
SENATE BILL 5819

State of Washington**66th Legislature****2019 Regular Session****By** Senators Darneille, Nguyen, and Wilson, C.

1 AN ACT Relating to establishing a postconviction review board and
2 review process for early release of qualifying offenders; amending
3 RCW 9.94A.533, 9.94A.570, 9.94A.6332, 9.94A.728, 9.95.0001,
4 9.95.0002, 9.95.001, 9.95.002, 9.95.422, 9.95.425, 9.95.430,
5 9.95.435, 9.95.440, 9.95.009, 9.95.030, 9.95.045, 9.95.055, 9.95.060,
6 9.95.070, 9.95.115, 9.95.130, 4.24.550, 4.24.5501, 4.100.070,
7 7.68.120, 9.94A.030, 9.94A.501, 9.94A.730, 9.94A.840, 9.94A.860,
8 9.94A.8673, 9.94A.890, 9.96.050, 9.98.010, 9A.44.045, 9A.46.020,
9 9A.46.110, 10.64.140, 10.77.210, 10.95.020, 10.95.030, 10.98.160,
10 10.110.020, 29A.08.520, 34.05.030, 42.17A.705, 43.43.745, 69.50.410,
11 70.02.260, 71.05.232, 71.06.091, 71.06.100, 71.06.270, 71.09.025,
12 72.02.100, 72.02.110, 72.02.220, 72.02.270, 72.04A.050, 72.04A.070,
13 72.04A.080, 72.04A.090, 72.09.335, 72.09.337, 72.09.370, 72.09.585,
14 72.60.102, 72.64.065, 72.65.130, 72.68.031, and 72.70.040; reenacting
15 and amending RCW 9.95.003 and 9.95.260; adding a new section to
16 chapter 9.94A RCW; adding new sections to chapter 9.95 RCW; adding a
17 new section to chapter 43.06 RCW; creating new sections; and
18 providing an expiration date.

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

20 NEW SECTION. **Sec. 1.** The legislature finds that Washington's
21 prison system serves the public good by providing rehabilitative

1 services and protecting public safety. The legislature declares that
2 offender rehabilitation is a top priority for the department of
3 corrections and finds that offender rehabilitation may occur prior to
4 the end of a lengthy prison sentence.

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

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

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

29 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A
30 RCW to read as follows:

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

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

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

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

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

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

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

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

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

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.95 RCW
29 to read as follows:

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

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

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

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

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

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

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

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

33 (ii) When denying a petition for release under this section, the
34 board shall provide the offender with a written report setting forth
35 the reasons for the denial and recommendations as to what the
36 offender should do prior to submitting any subsequent petition under
37 this section. The recommendations may include behavioral changes,
38 programming or educational objectives, or other actions the board
39 reasonably believes will reduce the offender's risk to reoffend. An
40 offender whose petition for release is denied may file a new petition

1 for release five years from the date of denial or at an earlier date
2 as may be set by the board.

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

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

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

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

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

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

32 (4)(a) The board has jurisdiction over an offender released under
33 this section for the length of the offender's original sentence.
34 Conditions for release may include: Partial confinement for up to six
35 months, regular drug and/or alcohol testing, no violations of law,
36 restrictions on travel, no contact with certain individuals or
37 classes of individuals, restrictions on the type of employment, and
38 any other restrictions that the board determines to be reasonable and
39 appropriate in light of the individual offender's case. The board
40 shall order the released offender to serve a term of community

1 custody under the supervision of the department, which may not be
2 less than three years and may not exceed the expiration date of the
3 original sentence imposed by the court.

4 (b) The department shall supervise the offender for the period
5 ordered by the board and may impose additional individualized
6 conditions. The department shall monitor the offender's compliance
7 with conditions of community custody imposed by the court, the board,
8 and the department, and shall promptly report any violations to the
9 board. Any violation of conditions of community custody established
10 or modified by the board are subject to the provisions of RCW
11 9.95.425 through 9.95.440.

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

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

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

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

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

33 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.95 RCW
34 to read as follows:

35 (1) The postconviction review board shall evaluate outcomes of
36 petitions brought under section 3 of this act. The board shall
37 develop recommendations for changes to the eligibility requirements
38 under section 3 of this act and to the composition or scope of review
39 of the board. The board shall submit a report with its findings and

1 recommendations, to the appropriate committees of the legislature and
2 the governor's office no later than July 1, 2022.

3 (2) This section expires July 1, 2023.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.06
5 RCW to read as follows:

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

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

14 **Sec. 6.** RCW 9.94A.533 and 2018 c 7 s 8 are each amended to read
15 as follows:

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

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

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

1 range determined under subsection (2) of this section based on the
2 felony crime of conviction as classified under RCW 9A.28.020:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (6) An additional twenty-four months shall be added to the
2 standard sentence range for any ranked offense involving a violation
3 of chapter 69.50 RCW if the offense was also a violation of RCW
4 69.50.435 or 9.94A.827. All enhancements under this subsection shall
5 run consecutively to all other sentencing provisions, for all
6 offenses sentenced under this chapter.

7 (7) An additional two years shall be added to the standard
8 sentence range for vehicular homicide committed while under the
9 influence of intoxicating liquor or any drug as defined by RCW
10 46.61.502 for each prior offense as defined in RCW 46.61.5055.

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

16 An offender serving a sentence under this subsection may be
17 granted an extraordinary medical placement when authorized under RCW
18 9.94A.728(1)(c).

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

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

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

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

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

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

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

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

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

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

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

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

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

1 is subject to the enhancement. If the offender is being sentenced for
2 an anticipatory offense for the felony crimes of RCW 9A.44.073,
3 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
4 offender attempted, solicited another, or conspired to engage, agree,
5 or offer to engage the victim in the sexual conduct in return for a
6 fee, an additional one-year enhancement shall be added to the
7 standard sentence range determined under subsection (2) of this
8 section. For purposes of this subsection, "sexual conduct" means
9 sexual intercourse or sexual contact, both as defined in chapter
10 9A.44 RCW.

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

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

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

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

34 (12) An additional twelve months shall be added to the standard
35 sentence range for an offense that is also a violation of RCW
36 9.94A.831.

37 (13) An additional twelve months shall be added to the standard
38 sentence range for vehicular homicide committed while under the
39 influence of intoxicating liquor or any drug as defined by RCW
40 46.61.520 or for vehicular assault committed while under the

1 influence of intoxicating liquor or any drug as defined by RCW
2 46.61.522, or for any felony driving under the influence (RCW
3 46.61.502(6)) or felony physical control under the influence (RCW
4 46.61.504(6)) for each child passenger under the age of sixteen who
5 is an occupant in the defendant's vehicle. These enhancements shall
6 be mandatory, shall be served in total confinement, and shall run
7 consecutively to all other sentencing provisions. If the addition of
8 a minor child enhancement increases the sentence so that it would
9 exceed the statutory maximum for the offense, the portion of the
10 sentence representing the enhancement may not be reduced.

11 (14) An additional twelve months shall be added to the standard
12 sentence range for an offense that is also a violation of RCW
13 9.94A.832.

14 **Sec. 7.** RCW 9.94A.570 and 2000 c 28 s 6 are each amended to read
15 as follows:

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

18 (a) To a term of total confinement for life ((without the
19 possibility of release)) and may only be released if authorized by
20 the board under section 3 of this act; or((7))

21 (b) When authorized by RCW 10.95.030 for the crime of aggravated
22 murder in the first degree((7-sentenced to death)).

23 ((In addition, no offender subject to this section may be)) (2)
24 Except when released by the board under section 3 of this act, a
25 persistent offender is not eligible for community custody, earned
26 release time, furlough, home detention, partial confinement, work
27 crew, work release, or any other form of release as defined under RCW
28 9.94A.728 (1) ((7, (2), (3), (4), (6), (8), or (9)) (b), (c), (e),
29 (h), or (i), or any other form of authorized leave from a
30 correctional facility while not in the direct custody of a
31 corrections officer or officers, except: ((1)) (a) In the case of
32 an offender in need of emergency medical treatment; or ((2)) (b)
33 for the purpose of commitment to an inpatient treatment facility in
34 the case of an offender convicted of the crime of rape in the first
35 degree.

36 **Sec. 8.** RCW 9.94A.6332 and 2014 c 130 s 3 are each amended to
37 read as follows:

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

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

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

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

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

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

16 (6) If the offender was sentenced pursuant to RCW 10.95.030(3) or
17 10.95.035, any sanctions shall be imposed by the board pursuant to
18 RCW 9.95.435.

19 (7) If the offender was released pursuant to section 3 of this
20 act, any sanctions shall be imposed by the board pursuant to RCW
21 9.95.435.

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

29 ((+8)) (9) If the offender is not being supervised by the
30 department, any sanctions shall be imposed by the court pursuant to
31 RCW 9.94A.6333.

32 **Sec. 9.** RCW 9.94A.728 and 2018 c 166 s 2 are each amended to
33 read as follows:

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

38 (a) An offender may earn early release time as authorized by RCW
39 9.94A.729;

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

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

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

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

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

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

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

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

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

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

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

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

5 (g) The governor may pardon any offender;

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

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

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

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

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

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

27 **Sec. 10.** RCW 9.95.0001 and 2001 2nd sp.s. c 12 s 317 are each
28 amended to read as follows:

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

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

37 (3) "Crime-related prohibition" has the meaning defined in RCW
38 9.94A.030.

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

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

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

7 **Sec. 11.** RCW 9.95.0002 and 2011 1st sp.s. c 40 s 16 are each
8 amended to read as follows:

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

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

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

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

36 (3) All employees of the indeterminate sentence review board are
37 transferred to the jurisdiction of the (~~department of corrections~~)
38 postconviction review board. All employees classified under chapter
39 41.06 RCW, the state civil service law, are assigned to the

1 ((department of corrections)) postconviction review board to perform
2 their usual duties upon the same terms as formerly, without any loss
3 of rights, subject to any action that may be appropriate thereafter
4 in accordance with the laws and rules governing state civil service.

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

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

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

20 ~~((7) All classified employees of the indeterminate sentence
21 review board assigned to the department of corrections under chapter
22 40, Laws of 2011 1st sp. sess. whose positions are within an existing
23 bargaining unit description at the department of corrections shall
24 become a part of the existing bargaining unit at the department of
25 corrections and shall be considered an appropriate inclusion or
26 modification of the existing bargaining unit under the provisions of
27 chapter 41.80 RCW.~~

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

36 **Sec. 12.** RCW 9.95.001 and 1986 c 224 s 2 are each amended to
37 read as follows:

38 On July 1, 1986, the board of prison terms and paroles shall be
39 redesignated the indeterminate sentence review board. The newly

1 designated board shall retain the same membership and staff as the
2 previously designated board of prison terms and paroles. References
3 to "the board" or "board of prison terms and paroles" contained in
4 this chapter, chapters 7.68, 9.95, 9.96, 71.06, and 72.04A RCW, and
5 RCW 9A.44.045 and 72.68.031 are deemed to refer to the
6 (~~indeterminate sentence~~) postconviction review board.

7 **Sec. 13.** RCW 9.95.002 and 2001 2nd sp.s. c 12 s 363 are each
8 amended to read as follows:

9 The (~~indeterminate sentence~~) postconviction review board, in
10 fulfilling its duties under the provisions of chapter 12, Laws of
11 2001 2nd sp. sess., shall be considered a parole board as that
12 concept was treated in law under the state's indeterminate sentencing
13 statutes.

14 **Sec. 14.** RCW 9.95.003 and 2011 1st sp.s. c 40 s 15 and 2011 c
15 336 s 336 are each reenacted and amended to read as follows:

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

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

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

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

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

34 (iv) A behavioral health professional.

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

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

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

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

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

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

22 (3) The members of the board and staff assigned to the board
23 shall not engage in any other business or profession or hold any
24 other public office without the prior approval of the executive
25 ethics board indicating compliance with RCW 42.52.020, 42.52.030,
26 42.52.040, and 42.52.120; nor shall they, at the time of appointment
27 or employment or during their incumbency, serve as the representative
28 of any political party on an executive committee or other governing
29 body thereof, or as an executive officer or employee of any political
30 committee or association. The members of the board shall each
31 severally receive salaries fixed by the governor in accordance with
32 the provisions of RCW 43.03.040, and in addition shall receive travel
33 expenses incurred in the discharge of their official duties in
34 accordance with RCW 43.03.050 and 43.03.060.

35 **Sec. 15.** RCW 9.95.422 and 2016 c 218 s 2 are each amended to
36 read as follows:

37 (1) Upon receipt of a petition for early release submitted under
38 RCW 9.94A.730 or the time it is determined that a hearing shall be
39 scheduled for a petition submitted under section 3 of this act, or

1 upon determination of a parole eligibility review date pursuant to
2 RCW 9.95.100 and 9.95.052, the (~~indeterminate sentence~~)
3 postconviction review board must provide notice and a copy of a
4 petition or parole eligibility documents to the sentencing court,
5 prosecuting attorney, and crime victim or surviving family member.
6 The board may request the prosecuting attorney to assist in
7 contacting the crime victim or surviving family member. If requested
8 in writing by the sentencing court, the prosecuting attorney, or the
9 crime victim or surviving family member, the (~~indeterminate sentence~~
10 ~~review~~) board must also provide any assessment, psychological
11 evaluation, institutional behavior record, or other examination of
12 the offender. Notice of the early release hearing date or parole
13 eligibility date, and any evaluations or information relevant to the
14 release decision, must be provided at least ninety days before the
15 early release hearing or parole eligibility review hearing. The
16 records described in this section, and other records reviewed by the
17 board in response to the petition or parole eligibility
18 review(~~(+)~~), must be disclosed in full and without redaction.
19 Copies of records to be provided to the sentencing court and
20 prosecuting attorney under this section must be provided as required
21 without regard to whether the board has received a request for
22 copies.

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

30 (3) The board and its subcommittees must provide comprehensive
31 minutes of all related meetings and hearings on a petition for early
32 release or parole eligibility review hearing. The comprehensive
33 minutes should include, but not be limited to, the board members
34 present, the name of the petitioner seeking review, the purpose and
35 date of the meeting or hearing, a listing of documents reviewed, the
36 names of members of the public who testify, a summary of discussion,
37 the motions or other actions taken, and the votes of board members by
38 name. For the purposes of this subsection, "action" has the same
39 meaning as in RCW 42.30.020. The comprehensive minutes must be
40 publicly and conspicuously posted on the board's web site within

1 thirty days of the meeting or hearing, without any information
2 withheld or redacted. Nothing in this subsection precludes the board
3 from receiving confidential input from the crime victim or surviving
4 family member.

5 **Sec. 16.** RCW 9.95.425 and 2014 c 130 s 5 are each amended to
6 read as follows:

7 (1) Whenever the board or a community corrections officer of this
8 state has reason to believe an offender released under RCW 9.95.420,
9 10.95.030(3), (~~(e)~~) 9.94A.730, or section 3 of this act has violated
10 a condition of community custody or the laws of this state, any
11 community corrections officer may arrest or cause the arrest and
12 detention of the offender pending a determination by the board
13 whether sanctions should be imposed or the offender's community
14 custody should be revoked. The community corrections officer shall
15 report all facts and circumstances surrounding the alleged violation
16 to the board, with recommendations.

17 (2) If the board or the department causes the arrest or detention
18 of an offender for a violation that does not amount to a new crime
19 and the offender is arrested or detained by local law enforcement or
20 in a local jail, the board or department, whichever caused the arrest
21 or detention, shall be financially responsible for local costs. Jail
22 bed costs shall be allocated at the rate established under RCW
23 9.94A.740.

24 **Sec. 17.** RCW 9.95.430 and 2014 c 130 s 6 are each amended to
25 read as follows:

26 Any offender released under RCW 9.95.420, 10.95.030(3), (~~(e)~~)
27 9.94A.730, or section 3 of this act who is arrested and detained in
28 physical custody by the authority of a community corrections officer,
29 or upon the written order of the board, shall not be released from
30 custody on bail or personal recognizance, except upon approval of the
31 board and the issuance by the board of an order reinstating the
32 offender's release on the same or modified conditions. All chiefs of
33 police, marshals of cities and towns, sheriffs of counties, and all
34 police, prison, and peace officers and constables shall execute any
35 such order in the same manner as any ordinary criminal process.

36 **Sec. 18.** RCW 9.95.435 and 2014 c 130 s 7 are each amended to
37 read as follows:

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

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

21 (3) If an offender released by the board under RCW 9.95.420,
22 10.95.030(3), (~~(e)~~) 9.94A.730, or section 3 of this act is accused
23 of violating any condition or requirement of community custody, he or
24 she is entitled to a hearing before the board or a designee of the
25 board prior to the imposition of sanctions. The hearing shall be
26 considered as offender disciplinary proceedings and shall not be
27 subject to chapter 34.05 RCW. The board shall develop hearing
28 procedures and a structure of graduated sanctions consistent with the
29 hearing procedures and graduated sanctions developed pursuant to RCW
30 9.94A.737. The board may suspend the offender's release to community
31 custody and confine the offender in a correctional institution owned,
32 operated by, or operated under contract with the state prior to the
33 hearing unless the offender has been arrested and confined for a new
34 criminal offense.

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

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

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

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

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

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

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

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

1 **Sec. 19.** RCW 9.95.440 and 2014 c 130 s 8 are each amended to
2 read as follows:

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

13 **Sec. 20.** RCW 9.95.009 and 2011 1st sp.s. c 40 s 41 are each
14 amended to read as follows:

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

30 (2) After July 1, 1984, the board shall continue its functions
31 with respect to persons convicted of crimes committed prior to July
32 1, 1984, and committed to the department of corrections. When making
33 decisions on duration of confinement, including those relating to
34 persons committed under a mandatory life sentence, and parole release
35 under RCW 9.95.100 and 9.95.110, the board shall consider the
36 purposes, standards, and sentencing ranges under chapter 9.94A RCW of
37 the sentencing reform act and the minimum term recommendations of the
38 sentencing judge and prosecuting attorney, and shall attempt to make
39 decisions reasonably consistent with those ranges, standards,

1 purposes, and recommendations: PROVIDED, That the board and its
2 successors shall give adequate written reasons whenever a minimum
3 term or parole release decision is made which is outside the
4 sentencing ranges under chapter 9.94A RCW of the sentencing reform
5 act. In making such decisions, the board and its successors shall
6 consider the different charging and disposition practices under the
7 indeterminate sentencing system.

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

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

17 **Sec. 21.** RCW 9.95.030 and 2011 c 336 s 338 are each amended to
18 read as follows:

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

29 **Sec. 22.** RCW 9.95.045 and 1993 c 144 s 1 are each amended to
30 read as follows:

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

34 (a) The inmate was sentenced for a murder committed prior to July
35 23, 1989, which was the effective date of section 1, chapter 408,
36 Laws of 1989, as codified in RCW 9.94A.535(1)(h). RCW 9.94A.535(1)(h)
37 provides that the sentencing court may consider as a mitigating
38 factor evidence that the defendant or the defendant's children

1 suffered a continuing pattern of physical or sexual abuse by the
2 victim of the offense and the offense was a response to that abuse;

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

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

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

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

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

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

30 The (~~indefinite sentence~~) postconviction review board is
31 hereby granted authority, in the event of a declaration by the
32 governor that a war emergency exists, including a general
33 mobilization, and for the duration thereof only, to reduce downward
34 the minimum term, as set by the board, of any inmate under the
35 jurisdiction of the board confined in a state correctional facility,
36 who will be accepted by and inducted into the armed services:
37 PROVIDED, That a reduction downward shall not be made under this
38 section for those inmates who: (1) Are confined for (a) treason; (b)
39 murder in the first degree; or (c) rape of a child in the first

1 degree where the victim is under ten years of age or an equivalent
2 offense under prior law; (2) are being considered for civil
3 commitment as a sexually violent predator under chapter 71.09 RCW; or
4 (3) were sentenced under RCW 9.94A.507 for a crime committed on or
5 after September 1, 2001.

6 **Sec. 24.** RCW 9.95.060 and 1999 c 143 s 18 are each amended to
7 read as follows:

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

24 **Sec. 25.** RCW 9.95.070 and 2009 c 28 s 24 are each amended to
25 read as follows:

26 (1) Every prisoner, convicted of a crime committed before July 1,
27 1984, who has a favorable record of conduct at a state correctional
28 institution, and who performs in a faithful, diligent, industrious,
29 orderly and peaceable manner the work, duties, and tasks assigned to
30 him or her to the satisfaction of the superintendent of the
31 institution, and in whose behalf the superintendent of the
32 institution files a report certifying that his or her conduct and
33 work have been meritorious and recommending allowance of time credits
34 to him or her, shall upon, but not until, the adoption of such
35 recommendation by the ~~((indeterminate—sentence))~~ postconviction
36 review board, be allowed time credit reductions from the term of
37 imprisonment fixed by the board.

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

4 **Sec. 26.** RCW 9.95.115 and 2001 2nd sp.s. c 12 s 332 are each
5 amended to read as follows:

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

16 **Sec. 27.** RCW 9.95.130 and 2001 2nd sp.s. c 12 s 340 are each
17 amended to read as follows:

18 From and after the suspension, cancellation, or revocation of the
19 parole of any offender convicted of a crime committed before July 1,
20 1984, and until his or her return to custody the offender shall be
21 deemed an escapee and a fugitive from justice. The (~~indeterminate
22 sentence~~) postconviction review board may deny credit against the
23 maximum sentence any time during which he or she is an escapee and
24 fugitive from justice.

25 **Sec. 28.** RCW 9.95.260 and 1999 c 323 s 4 and 1999 c 143 s 29 are
26 each reenacted and amended to read as follows:

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

31 (2) It will be the duty of the secretary of corrections to
32 exercise supervision over such convicted persons as have been
33 conditionally pardoned by the governor, to the end that such persons
34 shall faithfully comply with the conditions of such pardons. The
35 (~~indeterminate sentence review~~) board shall also pass on any
36 representations made in support of applications for restoration of
37 civil rights of convicted persons, and make recommendations to the

1 governor. The department of corrections shall prepare materials and
2 make investigations requested by the (~~indeterminate~~ sentence
3 ~~review~~) board in order to assist the board in passing on the
4 representations made in support of applications for pardon or for the
5 restoration of civil rights.

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

29 **Sec. 29.** RCW 4.24.550 and 2015 c 261 s 1 are each amended to
30 read as follows:

31 (1) In addition to the disclosure under subsection (5) of this
32 section, public agencies are authorized to release information to the
33 public regarding sex offenders and kidnapping offenders when the
34 agency determines that disclosure of the information is relevant and
35 necessary to protect the public and counteract the danger created by
36 the particular offender. This authorization applies to information
37 regarding: (a) Any person adjudicated or convicted of a sex offense
38 as defined in RCW 9A.44.128 or a kidnapping offense as defined by RCW
39 9A.44.128; (b) any person under the jurisdiction of the

1 (~~indeterminate sentence~~) postconviction review board as the result
2 of a sex offense or kidnapping offense; (c) any person committed as a
3 sexually violent predator under chapter 71.09 RCW or as a sexual
4 psychopath under chapter 71.06 RCW; (d) any person found not guilty
5 of a sex offense or kidnapping offense by reason of insanity under
6 chapter 10.77 RCW; and (e) any person found incompetent to stand
7 trial for a sex offense or kidnapping offense and subsequently
8 committed under chapter 71.05 or 71.34 RCW.

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

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

1 also disclose relevant, necessary, and accurate information to the
2 public at large for offenders registered as homeless or transient.

3 (4) The county sheriff with whom an offender classified as risk
4 level III is registered shall release a sex offender community
5 notification that conforms to the guidelines established under RCW
6 4.24.5501.

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

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

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

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

38 (b) Law enforcement agencies must provide information requested
39 by the Washington association of sheriffs and police chiefs to

1 administer the statewide registered kidnapping and sex offender web
2 site.

3 (c) (i) Within five business days of the Washington association of
4 sheriffs and police chiefs receiving any public record request under
5 chapter 42.56 RCW for sex offender and kidnapping offender
6 information, records or web site data it holds or maintains pursuant
7 to this section or a unified sex offender registry, the Washington
8 association of sheriffs and police chiefs shall refer the requester
9 in writing to the appropriate law enforcement agency or agencies for
10 submission of such a request. The Washington association of sheriffs
11 and police chiefs shall have no further obligation under chapter
12 42.56 RCW for responding to such a request.

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

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

26 (b) A sex offender shall be classified as a risk level I if his
27 or her risk assessment and other information or factors deemed
28 relevant by the law enforcement agency indicate he or she is at a low
29 risk to sexually reoffend within the community at large. A sex
30 offender shall be classified as a risk level II if his or her risk
31 assessment and other information or factors deemed relevant by the
32 law enforcement agency indicate he or she is at a moderate risk to
33 sexually reoffend within the community at large. A sex offender shall
34 be classified as a risk level III if his or her risk assessment and
35 other information or factors deemed relevant by the law enforcement
36 agency indicate he or she is at a high risk to sexually reoffend
37 within the community at large.

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

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

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

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

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

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

38 (11) As used in this section, "law enforcement agency" means a
39 general authority Washington law enforcement agency as defined in RCW
40 10.93.020.

1 **Sec. 30.** RCW 4.24.5501 and 2006 c 137 s 1 are each amended to
2 read as follows:

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

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

22 The sex offender model policy work group, once convened, shall
23 first conduct a series of community meetings around the state to
24 assess the practices and needs of communities, identify best
25 practices on sex offender registration, community notification, and
26 strategies for sex offender management. Once the sex offender model
27 policy work group has received input from stakeholders on a final
28 draft of the model policy, the policy shall be presented to the
29 Washington association of sheriffs and police chiefs for adoption or
30 rejection. Following the adoption of a model policy, the sex offender
31 model policy work group shall conduct a series of meetings around the
32 state with local law enforcement agencies and other criminal justice
33 personnel to review the model policy and conduct training as needed.
34 The sex offender model policy work group shall then be dissolved,
35 and, when funded, the Washington association of sheriffs and police
36 chiefs shall be responsible for the continued promotion of the model
37 policy, including annual or biennial regional workshops with local
38 law enforcement agencies and other criminal justice personnel to
39 encourage sex offender registration, community notification, and

1 strategies for sex offender management policies and practices that
2 best fit the needs, characteristics, and risks of each community.

3 (3) The model policy shall, at a minimum, include recommendations
4 to address the following issues: (a) Procedures for local agencies or
5 officials to accomplish the notifications required under RCW
6 4.24.550(10), including the identification of best practices for
7 community notification, as they relate to the specific needs and
8 characteristics to each community and the risk posed to that
9 community; (b) contents and form of community notification documents,
10 including procedures for ensuring the accuracy of factual information
11 contained in the notification documents, and ways of protecting the
12 privacy of victims of the offenders' crimes; (c) methods of
13 distributing community notification documents, including distribution
14 to schools; (d) methods of providing follow-up notifications to
15 community residents at specified intervals and of disclosing
16 information about offenders to law enforcement agencies in other
17 jurisdictions if necessary to protect the public; (e) methods of
18 educating community residents at public meetings on how they can use
19 the information in the notification document in a reasonable manner
20 to enhance their individual and collective safety; (f) procedures for
21 educating community members regarding the right of sex offenders not
22 to be the subject of harassment or criminal acts as a result of the
23 notification process; (g) procedures and documents for local law
24 enforcement agencies to provide appropriate notification when a sex
25 offender risk level is reclassified, including strategies to monitor
26 the reclassification of sex offender risk levels by local law
27 enforcement agencies; (h) formulas and instructions on standard sex
28 offender risk assessment instruments; (i) strategies for sex offender
29 management; and (j) other matters the Washington association of
30 sheriffs and police chiefs deems necessary as it relates to sex
31 offender registration, community notification, and management.

32 **Sec. 31.** RCW 4.100.070 and 2013 c 175 s 7 are each amended to
33 read as follows:

34 (1) On or after July 28, 2013, when a court grants judicial
35 relief, such as reversal and vacation of a person's conviction,
36 consistent with the criteria established in RCW 4.100.040, the court
37 must provide to the claimant a copy of RCW 4.100.020 through
38 4.100.090, 28B.15.395, and 72.09.750 at the time the relief is
39 granted.

1 (2) The clemency and pardons board or the (~~indeterminate~~
2 ~~sentence~~) postconviction review board, whichever is applicable, upon
3 issuance of a pardon by the governor on grounds consistent with
4 innocence on or after July 28, 2013, must provide a copy of RCW
5 4.100.020 through 4.100.090, 28B.15.395, and 72.09.750 to the
6 individual pardoned.

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

12 **Sec. 32.** RCW 7.68.120 and 1995 c 33 s 1 are each amended to read
13 as follows:

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

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

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

1 the date of service to respond to the notice by requesting a hearing
2 in superior court.

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

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

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

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

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

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

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

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

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

19 **Sec. 33.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to
20 read as follows:

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

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

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

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

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

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

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

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

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

13 (9) "Conviction" means an adjudication of guilt pursuant to Title
14 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
15 and acceptance of a plea of guilty.

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

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

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

32 (b) A conviction may be removed from a defendant's criminal
33 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
34 9.95.240, or a similar out-of-state statute, or if the conviction has
35 been vacated pursuant to a governor's pardon.

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

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

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

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

- 21 (a) To gain admission, prestige, or promotion within the gang;
22 (b) To increase or maintain the gang's size, membership,
23 prestige, dominance, or control in any geographical area;
24 (c) To exact revenge or retribution for the gang or any member of
25 the gang;
26 (d) To obstruct justice, or intimidate or eliminate any witness
27 against the gang or any member of the gang;
28 (e) To directly or indirectly cause any benefit, aggrandizement,
29 gain, profit, or other advantage for the gang, its reputation,
30 influence, or membership; or

31 (f) To provide the gang with any advantage in, or any control or
32 dominance over any criminal market sector, including, but not limited
33 to, manufacturing, delivering, or selling any controlled substance
34 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
35 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
36 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
37 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
38 9.68 RCW).

39 (15) "Day fine" means a fine imposed by the sentencing court that
40 equals the difference between the offender's net daily income and the

1 reasonable obligations that the offender has for the support of the
2 offender and any dependents.

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

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

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

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

29 (20) "Domestic violence" has the same meaning as defined in RCW
30 10.99.020 and 26.50.010.

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

35 (22) "Drug offense" means:

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

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

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

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

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

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

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

22 (25) "Escape" means:

23 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
24 the first degree (RCW 9A.76.110), escape in the second degree (RCW
25 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
26 willful failure to return from work release (RCW 72.65.070), or
27 willful failure to be available for supervision by the department
28 while in community custody (RCW 72.09.310); or

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

32 (26) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (b) Assault in the second degree;

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

11 (d) Child molestation in the second degree;

12 (e) Controlled substance homicide;

13 (f) Extortion in the first degree;

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

15 (h) Indecent liberties;

16 (i) Kidnapping in the second degree;

17 (j) Leading organized crime;

18 (k) Manslaughter in the first degree;

19 (l) Manslaughter in the second degree;

20 (m) Promoting prostitution in the first degree;

21 (n) Rape in the third degree;

22 (o) Robbery in the second degree;

23 (p) Sexual exploitation;

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

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

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

34 (t) Any other felony with a deadly weapon verdict under RCW
35 9.94A.825;

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

1 (v) (i) A prior conviction for indecent liberties under RCW
2 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
3 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
4 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
5 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
6 until July 1, 1988;

7 (ii) A prior conviction for indecent liberties under RCW
8 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
9 if: (A) The crime was committed against a child under the age of
10 fourteen; or (B) the relationship between the victim and perpetrator
11 is included in the definition of indecent liberties under RCW
12 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
13 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
14 1993, through July 27, 1997;

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

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

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

35 (36) "Partial confinement" means confinement for no more than one
36 year in a facility or institution operated or utilized under contract
37 by the state or any other unit of government, or, if home detention,
38 electronic monitoring, or work crew has been ordered by the court or
39 home detention has been ordered by the department as part of the
40 parenting program or the graduated reentry program, in an approved

1 residence, for a substantial portion of each day with the balance of
2 the day spent in the community. Partial confinement includes work
3 release, home detention, work crew, electronic monitoring, and a
4 combination of work crew, electronic monitoring, and home detention.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
34 9A.56.070);

35 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
36 9A.56.075);

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

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

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

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

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

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

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

31 (40) "Private school" means a school regulated under chapter
32 28A.195 or 28A.205 RCW.

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

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

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

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

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

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

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

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

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

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

20 (45) "Serious traffic offense" means:

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

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

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

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

32 (ii) Homicide by abuse;

33 (iii) Murder in the second degree;

34 (iv) Manslaughter in the first degree;

35 (v) Assault in the first degree;

36 (vi) Kidnapping in the first degree;

37 (vii) Rape in the first degree;

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

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

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

4 (47) "Sex offense" means:

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

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

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

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

13 (v) A felony violation of RCW 9A.44.132(1) (failure to register
14 as a sex offender) if the person has been convicted of violating RCW
15 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
16 prior to June 10, 2010, on at least one prior occasion;

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

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

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

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

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

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

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

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

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

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

10 (55) "Violent offense" means:

11 (a) Any of the following felonies:

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

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

16 (iii) Manslaughter in the first degree;

17 (iv) Manslaughter in the second degree;

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

19 (vi) Kidnapping in the second degree;

20 (vii) Arson in the second degree;

21 (viii) Assault in the second degree;

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

23 (x) Extortion in the first degree;

24 (xi) Robbery in the second degree;

25 (xii) Drive-by shooting;

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

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

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

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

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

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

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

14 **Sec. 34.** RCW 9.94A.501 and 2016 sp.s. c 28 s 1 are each amended
15 to read as follows:

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

19 (a) Offenders convicted of:

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

21 (ii) Custodial sexual misconduct second degree;

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

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

24 (b) Offenders who have:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 **Sec. 35.** RCW 9.94A.730 and 2015 c 134 s 6 are each amended to
10 read as follows:

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

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

27 (3) No later than one hundred eighty days from receipt of the
28 petition for early release, the department shall conduct, and the
29 offender shall participate in, an examination of the person,
30 incorporating methodologies that are recognized by experts in the
31 prediction of dangerousness, and including a prediction of the
32 probability that the person will engage in future criminal behavior
33 if released on conditions to be set by the board. The board may
34 consider a person's failure to participate in an evaluation under
35 this subsection in determining whether to release the person. The
36 board shall order the person released under such affirmative and
37 other conditions as the board determines appropriate, unless the
38 board determines by a preponderance of the evidence that, despite
39 such conditions, it is more likely than not that the person will

1 commit new criminal law violations if released. The board shall give
2 public safety considerations the highest priority when making all
3 discretionary decisions regarding the ability for release and
4 conditions of release.

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

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

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

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

35 **Sec. 36.** RCW 9.94A.840 and 1992 c 45 s 1 are each amended to
36 read as follows:

37 (1)(a) When it appears that a person who has been convicted of a
38 sexually violent offense may meet the criteria of a sexually violent
39 predator as defined in RCW 71.09.020(~~((+))~~) (18), the agency with

1 jurisdiction over the person shall refer the person in writing to the
2 prosecuting attorney of the county where that person was convicted,
3 three months prior to the anticipated release from total confinement.

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

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

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

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

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

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

19 **Sec. 37.** RCW 9.94A.860 and 2016 c 179 s 3 are each amended to
20 read as follows:

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

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

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

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

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

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

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

4 (e) Two prosecuting attorneys;

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

6 (g) Four persons who are superior court judges;

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

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

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

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

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

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

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

38 (b) The governor shall stagger the terms of the members appointed
39 under subsection (3)(j), (k), and (l) of this section by appointing

1 one of them for a term of one year, one for a term of two years, and
2 one for a term of three years.

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

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

14 **Sec. 38.** RCW 9.94A.8673 and 2011 1st sp.s. c 40 s 37 are each
15 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (6) Members of the board shall receive no compensation but may be
26 reimbursed for travel expenses as provided in RCW 43.03.050 and
27 43.03.060.

28 **Sec. 39.** RCW 9.94A.890 and 2000 c 28 s 42 are each amended to
29 read as follows:

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

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

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

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

7 (2) The court may resentence the offender in light of RCW
8 9.94A.535(1)(h) and impose an exceptional mitigating sentence
9 pursuant to that provision. Prior to resentencing, the court shall
10 consider any other recommendation and evidence concerning the issue
11 of whether the offender committed the crime in response to abuse.

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

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

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

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

32 (c) The discharge, regardless of when issued, shall have the
33 effect of restoring all civil rights not already restored by RCW
34 29A.08.520, and the certification of discharge shall so state.

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

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

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

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

8 **Sec. 41.** RCW 9.98.010 and 2011 c 336 s 345 are each amended to
9 read as follows:

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

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

37 (3) The superintendent having custody of the prisoner shall
38 promptly inform him or her in writing of the source and contents of
39 any untried indictment, information, or complaint against him or her

1 concerning which the superintendent has knowledge and of his or her
2 right to make a request for final disposition thereof.

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

6 **Sec. 42.** RCW 9A.44.045 and 1982 c 192 s 12 are each amended to
7 read as follows:

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

22 **Sec. 43.** RCW 9A.46.020 and 2011 c 64 s 1 are each amended to
23 read as follows:

24 (1) A person is guilty of harassment if:
25 (a) Without lawful authority, the person knowingly threatens:
26 (i) To cause bodily injury immediately or in the future to the
27 person threatened or to any other person; or
28 (ii) To cause physical damage to the property of a person other
29 than the actor; or
30 (iii) To subject the person threatened or any other person to
31 physical confinement or restraint; or
32 (iv) Maliciously to do any other act which is intended to
33 substantially harm the person threatened or another with respect to
34 his or her physical or mental health or safety; and
35 (b) The person by words or conduct places the person threatened
36 in reasonable fear that the threat will be carried out. "Words or
37 conduct" includes, in addition to any other form of communication or
38 conduct, the sending of an electronic communication.

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

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

22 (3) Any criminal justice participant who is a target for threats
23 or harassment prohibited under subsection (2)(b)(iii) or (iv) of this
24 section, and any family members residing with him or her, shall be
25 eligible for the address confidentiality program created under RCW
26 40.24.030.

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

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

1 **Sec. 44.** RCW 9A.46.110 and 2013 c 84 s 29 are each amended to
2 read as follows:

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

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

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

13 (c) The stalker either:

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

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

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

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

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

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

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

36 (b) A person who stalks another is guilty of a class B felony if
37 any of the following applies: (i) The stalker has previously been
38 convicted in this state or any other state of any crime of
39 harassment, as defined in RCW 9A.46.060, of the same victim or
40 members of the victim's family or household or any person

1 specifically named in a protective order; (ii) the stalking violates
2 any protective order protecting the person being stalked; (iii) the
3 stalker has previously been convicted of a gross misdemeanor or
4 felony stalking offense under this section for stalking another
5 person; (iv) the stalker was armed with a deadly weapon, as defined
6 in RCW 9.94A.825, while stalking the person; (v) (A) the stalker's
7 victim is or was a law enforcement officer; judge; juror; attorney;
8 victim advocate; legislator; community corrections' officer; an
9 employee, contract staff person, or volunteer of a correctional
10 agency; court employee, court clerk, or courthouse facilitator; or an
11 employee of the child protective, child welfare, or adult protective
12 services division within the department of social and health
13 services; and (B) the stalker stalked the victim to retaliate against
14 the victim for an act the victim performed during the course of
15 official duties or to influence the victim's performance of official
16 duties; or (vi) the stalker's victim is a current, former, or
17 prospective witness in an adjudicative proceeding, and the stalker
18 stalked the victim to retaliate against the victim as a result of the
19 victim's testimony or potential testimony.

20 (6) As used in this section:

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

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

36 (c) "Harasses" means unlawful harassment as defined in RCW
37 10.14.020.

38 (d) "Protective order" means any temporary or permanent court
39 order prohibiting or limiting violence against, harassment of,

1 contact or communication with, or physical proximity to another
2 person.

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

4 **Sec. 45.** RCW 10.64.140 and 2009 c 325 s 5 are each amended to
5 read as follows:

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

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

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

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

15 (d) The defendant must reregister before voting;

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

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

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

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

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

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

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

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

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

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

1 **Sec. 46.** RCW 10.77.210 and 1998 c 297 s 45 are each amended to
2 read as follows:

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

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

30 **Sec. 47.** RCW 10.95.020 and 2003 c 53 s 96 are each amended to
31 read as follows:

32 A person is guilty of aggravated first degree murder, a class A
33 felony, if he or she commits first degree murder as defined by RCW
34 9A.32.030(1)(a), as now or hereafter amended, and one or more of the
35 following aggravating circumstances exist:

36 (1) The victim was a law enforcement officer, corrections
37 officer, or firefighter who was performing his or her official duties
38 at the time of the act resulting in death and the victim was known or

1 reasonably should have been known by the person to be such at the
2 time of the killing;

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

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

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

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

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

19 (7) The murder was committed during the course of or as a result
20 of a shooting where the discharge of the firearm, as defined in RCW
21 9.41.010, is either from a motor vehicle or from the immediate area
22 of a motor vehicle that was used to transport the shooter or the
23 firearm, or both, to the scene of the discharge;

24 (8) The victim was:

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

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

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

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

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

- 1 (a) Robbery in the first or second degree;
- 2 (b) Rape in the first or second degree;
- 3 (c) Burglary in the first or second degree or residential
- 4 burglary;
- 5 (d) Kidnapping in the first degree; or
- 6 (e) Arson in the first degree;

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

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

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

- 21 (a) Harassment as defined in RCW 9A.46.020; or
- 22 (b) Any criminal assault.

23 **Sec. 48.** RCW 10.95.030 and 2015 c 134 s 5 are each amended to
24 read as follows:

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

37 (2) If, pursuant to a special sentencing proceeding held under
38 RCW 10.95.050, the trier of fact finds that there are not sufficient
39 mitigating circumstances to merit leniency, the sentence shall be

1 death. In no case, however, shall a person be sentenced to death if
2 the person had an intellectual disability at the time the crime was
3 committed, under the definition of intellectual disability set forth
4 in (a) of this subsection. A diagnosis of intellectual disability
5 shall be documented by a licensed psychiatrist or licensed
6 psychologist designated by the court, who is an expert in the
7 diagnosis and evaluation of intellectual disabilities. The defense
8 must establish an intellectual disability by a preponderance of the
9 evidence and the court must make a finding as to the existence of an
10 intellectual disability.

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

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

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

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

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

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

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

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

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

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

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

32 (f) No later than one hundred eighty days prior to the expiration
33 of the person's minimum term, the department of corrections shall
34 conduct, and the offender shall participate in, an examination of the
35 person, incorporating methodologies that are recognized by experts in
36 the prediction of dangerousness, and including a prediction of the
37 probability that the person will engage in future criminal behavior
38 if released on conditions to be set by the board. The board may
39 consider a person's failure to participate in an evaluation under
40 this subsection in determining whether to release the person. The

1 board shall order the person released, under such affirmative and
2 other conditions as the board determines appropriate, unless the
3 board determines by a preponderance of the evidence that, despite
4 such conditions, it is more likely than not that the person will
5 commit new criminal law violations if released. If the board does not
6 order the person released, the board shall set a new minimum term not
7 to exceed five additional years. The board shall give public safety
8 considerations the highest priority when making all discretionary
9 decisions regarding the ability for release and conditions of
10 release.

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

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

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

34 **Sec. 49.** RCW 10.98.160 and 2011 1st sp.s. c 40 s 33 are each
35 amended to read as follows:

36 In the development and modification of the procedures,
37 definitions, and reporting capabilities of the section, the
38 department, the office of financial management, and the responsible
39 agencies and persons shall consider the needs of other criminal

1 justice agencies such as the administrative office of the courts,
2 local law enforcement agencies, local jails, the (~~indeterminate~~
3 ~~sentence~~) postconviction review board, the clemency board,
4 prosecuting attorneys, and affected state agencies such as the office
5 of financial management and legislative committees dealing with
6 criminal justice issues. The Washington integrated justice
7 information board shall review and provide recommendations to state
8 justice agencies and the courts for development and modification of
9 the statewide justice information network.

10 **Sec. 50.** RCW 10.110.020 and 2015 c 267 s 1 are each amended to
11 read as follows:

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

22 **Sec. 51.** RCW 29A.08.520 and 2013 c 11 s 19 are each amended to
23 read as follows:

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

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

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

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

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

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

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

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

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

34 (b) A court order restoring the right, as provided in RCW
35 9.92.066;

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

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

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

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

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

6 **Sec. 52.** RCW 34.05.030 and 2015 3rd sp.s. c 1 s 309 are each
7 amended to read as follows:

8 (1) This chapter shall not apply to:

9 (a) The state militia, or

10 (b) The board of clemency and pardons, or

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

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

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

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

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

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

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

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

33 (3) Unless a party makes an election for a formal hearing
34 pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through
35 34.05.598 do not apply to a review hearing conducted by the board of
36 tax appeals.

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

38 (a) Reimbursement unit values, fee schedules, arithmetic
39 conversion factors, and similar arithmetic factors used to determine

1 payment rates that apply to goods and services purchased under
2 contract for clients eligible under chapter 74.09 RCW; and

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

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

8 **Sec. 53.** RCW 42.17A.705 and 2017 3rd sp.s. c 6 s 111 are each
9 amended to read as follows:

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

12 (1) The chief administrative law judge, the director of
13 agriculture, the director of the department of services for the
14 blind, the secretary of children, youth, and families, the director
15 of the state system of community and technical colleges, the director
16 of commerce, the director of the consolidated technology services
17 agency, the secretary of corrections, the director of ecology, the
18 commissioner of employment security, the chair of the energy facility
19 site evaluation council, the director of enterprise services, the
20 secretary of the state finance committee, the director of financial
21 management, the director of fish and wildlife, the executive
22 secretary of the forest practices appeals board, the director of the
23 gambling commission, the secretary of health, the administrator of
24 the Washington state health care authority, the executive secretary
25 of the health care facilities authority, the executive secretary of
26 the higher education facilities authority, the executive secretary of
27 the horse racing commission, the executive secretary of the human
28 rights commission, the executive secretary of the (~~indeterminate~~
29 ~~sentence~~) postconviction review board, the executive director of the
30 state investment board, the director of labor and industries, the
31 director of licensing, the director of the lottery commission, the
32 director of the office of minority and women's business enterprises,
33 the director of parks and recreation, the executive director of the
34 public disclosure commission, the executive director of the Puget
35 Sound partnership, the director of the recreation and conservation
36 office, the director of retirement systems, the director of revenue,
37 the secretary of social and health services, the chief of the
38 Washington state patrol, the executive secretary of the board of tax
39 appeals, the secretary of transportation, the secretary of the

1 utilities and transportation commission, the director of veterans
2 affairs, the president of each of the regional and state universities
3 and the president of The Evergreen State College, and each district
4 and each campus president of each state community college;

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

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

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

33 **Sec. 54.** RCW 43.43.745 and 1994 c 129 s 7 are each amended to
34 read as follows:

35 (1) It shall be the duty of the sheriff or director of public
36 safety of every county, of the chief of police of each city or town,
37 or of every chief officer of other law enforcement agencies operating
38 within this state, to record the fingerprints of all persons held in
39 or remanded to their custody when convicted of any crime as provided

1 for in RCW 43.43.735 for which the penalty of imprisonment might be
2 imposed and to disseminate and file such fingerprints in the same
3 manner as those recorded upon arrest pursuant to RCW 43.43.735 and
4 43.43.740.

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

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

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

34 Local law enforcement agencies shall require persons convicted of
35 sex offenses to register pursuant to RCW 9A.44.130. In addition,
36 nothing in this section shall be construed to prevent any local law
37 enforcement authority from recording the residency and other
38 information concerning any convicted felon or other person convicted
39 of a criminal offense when such information is obtained from a source

1 other than from registration pursuant to RCW 9A.44.130 which source
2 may include any officer or other agency or subdivision of the state.

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

6 **Sec. 55.** RCW 69.50.410 and 2003 c 53 s 342 are each amended to
7 read as follows:

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

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

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

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

19 (c) "Price" means anything of value.

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

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

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

36 (b) Any person convicted on a second or subsequent sale of
37 heroin, the sale having transpired after prosecution and conviction
38 on the first cause of the sale of heroin shall receive a mandatory
39 sentence of ten years in a correctional facility of the department of

1 social and health services and no judge of any court shall suspend or
2 defer the sentence imposed for this second or subsequent violation:
3 PROVIDED, That the (~~indeterminate sentence~~) postconviction review
4 board under RCW 9.95.040 shall not reduce the minimum term imposed
5 for a violation under this subsection.

6 (4) Whether or not a mandatory minimum term has expired, an
7 offender serving a sentence under this section may be granted an
8 extraordinary medical placement when authorized under RCW
9 9.94A.728(~~(4)~~) (1)(c).

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

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

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

33 **Sec. 56.** RCW 70.02.260 and 2018 c 201 s 8005 are each amended to
34 read as follows:

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

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

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

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

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

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

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

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

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

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

39 (i) Completing presentence investigations or risk assessment
40 reports;

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

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

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

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

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

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

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

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

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

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

33 (iii) As provided in RCW 72.09.585.

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

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

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

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

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

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

34 **Sec. 57.** RCW 71.05.232 and 2004 c 166 s 18 are each amended to
35 read as follows:

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

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

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

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

13 **Sec. 58.** RCW 71.06.091 and 2012 c 117 s 435 are each amended to
14 read as follows:

15 A sexual psychopath committed pursuant to RCW 71.06.060 shall be
16 retained by the superintendent of the institution involved until in
17 the superintendent's opinion he or she is safe to be at large, or
18 until he or she has received the maximum benefit of treatment, or is
19 not amenable to treatment, but the superintendent is unable to render
20 an opinion that he or she is safe to be at large. Thereupon, the
21 superintendent of the institution involved shall so inform whatever
22 court committed the sexual psychopath. The court then may order such
23 further examination and investigation of such person as seems
24 necessary, and may at its discretion, summon such person before it
25 for further hearing, together with any witnesses whose testimony may
26 be pertinent, and together with any relevant documents and other
27 evidence. On the basis of such reports, investigation, and possible
28 hearing, the court shall determine whether the person before it shall
29 be released unconditionally from custody as a sexual psychopath,
30 released conditionally, returned to the custody of the institution as
31 a sexual psychopath, or transferred to the department of corrections
32 to serve the original sentence imposed upon him or her. The power of
33 the court to grant conditional release for any such person before it
34 shall be the same as its power to grant, amend, and revoke probation
35 as provided by chapter 9.95 RCW. When the sexual psychopath has
36 entered upon the conditional release, the (~~indeterminate sentence~~)
37 postconviction review board shall supervise such person pursuant to
38 the terms and conditions of the conditional release, as set by the
39 court: PROVIDED, That the superintendent of the institution involved

1 shall never release the sexual psychopath from custody without a
2 court release as herein set forth.

3 **Sec. 59.** RCW 71.06.100 and 2012 c 117 s 436 are each amended to
4 read as follows:

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

10 **Sec. 60.** RCW 71.06.270 and 1983 c 196 s 5 are each amended to
11 read as follows:

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

19 **Sec. 61.** RCW 71.09.025 and 2009 c 409 s 2 are each amended to
20 read as follows:

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

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

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

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

34 (iv) Release of a person who has been found not guilty by reason
35 of insanity of a sexually violent offense pursuant to RCW
36 10.77.020(3).

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

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

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

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

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

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

17 (c) The prosecuting agency has the authority, consistent with RCW
18 72.09.345(~~(+3)~~) (4), to obtain all records relating to the person if
19 the prosecuting agency deems such records are necessary to fulfill
20 its duties under this chapter. The prosecuting agency may only
21 disclose such records in the course of performing its duties pursuant
22 to this chapter, unless otherwise authorized by law.

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

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

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

1 **Sec. 62.** RCW 72.02.100 and 2017 c 214 s 1 are each amended to
2 read as follows:

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

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

1 **Sec. 63.** RCW 72.02.110 and 2012 c 117 s 456 are each amended to
2 read as follows:

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

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

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

39 The secretary of corrections may annually adjust the amount of
40 weekly payment provided for in this section to reflect changes in the

1 cost of living and the purchasing power of the sum set for the
2 previous year.

3 **Sec. 64.** RCW 72.02.220 and 1988 c 143 s 10 are each amended to
4 read as follows:

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

10 **Sec. 65.** RCW 72.02.270 and 1993 c 144 s 6 are each amended to
11 read as follows:

12 The department shall advise all inmates in the department's
13 custody who were convicted of a murder that the inmate committed
14 prior to July 23, 1989, about the provisions in RCW 9.95.045,
15 9.95.047, and 9.94A.890. The department shall advise the inmates of
16 the method and deadline for submitting petitions to the
17 (~~indeterminate sentence~~) postconviction review board for review of
18 the inmate's sentence. The department shall issue the notice to the
19 inmates no later than July 1, 1993.

20 **Sec. 66.** RCW 72.04A.050 and 1981 c 136 s 81 are each amended to
21 read as follows:

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

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

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

35 (2) Determining when and under what conditions a convicted person
36 may be released from custody on parole, and the revocation or

1 suspension of parole or the modification or revision of the
2 conditions of the parole, of any convicted person.

3 **Sec. 67.** RCW 72.04A.070 and 1981 c 136 s 82 are each amended to
4 read as follows:

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

15 **Sec. 68.** RCW 72.04A.080 and 1981 c 136 s 83 are each amended to
16 read as follows:

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

26 **Sec. 69.** RCW 72.04A.090 and 2012 c 117 s 457 are each amended to
27 read as follows:

28 Whenever a parolee breaches a condition or conditions under which
29 he or she was granted parole, or violates any law of the state or
30 rules and regulations of the (~~(indefinite sentencing [sentence])~~)
31 postconviction review board, any probation and parole officer may
32 arrest, or cause the arrest and suspension of parole of, such parolee
33 without a warrant, pending a determination by the board. The facts
34 and circumstances of such conduct of the parolee shall be reported by
35 the probation and parole officer, with recommendations, to the
36 (~~(indefinite sentence review)~~) board, who may order the revocation
37 or suspension of parole, revise or modify the conditions of parole or

1 take such other action as may be deemed appropriate in accordance
2 with RCW 9.95.120. The (~~indeterminate sentence~~) postconviction
3 review board, after consultation with the secretary of corrections,
4 shall make all rules and regulations concerning procedural matters,
5 which shall include the time when state probation and parole officers
6 shall file with the board reports required by this section,
7 procedures pertaining thereto and the filing of such information as
8 may be necessary to enable the (~~indeterminate sentence review~~)
9 board to perform its functions under this section.

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

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

27 **Sec. 70.** RCW 72.09.335 and 2017 c 144 s 1 are each amended to
28 read as follows:

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

- 34 (a) Offenders who are assessed as high risk for sexual reoffense;
35 (b) Offenders sentenced under RCW 9.94A.507 who are assessed as
36 moderate risk for sexual reoffense;
37 (c) Offenders not sentenced under RCW 9.94A.507 who are assessed
38 as moderate risk for sexual reoffense;

1 (d) Offenders sentenced under RCW 9.94A.507 who are assessed as
2 low risk for sexual reoffense but whose potential release under RCW
3 9.95.420 will require participation in sex offender treatment, as
4 determined by the (~~indeterminate sentence~~) postconviction review
5 board.

6 (2) As capacity allows, offenders not sentenced under RCW
7 9.94A.507 who are assessed as low risk for sexual reoffense may be
8 offered the opportunity for sex offender treatment during
9 incarceration.

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

12 **Sec. 71.** RCW 72.09.337 and 2017 3rd sp.s. c 6 s 631 are each
13 amended to read as follows:

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

18 **Sec. 72.** RCW 72.09.370 and 2018 c 201 s 9012 are each amended to
19 read as follows:

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

30 (2) Prior to release of an offender identified under this
31 section, a team consisting of representatives of the department of
32 corrections, the health care authority, and, as necessary, the
33 (~~indeterminate sentence~~) postconviction review board, divisions or
34 administrations within the department of social and health services,
35 specifically including the division of developmental disabilities,
36 the appropriate behavioral health organization, and the providers, as
37 appropriate, shall develop a plan, as determined necessary by the
38 team, for delivery of treatment and support services to the offender

1 upon release. In developing the plan, the offender shall be offered
2 assistance in executing a mental health directive under chapter 71.32
3 RCW, after being fully informed of the benefits, scope, and purposes
4 of such directive. The team may include a school district
5 representative for offenders under the age of twenty-one. The team
6 shall consult with the offender's counsel, if any, and, as
7 appropriate, the offender's family and community. The team shall
8 notify the crime victim/witness program, which shall provide notice
9 to all people registered to receive notice under RCW 72.09.712 of the
10 proposed release plan developed by the team. Victims, witnesses, and
11 other interested people notified by the department may provide
12 information and comments to the department on potential safety risk
13 to specific individuals or classes of individuals posed by the
14 specific offender. The team may recommend: (a) That the offender be
15 evaluated by the designated crisis responder, as defined in chapter
16 71.05 RCW; (b) department-supervised community treatment; or (c)
17 voluntary community mental health or chemical dependency or abuse
18 treatment.

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

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

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

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

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

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

11 **Sec. 73.** RCW 72.09.585 and 2018 c 201 s 9015 are each amended to
12 read as follows:

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

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

38 (3) The information received by the department under RCW
39 71.05.445 or 70.02.250 may be released to the ((indeterminate

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

11 (4) The information received by the department under RCW
12 71.05.445 or 70.02.250 may be used to meet the statutory duties of
13 the department to provide evidence or report to the court. Disclosure
14 to the public of information provided to the court by the department
15 related to mental health services shall be limited in accordance with
16 RCW 9.94A.500 or this section.

17 (5) The information received by the department under RCW
18 71.05.445 or 70.02.250 may be disclosed by the department to other
19 state and local agencies as relevant to plan for and provide
20 offenders transition, treatment, and supervision services, or as
21 relevant and necessary to protect the public and counteract the
22 danger created by a particular offender, and in a manner consistent
23 with the written policy established by the secretary. The decision to
24 disclose or not shall not result in civil liability for the
25 department or its employees so long as the decision was reached in
26 good faith and without gross negligence. The information received by
27 a state or local agency from the department shall remain confidential
28 and subject to the limitations on disclosure set forth in chapters
29 70.02, 71.05, and 71.34 RCW and, subject to these limitations, may be
30 released only as relevant and necessary to counteract the danger
31 created by a particular offender.

32 (6) The information received by the department under RCW
33 71.05.445 or 70.02.250 may be disclosed by the department to
34 individuals only with respect to offenders who have been determined
35 by the department to have a high risk of reoffending by a risk
36 assessment, as defined in RCW 9.94A.030, only as relevant and
37 necessary for those individuals to take reasonable steps for the
38 purpose of self-protection, or as provided in RCW 72.09.370(2). The
39 information may not be disclosed for the purpose of engaging the
40 public in a system of supervision, monitoring, and reporting offender

1 behavior to the department. The department must limit the disclosure
2 of information related to mental health services to the public to
3 descriptions of an offender's behavior, risk he or she may present to
4 the community, and need for mental health treatment, including
5 medications, and shall not disclose or release to the public copies
6 of treatment documents or records, except as otherwise provided by
7 law. All disclosure of information to the public must be done in a
8 manner consistent with the written policy established by the
9 secretary. The decision to disclose or not shall not result in civil
10 liability for the department or its employees so long as the decision
11 was reached in good faith and without gross negligence. Nothing in
12 this subsection prevents any person from reporting to law enforcement
13 or the department behavior that he or she believes creates a public
14 safety risk.

15 **Sec. 74.** RCW 72.60.102 and 1989 c 185 s 11 are each amended to
16 read as follows:

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

31 **Sec. 75.** RCW 72.64.065 and 2012 c 117 s 480 are each amended to
32 read as follows:

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

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

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

14 **Sec. 76.** RCW 72.65.130 and 1971 ex.s. c 58 s 1 are each amended
15 to read as follows:

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

20 **Sec. 77.** RCW 72.68.031 and 2012 c 117 s 499 are each amended to
21 read as follows:

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

1 evaluation and determination as persons detained or confined in the
2 state correctional institutions or facilities.

3 **Sec. 78.** RCW 72.70.040 and 1979 c 141 s 291 are each amended to
4 read as follows:

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

13 NEW SECTION. **Sec. 79.** This act applies retroactively to persons
14 incarcerated on the effective date of this section, regardless of the
15 date of the offense or conviction.

16 NEW SECTION. **Sec. 80.** This act does not create any right or
17 entitlement to release from incarceration before the end of a term of
18 incarceration imposed by the court, but instead creates a right to
19 petition and have a potential hearing by the postconviction review
20 board on the petition.

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