ii) Chemical dependency treatment;  
10       (iii) Mental health treatment;  
11       (iv) Vocational training;  
12       (v) (~~Offender~~) Change programs;  
13       (vi) Life skills classes.

14       (c) The department shall report to the court if the offender  
15 commits any violations of his or her sentence conditions.

16       (~~(6)~~) (8) The department shall provide the court with quarterly  
17 progress reports regarding the offender's progress in required  
18 programming, treatment, and other supervision conditions. When an  
19 offender has an open child welfare case, the department will seek to  
20 coordinate services with the department of children, youth, and  
21 families.

22       (~~(7)~~) (9)(a) The court may bring any offender sentenced under  
23 this section back into court at any time during the period of  
24 community custody on its own initiative to evaluate the offender's  
25 progress in treatment, or to determine if any violations of the  
26 conditions of the sentence have occurred.

27       (b) At the commencement of such a hearing, the court shall advise  
28 the person sentenced under this section of the person's right to  
29 assistance of counsel and appoint counsel if the person is indigent.

30       (c) If the offender is brought back to court, the court may  
31 modify the conditions of community custody or impose sanctions under  
32 (~~(e)~~) (d) of this subsection, including extending the length of  
33 participation in the alternative program, by no more than six months.  
34 The court shall also consider modification to the participant's  
35 support and rehabilitation plan as needed.

36       (~~(e)~~) (d) The court may order the offender to serve a term of  
37 total confinement within the standard range of the offender's current  
38 offense at any time during the period of community custody, if the  
39 offender violates the conditions or requirements of the sentence or

1 if the offender is failing to make satisfactory progress in  
2 treatment.

3 ~~((d))~~ (e) An offender ordered to serve a term of total  
4 confinement under ~~((e))~~ (d) of this subsection shall receive credit  
5 for any time previously served in confinement under this section.

6 (f) An offender sentenced under this section is subject to all  
7 rules relating to earned release time with respect to any period  
8 served in total confinement.

9 (10) For the purposes of this section and RCW 9.94A.6551, "minor  
10 child" means a child under the age of eighteen at the time of the  
11 current offense.

12 **Sec. 6.** RCW 9.94A.6551 and 2018 c 58 s 47 are each amended to  
13 read as follows:

14 For an offender ~~((s))~~ not sentenced under RCW 9.94A.655, but  
15 otherwise eligible under this section, no more than the final twelve  
16 months of the offender's term of confinement may be served in partial  
17 confinement as home detention as part of the parenting program  
18 developed by the department.

19 (1) The secretary may transfer an offender from a correctional  
20 facility to home detention in the community if it is determined that  
21 the parenting program is an appropriate placement and when all of the  
22 following conditions exist:

23 (a) The offender is serving a sentence in which the high end of  
24 the range is greater than one year;

25 (b) The offender has no current conviction for a felony ~~((that is~~  
26 ~~a))~~ sex offense or a serious violent offense;

27 (c) The offender has a current conviction for a nonviolent  
28 offense, or has a current conviction for a violent offense and has  
29 been determined to be low risk to reoffend;

30 (d) The offender ~~((has not been found by the United States~~  
31 attorney general to be subject to a deportation detainer or order and  
32 does not become subject to a deportation order during the period of  
33 the sentence));

34 (i) Is a parent with physical or legal custody of a minor child;

35 (ii) Is a biological parent, adoptive parent, custodian, or  
36 stepparent with a proven, established, ongoing, and substantial  
37 relationship with a minor child that existed at the time of the  
38 offense;

39 (iii) Is the legal guardian of a minor child; or

1 (iv) Is an expectant parent;

2 ~~((d))~~ (e) The offender signs any release of information waivers  
3 required to allow information regarding current or prior child  
4 welfare cases to be shared with the department and the court;

5 ~~((e) The offender:~~

6 ~~(i) Has physical or legal custody of a minor child;~~

7 ~~(ii) Has a proven, established, ongoing, and substantial~~  
8 ~~relationship with his or her minor child that existed prior to the~~  
9 ~~commission of the current offense; or~~

10 ~~(iii) Is a legal guardian of a child that was under the age of~~  
11 ~~eighteen at the time of the current offense;)) and~~

12 (f) The department determines that such a placement is in the  
13 best interests of the child.

14 (2) Prior juvenile adjudications are not considered offenses when  
15 considering eligibility for the parenting program developed by the  
16 department.

17 (3) When the department is considering partial confinement as  
18 part of the parenting program for an offender, the department shall  
19 inquire of the individual and the department of children, youth, and  
20 families whether the agency has an open child welfare case or prior  
21 substantiated referral for abuse or neglect involving the  
22 ~~((offender))~~ individual.

23 (a) The fact that the child-parent relationship has been  
24 terminated by a court does not preclude an application for  
25 consideration under this sentencing alternative, where:

26 (i) The child and parent have been permitted ongoing contact;

27 (ii) The child is legally free and the child's permanent plan has  
28 not been achieved; or

29 (iii) The parent's participation in the program may assist the  
30 child in achieving reinstatement of parental rights or achieving  
31 long-term permanency.

32 (b) If the department of children, youth, and families or a  
33 tribal jurisdiction has an open child welfare case, the department  
34 will seek input from the department of children, youth, and families  
35 or the involved tribal jurisdiction as to: ~~((a))~~ (i) The status of  
36 the child welfare case; and ~~((b))~~ (ii) recommendations regarding  
37 placement of the offender ~~((and services required of the department~~  
38 ~~and the court governing)),~~ services agreed to by the individual  
39 working voluntarily with the department, or services ordered by the  
40 court within the individual's child welfare case. The department and

1 its officers, agents, and employees are not liable for the acts of  
2 offenders participating in the parenting program unless the  
3 department or its officers, agents, and employees acted with willful  
4 and wanton disregard.

5 ~~((3))~~ (4) All offenders placed on home detention as part of the  
6 parenting program shall provide an approved residence and living  
7 arrangement prior to transfer to home detention.

8 ~~((4))~~ (5) While in the community on home detention as part of  
9 the parenting program, the department shall:

10 (a) Require the offender to be placed on electronic home  
11 monitoring;

12 (b) Require the offender to participate in programming and  
13 treatment that the department and offender collectively  
14 determine ~~((s))~~ is needed;

15 (c) Assign a community corrections officer who will monitor the  
16 offender's compliance with conditions of partial confinement and  
17 programming requirements; and

18 (d) If the offender has an open child welfare case with the  
19 department of children, youth, and families, collaborate and  
20 communicate with the identified social worker in the provision of  
21 services.

22 ~~((5))~~ (6) The department has the authority to return any  
23 offender serving partial confinement in the parenting program to  
24 total confinement if the offender is not complying with sentence  
25 requirements.

26 NEW SECTION. **Sec. 7.** The legislature declares that the  
27 department of corrections' recalculations of community custody terms  
28 pursuant to sections 1 and 2 of this act do not create any  
29 expectations that a particular community custody term will end before  
30 July 1, 2019, and offenders have no reason to conclude that the  
31 recalculation of their community custody terms before July 1, 2019,  
32 is an entitlement or creates any liberty interest in their community  
33 custody term ending before July 1, 2019. The department of  
34 corrections is authorized to take the time reasonably necessary to  
35 complete the recalculations of community custody terms after the  
36 effective date of this section.

1        NEW SECTION.    **Sec. 8.**    The department of corrections has the  
2 authority to begin implementing this act upon the effective date of  
3 this section.

4        NEW SECTION.    **Sec. 9.**    Sections 1 and 2 of this act apply  
5 retroactively and prospectively regardless of the date of an  
6 offender's underlying offense.

7        NEW SECTION.    **Sec. 10.**    This act is necessary for the immediate  
8 preservation of the public peace, health, or safety, or support of  
9 the state government and its existing public institutions, and takes  
10 effect July 1, 2019."

**SSB 5848** - S AMD 10000  
By Senator Darneille

**PULLED 09/17/2019**

11        On page 1, line 2 of the title, after "jurisdiction;" strike the  
12 remainder of the title and insert "amending RCW 9.94A.589, 9.94B.050,  
13 9.94A.729, 9.94A.030, 9.94A.655, and 9.94A.6551; creating new  
14 sections; providing an effective date; and declaring an emergency."

EFFECT: (1) Removes all language regarding the review of  
sentencing documents, and making motions for relief from sentencing,  
for individuals who committed a drug offense prior to July 1, 2004.

(2) Removes all language that increased the percentage of earned  
release time that incarcerated individuals could earn.

(3) Removes all changes to the department's swift and certain  
policy.

(4) Adds language that, subject to appropriated funds, the  
department may extend the voucher period to a maximum of six months  
when deemed necessary.

(5) Updates eligibility criteria for participation in both the  
parenting sentencing alternative, and community parenting alternative  
to include those with:

(a) A current or prior conviction for a nonviolent offense; or

(b) A current or prior conviction for a violent offense and who  
has been determined to be at low risk to reoffend.

(6) Adds language that excludes prior juvenile adjudications when  
considering eligibility for a parenting alternative.

(7) Expands the types of parental relationships that qualify for  
participation in a family sentencing alternative program to include  
informal parenting relationships.

(8) Defines the term "expectant parent" and amends the term "minor child" in statute.

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