
SENATE BILL 5123

State of Washington**67th Legislature****2021 Regular Session****By** Senators Darneille, Das, Nguyen, Saldaña, and Wilson, C.

Prefiled 01/08/21. Read first time 01/11/21. Referred to Committee on Human Services, Reentry & Rehabilitation.

1 AN ACT Relating to creating a developmentally appropriate
2 response to youth who commit sexual offenses; amending RCW 9A.44.130,
3 9A.44.128, 9A.44.140, 9A.44.142, 9A.44.145, 9A.44.148, 13.50.260,
4 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089,
5 9A.44.040, 9A.44.050, 9A.44.060, 9A.44.100, 9A.44.105, 9A.44.115,
6 9A.44.196, 9.68A.040, 9.68A.060, 9.68A.090, 9.68A.100, 9.68A.101,
7 9.68A.102, 9.68A.103, 9.94A.835, 13.04.030, 13.40.0357, 9.94A.515,
8 9.94A.507, 9.94A.525, and 13.40.162; adding new sections to chapter
9 9A.44 RCW; adding a new section to chapter 9.68A RCW; adding a new
10 section to chapter 9.94A RCW; creating new sections; repealing RCW
11 9A.44.143; prescribing penalties; and providing an effective date.

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

13 NEW SECTION. **Sec. 1.** The legislature finds that successful
14 rehabilitation of youth adjudicated of sex offenses is the best path
15 to reducing recidivism. The legislature recognizes the great and
16 long-lasting harm caused to victims by problem sexual behaviors
17 committed by youth and affirms the need to ensure that such behaviors
18 are not repeated. The legislature finds that the consequences for
19 youth adjudicated of sex offenses can last into adulthood and
20 throughout their entire lives. The legislature finds that requiring
21 youth to register as sex offenders is associated with mental health

1 struggles, including depression, anxiety, and suicidal ideation, as
2 well as the increased likelihood of becoming a target of sexual abuse
3 by adults. The legislature finds that researchers from the Johns
4 Hopkins University and other academic institutions found that
5 registration and notification policies for minors failed to improve
6 community safety and that evidence-based prevention and intervention
7 policies would provide increased community safety.

8 The legislature finds that while adults can petition for relief
9 of registration for offenses committed as minors, the legal process
10 is overly cumbersome, expensive, and challenging to the point that
11 many never request removal and remain on the registry their entire
12 lives. The legislature finds that Black, Hispanic, and American
13 Indian individuals are overly represented in the population of
14 registered juvenile sex offenders in Washington state. The
15 legislature declares that the response to sex offenses committed by
16 youth should be developmentally appropriate and driven by research.
17 The legislature therefore intends to increase community safety by
18 reforming juvenile sex offender registration policy and related areas
19 to redirect the focus toward practices that increase prevention and
20 promote successful intervention strategies.

21 **PART I**

22 **ENDING SEX OFFENDER REGISTRATION FOR JUVENILES WHO ARE NOT SUBJECT TO**
23 **AUTODECLINE**

24 **Sec. 2.** RCW 9A.44.130 and 2017 c 174 s 3 are each amended to
25 read as follows:

26 (1)(a) For the purposes of this section, "adult" means a person
27 who is 18 years of age or older or who is convicted of an offense in
28 adult court pursuant to RCW 13.04.030(1)(e)(v).

29 (b) Any adult (~~or juvenile~~) residing whether or not the person
30 has a fixed residence, or who is a student, is employed, or carries
31 on a vocation in this state who has been found to have committed or
32 has been convicted of any sex offense or kidnapping offense, or who
33 has been found not guilty by reason of insanity under chapter 10.77
34 RCW of committing any sex offense or kidnapping offense, shall
35 register with the county sheriff for the county of the person's
36 residence, or if the person is not a resident of Washington, the
37 county of the person's school, or place of employment or vocation, or
38 as otherwise specified in this section. When a person required to

1 register under this section is in custody of the state department of
2 corrections, the state department of social and health services, ((a
3 ~~local division of youth services,~~) or a local jail ((~~or juvenile~~
4 ~~detention facility~~)) as a result of a sex offense or kidnapping
5 offense, the person shall also register at the time of release from
6 custody with an official designated by the agency that has
7 jurisdiction over the person.

8 ((~~(b)~~)) (c) Any adult ((~~or juvenile~~)) who is required to register
9 under ((~~(a)~~)) (b) of this subsection must give notice to the county
10 sheriff of the county with whom the person is registered within three
11 business days:

12 (i) Prior to arriving at a school or institution of higher
13 education to attend classes;

14 (ii) Prior to starting work at an institution of higher
15 education; or

16 (iii) After any termination of enrollment or employment at a
17 school or institution of higher education.

18 (d) This subsection (1) does not apply to offenses committed when
19 a person is under 18 years of age unless the person is convicted of
20 an offense in adult court pursuant to RCW 13.04.030(1)(e)(v).

21 (2)(a) A person required to register under this section must
22 provide the following information when registering: (i) Name and any
23 aliases used; (ii) complete and accurate residential address or, if
24 the person lacks a fixed residence, where he or she plans to stay;
25 (iii) date and place of birth; (iv) place of employment; (v) crime
26 for which convicted; (vi) date and place of conviction; (vii) social
27 security number; (viii) photograph; and (ix) fingerprints.

28 (b) A person may be required to update any of the information
29 required in this subsection in conjunction with any address
30 verification conducted by the county sheriff or as part of any notice
31 required by this section.

32 (c) A photograph or copy of an individual's fingerprints, which
33 may include palmprints may be taken at any time to update an
34 individual's file.

35 (3) Any person required to register under this section who
36 intends to travel outside the United States must provide, by
37 certified mail, with return receipt requested, or in person, signed
38 written notice of the plan to travel outside the country to the
39 county sheriff of the county with whom the person is registered at
40 least twenty-one days prior to travel. The notice shall include the

1 following information: (a) Name; (b) passport number and country; (c)
2 destination; (d) itinerary details including departure and return
3 dates; (e) means of travel; and (f) purpose of travel. If the
4 offender subsequently cancels or postpones travel outside the United
5 States, the offender must notify the county sheriff not later than
6 three days after cancellation or postponement of the intended travel
7 outside the United States or on the departure date provided in the
8 notification, whichever is earlier. The county sheriff shall notify
9 the United States marshals service as soon as practicable after
10 receipt of the notification. In cases of unexpected travel due to
11 family or work emergencies, or for offenders who travel routinely
12 across international borders for work-related purposes, the notice
13 must be submitted in person at least twenty-four hours prior to
14 travel to the sheriff of the county where such offenders are
15 registered with a written explanation of the circumstances that make
16 compliance with this subsection (3) impracticable.

17 (4)(a) Offenders shall register with the county sheriff within
18 the following deadlines:

19 (i) OFFENDERS IN CUSTODY. Sex offenders or kidnapping offenders
20 who are in custody of the state department of corrections, the state
21 department of social and health services, (~~(a local division of youth~~
22 ~~services,)) or a local jail (~~(or juvenile detention facility))~~, must
23 register at the time of release from custody with an official
24 designated by the agency that has jurisdiction over the offender. The
25 agency shall within three days forward the registration information
26 to the county sheriff for the county of the offender's anticipated
27 residence. The offender must also register within three business days
28 from the time of release with the county sheriff for the county of
29 the person's residence, or if the person is not a resident of
30 Washington, the county of the person's school, or place of employment
31 or vocation. The agency that has jurisdiction over the offender shall
32 provide notice to the offender of the duty to register.~~

33 When the agency with jurisdiction intends to release an offender
34 with a duty to register under this section, and the agency has
35 knowledge that the offender is eligible for developmental disability
36 services from the department of social and health services, the
37 agency shall notify the division of developmental disabilities of the
38 release. Notice shall occur not more than thirty days before the
39 offender is to be released. The agency and the division shall assist
40 the offender in meeting the initial registration requirement under

1 this section. Failure to provide such assistance shall not constitute
2 a defense for any violation of this section.

3 When a person required to register under this section is in the
4 custody of the state department of corrections or a local corrections
5 or probations agency and has been approved for partial confinement as
6 defined in RCW 9.94A.030, the person must register at the time of
7 transfer to partial confinement with the official designated by the
8 agency that has jurisdiction over the offender. The agency shall
9 within three days forward the registration information to the county
10 sheriff for the county in which the offender is in partial
11 confinement. The offender must also register within three business
12 days from the time of the termination of partial confinement or
13 release from confinement with the county sheriff for the county of
14 the person's residence. The agency that has jurisdiction over the
15 offender shall provide notice to the offender of the duty to
16 register.

17 (ii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders or
18 kidnapping offenders who are in the custody of the United States
19 bureau of prisons or other federal or military correctional agency
20 must register within three business days from the time of release
21 with the county sheriff for the county of the person's residence, or
22 if the person is not a resident of Washington, the county of the
23 person's school, or place of employment or vocation.

24 (iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders
25 who are convicted of a sex offense and kidnapping offenders who are
26 convicted for a kidnapping offense but who are not sentenced to serve
27 a term of confinement immediately upon sentencing shall report to the
28 county sheriff to register within three business days of being
29 sentenced.

30 (iv) OFFENDERS WHO ARE NEW RESIDENTS, TEMPORARY RESIDENTS, OR
31 RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping
32 offenders who move to Washington state from another state or a
33 foreign country must register within three business days of
34 establishing residence or reestablishing residence if the person is a
35 former Washington resident. If the offender is under the jurisdiction
36 of an agency of this state when the offender moves to Washington, the
37 agency shall provide notice to the offender of the duty to register.

38 Sex offenders and kidnapping offenders who are visiting
39 Washington state and intend to reside or be present in the state for
40 ten days or more shall register his or her temporary address or where

1 he or she plans to stay with the county sheriff of each county where
2 the offender will be staying within three business days of arrival.
3 Registration for temporary residents shall include the information
4 required by subsection (2)(a) of this section, except the photograph
5 and fingerprints.

6 (v) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult
7 (~~or juvenile~~) who has been found not guilty by reason of insanity
8 under chapter 10.77 RCW of committing a sex offense or a kidnapping
9 offense and who is in custody, as a result of that finding, of the
10 state department of social and health services, must register within
11 three business days from the time of release with the county sheriff
12 for the county of the person's residence. The state department of
13 social and health services shall provide notice to the adult (~~or~~
14 ~~juvenile~~) in its custody of the duty to register.

15 (vi) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a
16 fixed residence and leaves the county in which he or she is
17 registered and enters and remains within a new county for twenty-four
18 hours is required to register with the county sheriff not more than
19 three business days after entering the county and provide the
20 information required in subsection (2)(a) of this section.

21 (vii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER
22 SUPERVISION. Offenders who lack a fixed residence and who are under
23 the supervision of the department shall register in the county of
24 their supervision.

25 (viii) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR
26 ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in
27 Washington, who move to another state, or who work, carry on a
28 vocation, or attend school in another state shall register a new
29 address, fingerprints, and photograph with the new state within three
30 business days after establishing residence, or after beginning to
31 work, carry on a vocation, or attend school in the new state. The
32 person must also send written notice within three business days of
33 moving to the new state or to a foreign country to the county sheriff
34 with whom the person last registered in Washington state. The county
35 sheriff shall promptly forward this information to the Washington
36 state patrol.

37 (b) The county sheriff shall not be required to determine whether
38 the person is living within the county.

39 (c) An arrest on charges of failure to register, service of an
40 information, or a complaint for a violation of RCW 9A.44.132, or

1 arraignment on charges for a violation of RCW 9A.44.132, constitutes
2 actual notice of the duty to register. Any person charged with the
3 crime of failure to register under RCW 9A.44.132 who asserts as a
4 defense the lack of notice of the duty to register shall register
5 within three business days following actual notice of the duty
6 through arrest, service, or arraignment. Failure to register as
7 required under this subsection (4)(c) constitutes grounds for filing
8 another charge of failing to register. Registering following arrest,
9 service, or arraignment on charges shall not relieve the offender
10 from criminal liability for failure to register prior to the filing
11 of the original charge.

12 (5)(a) If any person required to register pursuant to this
13 section changes his or her residence address within the same county,
14 the person must provide, by certified mail, with return receipt
15 requested or in person, signed written notice of the change of
16 address to the county sheriff within three business days of moving.

17 (b) If any person required to register pursuant to this section
18 moves to a new county, within three business days of moving the
19 person must register with the county sheriff of the county into which
20 the person has moved and provide, by certified mail, with return
21 receipt requested or in person, signed written notice of the change
22 of address to the county sheriff with whom the person last
23 registered. The county sheriff with whom the person last registered
24 is responsible for address verification pursuant to RCW 9A.44.135
25 until the person completes registration of his or her new residence
26 address.

27 (6)(a) Any person required to register under this section who
28 lacks a fixed residence shall provide signed written notice to the
29 sheriff of the county where he or she last registered within three
30 business days after ceasing to have a fixed residence. The notice
31 shall include the information required by subsection (2)(a) of this
32 section, except the photograph, fingerprints, and palmprints. The
33 county sheriff may, for reasonable cause, require the offender to
34 provide a photograph and fingerprints. The sheriff shall forward this
35 information to the sheriff of the county in which the person intends
36 to reside, if the person intends to reside in another county.

37 (b) A person who lacks a fixed residence must report weekly, in
38 person, to the sheriff of the county where he or she is registered.
39 The weekly report shall be on a day specified by the county sheriff's
40 office, and shall occur during normal business hours. The person must

1 keep an accurate accounting of where he or she stays during the week
2 and provide it to the county sheriff upon request. The lack of a
3 fixed residence is a factor that may be considered in determining an
4 offender's risk level and shall make the offender subject to
5 disclosure of information to the public at large pursuant to RCW
6 4.24.550.

7 (c) If any person required to register pursuant to this section
8 does not have a fixed residence, it is an affirmative defense to the
9 charge of failure to register, that he or she provided written notice
10 to the sheriff of the county where he or she last registered within
11 three business days of ceasing to have a fixed residence and has
12 subsequently complied with the requirements of subsections (4)(a)(vi)
13 or (vii) and (6) of this section. To prevail, the person must prove
14 the defense by a preponderance of the evidence.

15 (7) A sex offender subject to registration requirements under
16 this section who applies to change his or her name under RCW 4.24.130
17 or any other law shall submit a copy of the application to the county
18 sheriff of the county of the person's residence and to the state
19 patrol not fewer than five days before the entry of an order granting
20 the name change. No sex offender under the requirement to register
21 under this section at the time of application shall be granted an
22 order changing his or her name if the court finds that doing so will
23 interfere with legitimate law enforcement interests, except that no
24 order shall be denied when the name change is requested for religious
25 or legitimate cultural reasons or in recognition of marriage or
26 dissolution of marriage. A sex offender under the requirement to
27 register under this section who receives an order changing his or her
28 name shall submit a copy of the order to the county sheriff of the
29 county of the person's residence and to the state patrol within three
30 business days of the entry of the order.

31 (8) Except as may otherwise be provided by law, nothing in this
32 section shall impose any liability upon a peace officer, including a
33 county sheriff, or law enforcement agency, for failing to release
34 information authorized under this section.

35 **Sec. 3.** RCW 9A.44.128 and 2015 c 261 s 2 are each amended to
36 read as follows:

37 For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200,
38 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

- 1 (1) "Business day" means any day other than Saturday, Sunday, or
2 a legal local, state, or federal holiday.
- 3 (2) "Conviction" means any adult conviction (~~or juvenile~~
4 ~~adjudication~~) for a sex offense or kidnapping offense.
- 5 (3) "Disqualifying offense" means a conviction for: Any offense
6 that is a felony; a sex offense as defined in this section; a crime
7 against children or persons as defined in RCW 43.43.830(7) and
8 9.94A.411(2)(a); an offense with a domestic violence designation as
9 provided in RCW 10.99.020; permitting the commercial sexual abuse of
10 a minor as defined in RCW 9.68A.103; or any violation of chapter
11 9A.88 RCW.
- 12 (4) "Employed" or "carries on a vocation" means employment that
13 is full time or part time for a period of time exceeding fourteen
14 days, or for an aggregate period of time exceeding thirty days during
15 any calendar year. A person is employed or carries on a vocation
16 whether the person's employment is financially compensated,
17 volunteered, or for the purpose of government or educational benefit.
- 18 (5) "Fixed residence" means a building that a person lawfully and
19 habitually uses as living quarters a majority of the week. Uses as
20 living quarters means to conduct activities consistent with the
21 common understanding of residing, such as sleeping; eating; keeping
22 personal belongings; receiving mail; and paying utilities, rent, or
23 mortgage. A nonpermanent structure including, but not limited to, a
24 motor home, travel trailer, camper, or boat may qualify as a
25 residence provided it is lawfully and habitually used as living
26 quarters a majority of the week, primarily kept at one location with
27 a physical address, and the location it is kept at is either owned or
28 rented by the person or used by the person with the permission of the
29 owner or renter. A shelter program may qualify as a residence
30 provided it is a shelter program designed to provide temporary living
31 accommodations for the homeless, provides an offender with a
32 personally assigned living space, and the offender is permitted to
33 store belongings in the living space.
- 34 (6) "In the community" means residing outside of confinement or
35 incarceration for a disqualifying offense.
- 36 (7) "Institution of higher education" means any public or private
37 institution dedicated to postsecondary education, including any
38 college, university, community college, trade, or professional
39 school.
- 40 (8) "Kidnapping offense" means:

1 (a) The crimes of kidnapping in the first degree, kidnapping in
2 the second degree, and unlawful imprisonment, as defined in chapter
3 9A.40 RCW, where the victim is a minor and the offender is not the
4 minor's parent;

5 (b) Any offense that is, under chapter 9A.28 RCW, a criminal
6 attempt, criminal solicitation, or criminal conspiracy to commit an
7 offense that is classified as a kidnapping offense under this
8 subsection;

9 (c) Any federal or out-of-state conviction for: An offense for
10 which the person would be required to register as a kidnapping
11 offender if residing in the state of conviction; or, if not required
12 to register in the state of conviction, an offense that under the
13 laws of this state would be classified as a kidnapping offense under
14 this subsection; and

15 (d) Any tribal conviction for an offense for which the person
16 would be required to register as a kidnapping offender while residing
17 in the reservation of conviction; or, if not required to register in
18 the reservation of conviction, an offense that under the laws of this
19 state would be classified as a kidnapping offense under this
20 subsection.

21 (9) "Lacks a fixed residence" means the person does not have a
22 living situation that meets the definition of a fixed residence and
23 includes, but is not limited to, a shelter program designed to
24 provide temporary living accommodations for the homeless, an outdoor
25 sleeping location, or locations where the person does not have
26 permission to stay.

27 (10) "Sex offense" means:

28 (a) Any offense defined as a sex offense by RCW 9.94A.030;

29 (b) Any violation under RCW 9A.44.096 (sexual misconduct with a
30 minor in the second degree);

31 (c) Any violation under RCW 9A.40.100(1)(b)(ii) (trafficking);

32 (d) Any violation under RCW 9.68A.090 (communication with a minor
33 for immoral purposes);

34 (e) A violation under RCW 9A.88.070 (promoting prostitution in
35 the first degree) or RCW 9A.88.080 (promoting prostitution in the
36 second degree) if the person has a prior conviction for one of these
37 offenses;

38 (f) Any violation under RCW 9A.40.100(1)(a)(i)(A) (III) or (IV)
39 or (a)(i)(B);

1 (g) Any gross misdemeanor that is, under chapter 9A.28 RCW, a
2 criminal attempt, criminal solicitation, or criminal conspiracy to
3 commit an offense that is classified as a sex offense under RCW
4 9.94A.030 or this subsection;

5 (h) Any out-of-state conviction for an offense for which the
6 person would be required to register as a sex offender while residing
7 in the state of conviction; or, if not required to register in the
8 state of conviction, an offense that under the laws of this state
9 would be classified as a sex offense under this subsection;

10 (i) Any federal conviction classified as a sex offense under 42
11 U.S.C. Sec. 16911 (SORNA);

12 (j) Any military conviction for a sex offense. This includes sex
13 offenses under the uniform code of military justice, as specified by
14 the United States secretary of defense;

15 (k) Any conviction in a foreign country for a sex offense if it
16 was obtained with sufficient safeguards for fundamental fairness and
17 due process for the accused under guidelines or regulations
18 established pursuant to 42 U.S.C. Sec. 16912;

19 (l) Any tribal conviction for an offense for which the person
20 would be required to register as a sex offender while residing in the
21 reservation of conviction; or, if not required to register in the
22 reservation of conviction, an offense that under the laws of this
23 state would be classified as a sex offense under this subsection.

24 (11) "School" means a public or private school regulated under
25 Title 28A RCW or chapter 72.40 RCW.

26 (12) "Student" means a person who is enrolled, on a full-time or
27 part-time basis, in any school or institution of higher education.

28 **Sec. 4.** RCW 9A.44.140 and 2020 c 249 s 2 are each amended to
29 read as follows:

30 The duty to register under RCW 9A.44.130 shall continue for the
31 duration provided in this section.

32 (1) For a person convicted in this state of a class A felony, or
33 a person convicted of any sex offense or kidnapping offense who has
34 one or more prior convictions for a sex offense or kidnapping
35 offense, the duty to register shall continue indefinitely.

36 (2) For a person convicted in this state of a class B felony who
37 does not have one or more prior convictions for a sex offense or
38 kidnapping offense, the duty to register shall end fifteen years
39 after the last date of release from confinement, if any, (including

1 full-time residential treatment) pursuant to the conviction, or entry
2 of the judgment and sentence, if the person has spent fifteen
3 consecutive years in the community without being convicted of a
4 disqualifying offense during that time period.

5 (3) For a person convicted in this state of a class C felony, a
6 violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation,
7 or conspiracy to commit a class C felony, and the person does not
8 have one or more prior convictions for a sex offense or kidnapping
9 offense, the duty to register shall end ten years after the last date
10 of release from confinement, if any, (including full-time residential
11 treatment) pursuant to the conviction, or entry of the judgment and
12 sentence, if the person has spent ten consecutive years in the
13 community without being convicted of a disqualifying offense during
14 that time period.

15 (4) Except as provided in RCW 9A.44.142, for a person required to
16 register for a federal, tribal, or out-of-state conviction, the duty
17 to register shall continue indefinitely.

18 (5) For a person who is or has been determined to be a sexually
19 violent predator pursuant to chapter 71.09 RCW, the duty to register
20 shall continue for the person's lifetime.

21 (6) Nothing in this section prevents a person from being relieved
22 of the duty to register under RCW 9A.44.142 (~~(, 9A.44.143, and~~
23 ~~13.40.162)~~).

24 (7) Nothing in RCW 9.94A.637 relating to discharge of an offender
25 shall be construed as operating to relieve the offender of his or her
26 duty to register pursuant to RCW 9A.44.130.

27 (8) For purposes of determining whether a person has been
28 convicted of more than one sex offense, failure to register as a sex
29 offender or kidnapping offender is not a sex or kidnapping offense.

30 (9) The provisions of this section and RCW 9A.44.141 (~~(through~~
31 ~~9A.44.143)~~) and 9A.44.142 apply equally to a person who has been
32 found not guilty by reason of insanity under chapter 10.77 RCW of a
33 sex offense or kidnapping offense.

34 **Sec. 5.** RCW 9A.44.142 and 2017 c 86 s 1 are each amended to read
35 as follows:

36 (1) A person who is required to register under RCW 9A.44.130 may
37 petition the superior court to be relieved of the duty to register:

38 (a) (~~(If the person has a duty to register for a sex offense or~~
39 ~~kidnapping offense committed when the offender was a juvenile,~~

1 ~~regardless of whether the conviction was in this state, as provided~~
2 ~~in RCW 9A.44.143;~~

3 ~~(b))~~) If the person is required to register for a conviction in
4 this state and is not prohibited from petitioning for relief from
5 registration under subsection (2) of this section, when the person
6 has spent ten consecutive years in the community without being
7 convicted of a disqualifying offense during that time period; or

8 ~~((e))~~) (b) If the person is required to register for a federal,
9 tribal, or out-of-state conviction, when the person has spent fifteen
10 consecutive years in the community without being convicted of a
11 disqualifying offense during that time period.

12 (2) (a) A person may not petition for relief from registration if
13 the person has been:

14 (i) Determined to be a sexually violent predator pursuant to
15 chapter 71.09 RCW; or

16 (ii) Convicted as an adult of a sex offense or kidnapping offense
17 that is a class A felony and that was committed with forcible
18 compulsion on or after June 8, 2000.

19 (b) Any person who may not be relieved of the duty to register
20 may petition the court to be exempted from any community notification
21 requirements that the person may be subject to fifteen years after
22 the later of the entry of the judgment and sentence or the last date
23 of release from confinement, including full-time residential
24 treatment, pursuant to the conviction, if the person has spent the
25 time in the community without being convicted of a disqualifying
26 offense.

27 (3) A petition for relief from registration or exemption from
28 notification under this section shall be made to the court in which
29 the petitioner was convicted of the offense that subjects him or her
30 to the duty to register or, in the case of convictions in other
31 states, a foreign country, or a federal, tribal, or military court,
32 to the court in the county where the person is registered at the time
33 the petition is sought. The prosecuting attorney of the county shall
34 be named and served as the respondent in any such petition. The
35 prosecuting attorney must make reasonable efforts to notify the
36 victim via the victim's choice of telephone, letter, or email, if
37 known.

38 (4) (a) The court may relieve a petitioner of the duty to register
39 only if the petitioner shows by clear and convincing evidence that

1 the petitioner is sufficiently rehabilitated to warrant removal from
2 the central registry of sex offenders and kidnapping offenders.

3 (b) In determining whether the petitioner is sufficiently
4 rehabilitated to warrant removal from the registry, the following
5 factors are provided as guidance to assist the court in making its
6 determination:

7 (i) The nature of the registrable offense committed including the
8 number of victims and the length of the offense history;

9 (ii) Any subsequent criminal history;

10 (iii) The petitioner's compliance with supervision requirements;

11 (iv) The length of time since the charged incident(s) occurred;

12 (v) Any input from community corrections officers, law
13 enforcement, or treatment providers;

14 (vi) Participation in sex offender treatment;

15 (vii) Participation in other treatment and rehabilitative
16 programs;

17 (viii) The offender's stability in employment and housing;

18 (ix) The offender's community and personal support system;

19 (x) Any risk assessments or evaluations prepared by a qualified
20 professional;

21 (xi) Any updated polygraph examination;

22 (xii) Any input of the victim;

23 (xiii) Any other factors the court may consider relevant.

24 (5) If a person is relieved of the duty to register pursuant to
25 this section, the relief of registration does not constitute a
26 certificate of rehabilitation, or the equivalent of a certificate of
27 rehabilitation, for the purposes of restoration of firearm possession
28 under RCW 9.41.040.

29 **Sec. 6.** RCW 9A.44.145 and 2010 c 267 s 8 are each amended to
30 read as follows:

31 (1) The state patrol shall notify(~~(~~
32 ~~(a) Registered~~) registered sex and kidnapping offenders of any
33 change to the registration requirements(~~(~~~~and~~

34 ~~(b) No less than annually, an offender having a duty to register~~
35 ~~under RCW 9A.44.143 for a sex offense or kidnapping offense committed~~
36 ~~when the offender was a juvenile of their ability to petition for~~
37 ~~relief from registration as provided in RCW 9A.44.140)).~~

38 (2) For economic efficiency, the state patrol may combine the
39 notices in this section into one notice.

1 **Sec. 7.** RCW 9A.44.148 and 2015 c 261 s 4 are each amended to
2 read as follows:

3 (1) RCW 9A.44.128 through 9A.44.145 apply to offenders who
4 committed their crimes and were adjudicated within the following time
5 frames:

6 (a) Sex offenders convicted of a sex offense on or after July 28,
7 1991, for a sex offense committed on or after February 28, 1990;

8 (b) Kidnapping offenders convicted of a kidnapping offense on or
9 after July 27, 1997, for a kidnapping offense committed on or after
10 July 27, 1997;

11 (c) Sex offenders who, on or after July 28, 1991, were in the
12 custody or under the jurisdiction of the department of corrections,
13 the department of social and health services, (~~a local division of~~
14 ~~youth services,~~) or a local jail (~~or juvenile detention facility~~)
15 as the result of a sex offense, regardless of when the sex offense
16 was committed;

17 (d) Kidnapping offenders who, on or after July 27, 1997, were in
18 the custody or under the jurisdiction of the department of
19 corrections, the department of social and health services, (~~a local~~
20 ~~division of youth services,~~) or a local jail (~~or juvenile detention~~
21 ~~facility~~) as the result of a kidnapping offense, regardless of when
22 the kidnapping offense was committed;

23 (e) Any person who is or has been determined to be a sexually
24 violent predator pursuant to chapter 71.09 RCW;

25 (f) Sex offenders who, on or after July 23, 1995, were in the
26 custody or under the jurisdiction of the United States bureau of
27 prisons, United States courts, United States parole commission, or
28 military parole board as the result of a sex offense, regardless of
29 when the sex offense was committed;

30 (g) Kidnapping offenders who, on or after July 27, 1997, were in
31 the custody or under the jurisdiction of the United States bureau of
32 prisons, United States courts, United States parole commission, or
33 military parole board as the result of a kidnapping offense,
34 regardless of when the kidnapping offense was committed;

35 (h) Sex offenders who move to Washington state from another
36 state, tribe, or a foreign country and who were convicted of a sex
37 offense under the laws of this state, another state, a foreign
38 country, tribe, or other federal or military tribunal, regardless of
39 when the sex offense was committed or the conviction occurred;

1 (i) Kidnapping offenders who move to Washington state from
2 another state, tribe, or a foreign country and who were convicted of
3 a kidnapping offense under the laws of this state, another state, a
4 foreign country, tribe, or other federal or military tribunal,
5 regardless of when the kidnapping offense was committed or the
6 conviction occurred;

7 (j) Any adult (~~or juvenile~~) found not guilty by reason of
8 insanity under chapter 10.77 RCW of committing a sex offense or of
9 committing a kidnapping offense, regardless of when the offense was
10 committed.

11 (2) The provisions of this section do not relieve any sex
12 offender of the duty to register under the law as it existed prior to
13 July 28, 1991.

14 **Sec. 8.** RCW 13.50.260 and 2020 c 184 s 1 are each amended to
15 read as follows:

16 (1)(a) The court shall hold regular sealing hearings. During
17 these regular sealing hearings, the court shall administratively seal
18 an individual's juvenile record pursuant to the requirements of this
19 subsection. Although the juvenile record shall be sealed, the social
20 file may be available to any juvenile justice or care agency when an
21 investigation or case involving the juvenile subject of the records
22 is being prosecuted by the juvenile justice or care agency or when
23 the juvenile justice or care agency is assigned the responsibility of
24 supervising the juvenile. The juvenile respondent's presence is not
25 required at any administrative sealing hearing.

26 (b) At the disposition hearing of a juvenile offender, the court
27 shall schedule an administrative sealing hearing to take place during
28 the first regularly scheduled sealing hearing after the latest of the
29 following events that apply:

30 (i) The respondent's eighteenth birthday;

31 (ii) Anticipated end date of a respondent's probation, if
32 ordered;

33 (iii) Anticipated release from confinement at the juvenile
34 rehabilitation administration, or the completion of parole, if the
35 respondent is transferred to the juvenile rehabilitation
36 administration.

37 (c) The court shall not schedule an administrative sealing
38 hearing at the disposition and no administrative sealing hearing

1 shall occur if one of the offenses for which the court has entered a
2 disposition is at the time of commission of the offense:

3 (i) A most serious offense, as defined in RCW 9.94A.030;

4 (ii) A sex offense under chapter 9A.44 RCW; or

5 (iii) A drug offense, as defined in RCW 9.94A.030.

6 (d) At the time of the scheduled administrative sealing hearing,
7 the court shall enter a written order sealing the respondent's
8 juvenile court record pursuant to this subsection if the court finds
9 by a preponderance of the evidence that the respondent is no longer
10 on supervision for the case being considered for sealing and has paid
11 the full amount of restitution owing to the individual victim named
12 in the restitution order, excluding restitution owed to any public or
13 private entity providing insurance coverage or health care coverage.
14 In determining whether the respondent is on supervision or owes
15 restitution, the court shall take judicial notice of court records,
16 including records of the county clerk, and, if necessary, sworn
17 testimony from a representative of the juvenile department.

18 (e) At the time of the administrative sealing hearing, if the
19 court finds the respondent remains on supervision for the case being
20 considered for sealing, then the court shall continue the
21 administrative sealing hearing to a date within thirty days following
22 the anticipated end date of the respondent's supervision. At the next
23 administrative sealing hearing, the court shall again determine the
24 respondent's eligibility for sealing his or her juvenile court record
25 pursuant to (d) of this subsection, and, if necessary, continue the
26 hearing again as provided in this subsection.

27 (f) (i) During the administrative sealing hearing, if the court
28 finds the respondent is no longer on supervision for the case being
29 considered for sealing, but the respondent has not paid the full
30 amount of restitution owing to the individual victim named in the
31 restitution order, excluding any public or private entity providing
32 insurance coverage or health care coverage, the court shall deny
33 sealing the juvenile court record in a written order that: (A)
34 Specifies the amount of restitution that remains unpaid to the
35 original victim, excluding any public or private entity providing
36 insurance coverage or health care coverage; and (B) provides
37 direction to the respondent on how to pursue the sealing of records
38 associated with this cause of action.

39 (ii) Within five business days of the entry of the written order
40 denying the request to seal a juvenile court record, the juvenile

1 court department staff shall notify the respondent of the denial by
2 providing a copy of the order of denial to the respondent in person
3 or in writing mailed to the respondent's last known address in the
4 department of licensing database or the respondent's address provided
5 to the court, whichever is more recent.

6 (iii) At any time following entry of the written order denying
7 the request to seal a juvenile court record, the respondent may
8 contact the juvenile court department, provide proof of payment of
9 the remaining unpaid restitution to the original victim, excluding
10 any public or private entity providing insurance coverage or health
11 care coverage, and request an administrative sealing hearing. Upon
12 verification of the satisfaction of the restitution payment, the
13 juvenile court department staff shall circulate for signature an
14 order sealing the file, and file the signed order with the clerk's
15 office, who shall seal the record.

16 (iv) The administrative office of the courts must ensure that
17 sealed juvenile records remain private in case of an appeal and are
18 either not posted or redacted from any clerks papers that are posted
19 online with the appellate record, as well as taking any other prudent
20 steps necessary to avoid exposing sealed juvenile records to the
21 public.

22 (2) Except for dismissal of a deferred disposition under RCW
23 13.40.127, the court shall enter a written order immediately sealing
24 the official juvenile court record upon the acquittal after a fact
25 finding or upon the dismissal of charges with prejudice, subject to
26 the state's right, if any, to appeal the dismissal.

27 (3) If a juvenile court record has not already been sealed
28 pursuant to this section, in any case in which information has been
29 filed pursuant to RCW 13.40.100 or a complaint has been filed with
30 the prosecutor and referred for diversion pursuant to RCW 13.40.070,
31 the person who is the subject of the information or complaint may
32 file a motion with the court to have the court vacate its order and
33 findings, if any; resolve the status of any debts owing; and, subject
34 to RCW 13.50.050(13), order the sealing of the official juvenile
35 court record, the social file, and records of the court and of any
36 other agency in the case, with the exception of identifying
37 information under RCW 13.50.050(13).

38 (4) (a) The court shall grant any motion to seal records for class
39 A offenses made pursuant to subsection (3) of this section if:

1 (i) Since the last date of release from confinement, including
2 full-time residential treatment, if any, or entry of disposition, the
3 person has spent five consecutive years in the community without
4 committing any offense or crime that subsequently results in an
5 adjudication or conviction;

6 (ii) No proceeding is pending against the moving party seeking
7 the conviction of a juvenile offense or a criminal offense;

8 (iii) No proceeding is pending seeking the formation of a
9 diversion agreement with that person;

10 ~~(iv) ((The person is no longer required to register as a sex
11 offender under RCW 9A.44.130 or has been relieved of the duty to
12 register under RCW 9A.44.143 if the person was convicted of a sex
13 offense;~~

14 ~~(v))~~ The person has not been convicted of rape in the first
15 degree, rape in the second degree, or indecent liberties that was
16 actually committed with forcible compulsion; and

17 ~~((vi))~~ (v) The person has paid the full amount of restitution
18 owing to the individual victim named in the restitution order,
19 excluding restitution owed to any public or private entity providing
20 insurance coverage or health care coverage.

21 (b) The court shall grant any motion to seal records for class B,
22 class C, gross misdemeanor, and misdemeanor offenses and diversions
23 made under subsection (3) of this section if:

24 (i) Since the date of last release from confinement, including
25 full-time residential treatment, if any, entry of disposition, or
26 completion of the diversion agreement, the person has spent two
27 consecutive years in the community without being convicted of any
28 offense or crime;

29 (ii) No proceeding is pending against the moving party seeking
30 the conviction of a juvenile offense or a criminal offense;

31 (iii) No proceeding is pending seeking the formation of a
32 diversion agreement with that person; and

33 ~~(iv) ((The person is no longer required to register as a sex
34 offender under RCW 9A.44.130 or has been relieved of the duty to
35 register under RCW 9A.44.143 if the person was convicted of a sex
36 offense; and~~

37 ~~(v))~~ The person has paid the full amount of restitution owing to
38 the individual victim named in the restitution order, excluding
39 restitution owed to any insurance provider authorized under Title 48
40 RCW.

1 (c) Notwithstanding the requirements in (a) or (b) of this
2 subsection, the court shall grant any motion to seal records of any
3 deferred disposition vacated under RCW 13.40.127(9) prior to June 7,
4 2012, if restitution has been paid and the person is eighteen years
5 of age or older at the time of the motion.

6 (5) The person making a motion pursuant to subsection (3) of this
7 section shall give reasonable notice of the motion to the prosecution
8 and to any person or agency whose records are sought to be sealed.

9 (6) (a) If the court enters a written order sealing the juvenile
10 court record pursuant to this section, it shall, subject to RCW
11 13.50.050(13), order sealed the official juvenile court record, the
12 social file, and other records relating to the case as are named in
13 the order. Thereafter, the proceedings in the case shall be treated
14 as if they never occurred, and the subject of the records may reply
15 accordingly to any inquiry about the events, records of which are
16 sealed. Any agency shall reply to any inquiry concerning confidential
17 or sealed records that records are confidential, and no information
18 can be given about the existence or nonexistence of records
19 concerning an individual.

20 (b) In the event the subject of the juvenile records receives a
21 full and unconditional pardon, the proceedings in the matter upon
22 which the pardon has been granted shall be treated as if they never
23 occurred, and the subject of the records may reply accordingly to any
24 inquiry about the events upon which the pardon was received. Any
25 agency shall reply to any inquiry concerning the records pertaining
26 to the events for which the subject received a pardon that records
27 are confidential, and no information can be given about the existence
28 or nonexistence of records concerning an individual.

29 (c) Effective July 1, 2019, the department of licensing may
30 release information related to records the court has ordered sealed
31 only to the extent necessary to comply with federal law and
32 regulation.

33 (7) Inspection of the files and records included in the order to
34 seal may thereafter be permitted only by order of the court upon
35 motion made by the person who is the subject of the information or
36 complaint, except as otherwise provided in RCW 13.50.010(8) and
37 13.50.050(13).

38 (8) (a) Any adjudication of a juvenile offense or a crime
39 subsequent to sealing has the effect of nullifying a sealing order;
40 however, the court may order the juvenile court record resealed upon

1 disposition of the subsequent matter if the case meets the sealing
2 criteria under this section and the court record has not previously
3 been resealed.

4 (b) Any charging of an adult felony subsequent to the sealing has
5 the effect of nullifying the sealing order.

6 (c) The administrative office of the courts shall ensure that the
7 superior court judicial information system provides prosecutors
8 access to information on the existence of sealed juvenile records.

9 (d) The Washington state patrol shall ensure that the Washington
10 state identification system provides Washington state criminal
11 justice agencies access to sealed juvenile records information.

12 (9) If the juvenile court record has been sealed pursuant to this
13 section, the record of an employee is not admissible in an action for
14 liability against the employer based on the former juvenile
15 offender's conduct to show that the employer knew or should have
16 known of the juvenile record of the employee. The record may be
17 admissible, however, if a background check conducted or authorized by
18 the employer contained the information in the sealed record.

19 (10) County clerks may interact or correspond with the
20 respondent, his or her parents, restitution recipients, and any
21 holders of potential assets or wages of the respondent for the
22 purposes of collecting an outstanding legal financial obligation
23 after juvenile court records have been sealed pursuant to this
24 section.

25 (11) Persons and agencies that obtain sealed juvenile records
26 information pursuant to this section may communicate about this
27 information with the respondent, but may not disseminate or be
28 compelled to release the information to any person or agency not
29 specifically granted access to sealed juvenile records in this
30 section.

31 (12) All criminal justice agencies must not disclose confidential
32 information or sealed records accessed through the Washington state
33 identification system or other means, and no information can be given
34 to third parties other than Washington state criminal justice
35 agencies about the existence or nonexistence of confidential or
36 sealed records concerning an individual.

37 NEW SECTION. **Sec. 9.** RCW 9A.44.143 (Relief from duty to
38 register for sex offense or kidnapping offense committed when
39 offender was a juvenile and who has not been determined to be a

1 sexually violent predator—Petition—Exception) and 2017 c 86 s 2,
2 2015 c 261 s 9, 2011 c 338 s 1, & 2010 c 267 s 7 are each repealed.

3 NEW SECTION. **Sec. 10.** (1) Section 2 of this act applies
4 retroactively. The legal obligation to register as a sex offender is
5 extinguished for any person based on an offense committed under the
6 age of 18, unless the registration offense is a conviction that is in
7 the exclusive jurisdiction of adult court pursuant to RCW
8 13.04.030(1)(e)(v).

9 (2) By August 1, 2021, the Washington association of sheriffs and
10 police chiefs shall remove all persons from the sex offender registry
11 whose obligation to register is based on an offense committed while
12 the person was under 18 years of age, unless the registration offense
13 is a conviction that is in the exclusive jurisdiction of adult court
14 pursuant to RCW 13.04.030(1)(e)(v).

15 NEW SECTION. **Sec. 11.** By August 1, 2021, the Washington state
16 patrol shall notify all persons whose obligation to register as a sex
17 offender is extinguished by this act. For persons enrolled in school
18 or higher education, the Washington state patrol shall provide
19 similar notice to the school's or institution's designated recipient
20 of records under RCW 9A.44.138.

21 **PART II**

22 **CHANGING THE DESIGNATION OF SEXUAL OFFENSES COMMITTED BY JUVENILES**

23 NEW SECTION. **Sec. 12.** A new section is added to chapter 9A.44
24 RCW to read as follows:

25 (1) A person under the age of 18 commits the crime of problem
26 sexual behavior by a minor in the first degree when the person has
27 sexual intercourse with another who is less than 12 years old and not
28 married to the person and the person is at least 36 months older than
29 the victim.

30 (2) Problem sexual behavior by a minor in the first degree is a
31 class B felony.

32 NEW SECTION. **Sec. 13.** A new section is added to chapter 9A.44
33 RCW to read as follows:

34 (1) A person under the age of 18 commits the crime of problem
35 sexual behavior by a minor in the second degree if:

1 (a) The person has, or knowingly causes another person under the
2 age of 18 to have, sexual contact with another who is less than 12
3 years old and not married to the person and the person is at least 36
4 months older than the victim; or

5 (b) The person has sexual intercourse with another who is at
6 least 12 years old but less than 14 years old and not married to the
7 person and the person is at least 36 months older than the victim.

8 (2) Problem sexual behavior by a minor in the second degree is a
9 class B felony.

10 NEW SECTION. **Sec. 14.** A new section is added to chapter 9A.44
11 RCW to read as follows:

12 (1) A person under the age of 18 commits the crime of problem
13 sexual behavior by a minor in the third degree if the person has, or
14 knowingly causes another person under the age of 18 to have, sexual
15 contact with another who is at least 12 years old but less than 14
16 years old and not married to the person and the person is at least 36
17 months older than the victim.

18 (2) Problem sexual behavior by a minor in the third degree is a
19 class C felony.

20 **Sec. 15.** RCW 9A.44.073 and 1988 c 145 s 2 are each amended to
21 read as follows:

22 (1) A person (~~((is guilty))~~) 18 years of age or older commits the
23 crime of rape of a child in the first degree when the person has
24 sexual intercourse with another who is less than (~~((twelve))~~) 12 years
25 old and not married to the perpetrator (~~((and the perpetrator is at~~
26 ~~least twenty-four months older than the victim))~~).

27 (2) Rape of a child in the first degree is a class A felony.

28 **Sec. 16.** RCW 9A.44.076 and 1990 c 3 s 903 are each amended to
29 read as follows:

30 (1) A person (~~((is guilty))~~) 18 years of age or older commits the
31 crime of rape of a child in the second degree when the person has
32 sexual intercourse with another who is at least (~~((twelve))~~) 12 years
33 old but less than (~~((fourteen))~~) 14 years old and not married to the
34 perpetrator (~~((and the perpetrator is at least thirty-six months older~~
35 ~~than the victim))~~).

36 (2) Rape of a child in the second degree is a class A felony.

1 **Sec. 17.** RCW 9A.44.079 and 1988 c 145 s 4 are each amended to
2 read as follows:

3 (1) A person (~~(is guilty)~~) 18 years of age or older commits the
4 crime of rape of a child in the third degree when the person has
5 sexual intercourse with another who is at least (~~(fourteen)~~) 14 years
6 old but less than (~~(sixteen)~~) 16 years old and not married to the
7 perpetrator and the perpetrator is at least (~~(forty-eight)~~) 48 months
8 older than the victim.

9 (2) Rape of a child in the third degree is a class C felony.

10 **Sec. 18.** RCW 9A.44.083 and 1994 c 271 s 303 are each amended to
11 read as follows:

12 (1) A person is guilty of child molestation in the first degree
13 when the person is at least 18 years old and has, or knowingly causes
14 another person under the age of (~~(eighteen)~~) 18 to have, sexual
15 contact with another who is less than (~~(twelve)~~) 12 years old and not
16 married to the perpetrator (~~(and the perpetrator is at least thirty-~~
17 ~~six months older than the victim)~~).

18 (2) Child molestation in the first degree is a class A felony.

19 **Sec. 19.** RCW 9A.44.086 and 1994 c 271 s 304 are each amended to
20 read as follows:

21 (1) A person is guilty of child molestation in the second degree
22 when the person is at least 18 years old and has, or knowingly causes
23 another person under the age of (~~(eighteen)~~) 18 to have, sexual
24 contact with another who is at least (~~(twelve)~~) 12 years old but less
25 than (~~(fourteen)~~) 14 years old and not married to the perpetrator
26 (~~(and the perpetrator is at least thirty-six months older than the~~
27 ~~victim)~~).

28 (2) Child molestation in the second degree is a class B felony.

29 **Sec. 20.** RCW 9A.44.089 and 1994 c 271 s 305 are each amended to
30 read as follows:

31 (1) A person is guilty of child molestation in the third degree
32 when the person is at least 18 years old and has, or knowingly causes
33 another person under the age of (~~(eighteen)~~) 18 to have, sexual
34 contact with another who is at least (~~(fourteen)~~) 14 years old but
35 less than (~~(sixteen)~~) 16 years old and not married to the perpetrator
36 and the perpetrator is at least (~~(forty-eight)~~) 48 months older than
37 the victim.

1 (2) Child molestation in the third degree is a class C felony.

2 **Sec. 21.** RCW 9A.44.040 and 1998 c 242 s 1 are each amended to
3 read as follows:

4 (1) A person is guilty of rape in the first degree when such
5 person engages in sexual intercourse with another person by forcible
6 compulsion where the perpetrator or an accessory:

7 (a) Uses or threatens to use a deadly weapon or what appears to
8 be a deadly weapon; or

9 (b) Kidnaps the victim; or

10 (c) Inflicts serious physical injury, including but not limited
11 to physical injury which renders the victim unconscious; or

12 (d) Feloniously enters into the building or vehicle where the
13 victim is situated.

14 (2) Rape in the first degree is a class A felony.

15 (3) If the person was under 18 years old at the time of
16 commission of the offense, this offense shall be known and charged as
17 rape in the first degree as a minor.

18 **Sec. 22.** RCW 9A.44.050 and 2007 c 20 s 1 are each amended to
19 read as follows:

20 (1) A person is guilty of rape in the second degree when, under
21 circumstances not constituting rape in the first degree, the person
22 engages in sexual intercourse with another person:

23 (a) By forcible compulsion;

24 (b) When the victim is incapable of consent by reason of being
25 physically helpless or mentally incapacitated;

26 (c) When the victim is a person with a developmental disability
27 and the perpetrator is a person who is not married to the victim and
28 who:

29 (i) Has supervisory authority over the victim; or

30 (ii) Was providing transportation, within the course of his or
31 her employment, to the victim at the time of the offense;

32 (d) When the perpetrator is a health care provider, the victim is
33 a client or patient, and the sexual intercourse occurs during a
34 treatment session, consultation, interview, or examination. It is an
35 affirmative defense that the defendant must prove by a preponderance
36 of the evidence that the client or patient consented to the sexual
37 intercourse with the knowledge that the sexual intercourse was not
38 for the purpose of treatment;

1 (e) When the victim is a resident of a facility for persons with
2 a mental disorder or chemical dependency and the perpetrator is a
3 person who is not married to the victim and has supervisory authority
4 over the victim; or

5 (f) When the victim is a frail elder or vulnerable adult and the
6 perpetrator is a person who is not married to the victim and who:

7 (i) Has a significant relationship with the victim; or

8 (ii) Was providing transportation, within the course of his or
9 her employment, to the victim at the time of the offense.

10 (2) Rape in the second degree is a class A felony.

11 (3) If the person was under 18 years old at the time of
12 commission of the offense, this offense shall be known and charged as
13 rape in the second degree as a minor.

14 **Sec. 23.** RCW 9A.44.060 and 2019 c 87 s 3 are each amended to
15 read as follows:

16 (1) A person is guilty of rape in the third degree when, under
17 circumstances not constituting rape in the first or second degrees,
18 such person engages in sexual intercourse with another person:

19 (a) Where the victim did not consent as defined in RCW
20 9A.44.010(~~((7))~~), to sexual intercourse with the perpetrator; or

21 (b) Where there is threat of substantial unlawful harm to
22 property rights of the victim.

23 (2) Rape in the third degree is a class C felony.

24 (3) If the person was under 18 years old at the time of
25 commission of the offense, this offense shall be known and charged as
26 rape in the third degree as a minor.

27 **Sec. 24.** RCW 9A.44.100 and 2013 c 94 s 2 are each amended to
28 read as follows:

29 (1) A person is guilty of indecent liberties when he or she
30 knowingly causes another person to have sexual contact with him or
31 her or another:

32 (a) By forcible compulsion;

33 (b) When the other person is incapable of consent by reason of
34 being mentally defective, mentally incapacitated, or physically
35 helpless;

36 (c) When the victim is a person with a developmental disability
37 and the perpetrator is a person who is not married to the victim and
38 who:

- 1 (i) Has supervisory authority over the victim; or
2 (ii) Was providing transportation, within the course of his or
3 her employment, to the victim at the time of the offense;
4 (d) When the perpetrator is a health care provider, the victim is
5 a client or patient, and the sexual contact occurs during a treatment
6 session, consultation, interview, or examination. It is an
7 affirmative defense that the defendant must prove by a preponderance
8 of the evidence that the client or patient consented to the sexual
9 contact with the knowledge that the sexual contact was not for the
10 purpose of treatment;
11 (e) When the victim is a resident of a facility for persons with
12 a mental disorder or chemical dependency and the perpetrator is a
13 person who is not married to the victim and has supervisory authority
14 over the victim; or
15 (f) When the victim is a frail elder or vulnerable adult and the
16 perpetrator is a person who is not married to the victim and who:
17 (i) Has a significant relationship with the victim; or
18 (ii) Was providing transportation, within the course of his or
19 her employment, to the victim at the time of the offense.
20 (2)(a) Except as provided in (b) of this subsection, indecent
21 liberties is a class B felony.
22 (b) Indecent liberties by forcible compulsion is a class A
23 felony.
24 (3) If the person was under 18 years old at the time of
25 commission of the offense, this offense shall be known and charged as
26 indecent liberties as a minor.

27 **Sec. 25.** RCW 9A.44.105 and 1994 c 53 s 1 are each amended to
28 read as follows:

29 (1) Any person who has sexual intercourse or sexual contact with
30 a dead human body is guilty of a class C felony.

31 (2) If the person was under 18 years old at the time of
32 commission of the offense, this offense shall be known and charged as
33 sexual intercourse or sexual contact with a dead human body as a
34 minor.

35 (3) As used in this section:

36 (a) "Sexual intercourse" (i) has its ordinary meaning and occurs
37 upon any penetration, however slight; and (ii) also means any
38 penetration of the vagina or anus however slight, by an object, when
39 committed on a dead human body, except when such penetration is

1 accomplished as part of a procedure authorized or required under
2 chapter 68.50 RCW or other law; and (iii) also means any act of
3 sexual contact between the sex organs of a person and the mouth or
4 anus of a dead human body.

5 (b) "Sexual contact" means any touching by a person of the sexual
6 or other intimate parts of a dead human body done for the purpose of
7 gratifying the sexual desire of the person.

8 **Sec. 26.** RCW 9A.44.115 and 2017 c 292 s 1 are each amended to
9 read as follows:

10 (1) As used in this section:

11 (a) "Intimate areas" means any portion of a person's body or
12 undergarments that is covered by clothing and intended to be
13 protected from public view;

14 (b) "Photographs" or "films" means the making of a photograph,
15 motion picture film, videotape, digital image, or any other recording
16 or transmission of the image of a person;

17 (c) "Place where he or she would have a reasonable expectation of
18 privacy" means:

19 (i) A place where a reasonable person would believe that he or
20 she could disrobe in privacy, without being concerned that his or her
21 undressing was being photographed or filmed by another; or

22 (ii) A place where one may reasonably expect to be safe from
23 casual or hostile intrusion or surveillance;

24 (d) "Surveillance" means secret observation of the activities of
25 another person for the purpose of spying upon and invading the
26 privacy of the person;

27 (e) "Views" means the intentional looking upon of another person
28 for more than a brief period of time, in other than a casual or
29 cursory manner, with the unaided eye or with a device designed or
30 intended to improve visual acuity.

31 (2)(a) A person commits the crime of voyeurism in the first
32 degree if, for the purpose of arousing or gratifying the sexual
33 desire of any person, he or she knowingly views, photographs, or
34 films:

35 (i) Another person without that person's knowledge and consent
36 while the person being viewed, photographed, or filmed is in a place
37 where he or she would have a reasonable expectation of privacy; or

38 (ii) The intimate areas of another person without that person's
39 knowledge and consent and under circumstances where the person has a

1 reasonable expectation of privacy, whether in a public or private
2 place.

3 (b) Voyeurism in the first degree is a class C felony.

4 (c) If the person was under 18 years old at the time of
5 commission of the offense, this offense shall be known and charged as
6 voyeurism in the first degree as a minor.

7 (3)(a) A person commits the crime of voyeurism in the second
8 degree if he or she intentionally photographs or films another person
9 for the purpose of photographing or filming the intimate areas of
10 that person with the intent to distribute or disseminate the
11 photograph or film, without that person's knowledge and consent, and
12 under circumstances where the person has a reasonable expectation of
13 privacy, whether in a public or private place.

14 (b) Voyeurism in the second degree is a gross misdemeanor.

15 (c) Voyeurism in the second degree is not a sex offense for the
16 purposes of sentencing or sex offender registration requirements
17 under this chapter.

18 (d) If the person was under 18 years old at the time of
19 commission of the offense, this offense shall be known and charged as
20 voyeurism in the second degree as a minor.

21 (4) This section does not apply to viewing, photographing, or
22 filming by personnel of the department of corrections or of a local
23 jail or correctional facility for security purposes or during
24 investigation of alleged misconduct by a person in the custody of the
25 department of corrections or the local jail or correctional facility.

26 (5) If a person is convicted of a violation of this section, the
27 court may order the destruction of any photograph, motion picture
28 film, digital image, videotape, or any other recording of an image
29 that was made by the person in violation of this section.

30 **Sec. 27.** RCW 9A.44.196 and 2006 c 126 s 6 are each amended to
31 read as follows:

32 (1) A person is guilty of the crime of criminal trespass against
33 children if he or she:

34 (a) Is a covered offender as defined in RCW 9A.44.190; and

35 (b)(i) Is personally served with written notice complying with
36 the requirements of RCW 9A.44.193 that excludes the covered offender
37 from the legal premises of the covered entity and remains upon or
38 reenters the legal premises of the covered entity; or

1 (ii) Is personally served with written notice complying with the
2 requirements of RCW 9A.44.193 that imposes conditions of entry and
3 use on the covered offender and violates the conditions of entry and
4 use.

5 (2) Criminal trespass against children is a class C felony.

6 (3) If the person was under 18 years old at the time of
7 commission of the offense, this offense shall be known and charged as
8 criminal trespass against children as a minor.

9 **Sec. 28.** RCW 9.68A.040 and 1989 c 32 s 2 are each amended to
10 read as follows:

11 (1) A person is guilty of sexual exploitation of a minor if the
12 person:

13 (a) Compels a minor by threat or force to engage in sexually
14 explicit conduct, knowing that such conduct will be photographed or
15 part of a live performance;

16 (b) Aids, invites, employs, authorizes, or causes a minor to
17 engage in sexually explicit conduct, knowing that such conduct will
18 be photographed or part of a live performance; or

19 (c) Being a parent, legal guardian, or person having custody or
20 control of a minor, permits the minor to engage in sexually explicit
21 conduct, knowing that the conduct will be photographed or part of a
22 live performance.

23 (2) Sexual exploitation of a minor is a class B felony punishable
24 under chapter 9A.20 RCW.

25 (3) If the person was under 18 years old at the time of
26 commission of the offense, this offense shall be known and charged as
27 sexual exploitation of a minor as a minor.

28 **Sec. 29.** RCW 9.68A.060 and 2019 c 128 s 5 are each amended to
29 read as follows:

30 (1)(a) Except as provided in subsections (3) and (4) of this
31 section, a person commits the crime of sending or bringing into the
32 state depictions of a minor engaged in sexually explicit conduct in
33 the first degree when he or she knowingly sends or causes to be sent,
34 or brings or causes to be brought, into this state for sale or
35 distribution, a visual or printed matter that depicts a minor engaged
36 in sexually explicit conduct as defined in RCW 9.68A.011(4) (a)
37 through (e).

1 (b) Sending or bringing into the state depictions of a minor
2 engaged in sexually explicit conduct in the first degree is a class B
3 felony punishable under chapter 9A.20 RCW.

4 (c) For the purposes of determining the unit of prosecution under
5 this subsection, each depiction or image of visual or printed matter
6 constitutes a separate offense.

7 (d) If the person was under 18 years old at the time of
8 commission of the offense, this offense shall be known and charged as
9 sending or bringing into the state depictions of a minor engaged in
10 sexually explicit conduct in the first degree as a minor.

11 (2)(a) Except as provided in subsections (3) and (4) of this
12 section, a person commits the crime of sending or bringing into the
13 state depictions of a minor engaged in sexually explicit conduct in
14 the second degree when he or she knowingly sends or causes to be
15 sent, or brings or causes to be brought, into this state for sale or
16 distribution, any visual or printed matter that depicts a minor
17 engaged in sexually explicit conduct as defined in RCW 9.68A.011(4)
18 (f) or (g).

19 (b) Sending or bringing into the state depictions of a minor
20 engaged in sexually explicit conduct in the second degree is a class
21 B felony punishable under chapter 9A.20 RCW.

22 (c) For the purposes of determining the unit of prosecution under
23 this subsection, each incident of sending or bringing into the state
24 one or more depictions or images of visual or printed matter
25 constitutes a separate offense.

26 (d) If the person was under 18 years old at the time of
27 commission of the offense, this offense shall be known and charged as
28 sending or bringing into the state depictions of a minor engaged in
29 sexually explicit conduct in the second degree as a minor.

30 (3) This section does not apply to a minor who knowingly sends or
31 causes to be sent, or brings or causes to be brought, into this state
32 for distribution, visual or printed matter depicting any minor
33 thirteen years of age or older engaged in sexually explicit conduct.

34 (4) This section does not apply to a person under thirteen years
35 of age who knowingly sends or causes to be sent, or brings or causes
36 to be brought, into this state for distribution, visual or printed
37 matter depicting himself or herself engaged in sexually explicit
38 conduct.

1 **Sec. 30.** RCW 9.68A.090 and 2013 c 302 s 1 are each amended to
2 read as follows:

3 (1) Except as provided in subsection (2) of this section, a
4 person who is at least 18 years of age and communicates with a minor
5 for immoral purposes, or a person who is at least 18 years of age and
6 communicates with someone the person believes to be a minor for
7 immoral purposes, is guilty of a gross misdemeanor.

8 (2) A person who communicates with a minor for immoral purposes
9 is guilty of a class C felony punishable according to chapter 9A.20
10 RCW if the person has previously been convicted under this section or
11 of a felony sexual offense under this chapter (~~(9.68A.7)~~) or chapter
12 9A.44(~~(7)~~) or 9A.64 RCW or of any other felony sexual offense in this
13 or any other state or if the person communicates with a minor or with
14 someone the person believes to be a minor for immoral purposes,
15 including the purchase or sale of commercial sex acts and sex
16 trafficking, through the sending of an electronic communication.

17 (3) For the purposes of this section, "electronic communication"
18 has the same meaning as defined in RCW 9.61.260.

19 **Sec. 31.** RCW 9.68A.100 and 2017 c 231 s 3 are each amended to
20 read as follows:

21 (1) A person is guilty of commercial sexual abuse of a minor if:

22 (a) He or she provides anything of value to a minor or a third
23 person as compensation for a minor having engaged in sexual conduct
24 with him or her;

25 (b) He or she provides or agrees to provide anything of value to
26 a minor or a third person pursuant to an understanding that in return
27 therefore such minor will engage in sexual conduct with him or her;
28 or

29 (c) He or she solicits, offers, or requests to engage in sexual
30 conduct with a minor in return for anything of value.

31 (2) Commercial sexual abuse of a minor is a class B felony
32 punishable under chapter 9A.20 RCW.

33 (3) In addition to any other penalty provided under chapter 9A.20
34 RCW, a person guilty of commercial sexual abuse of a minor is subject
35 to the provisions under RCW 9A.88.130 and 9A.88.140.

36 (4) Consent of a minor to the sexual conduct does not constitute
37 a defense to any offense listed in this section.

1 (5) If the person was under 18 years old at the time of
2 commission of the offense, this offense shall be known and charged as
3 commercial sexual abuse of a minor as a minor.

4 (6) For purposes of this section, "sexual conduct" means sexual
5 intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

6 **Sec. 32.** RCW 9.68A.101 and 2017 c 231 s 4 are each amended to
7 read as follows:

8 (1) A person is guilty of promoting commercial sexual abuse of a
9 minor if he or she knowingly advances commercial sexual abuse or a
10 sexually explicit act of a minor or profits from a minor engaged in
11 sexual conduct or a sexually explicit act.

12 (2) Promoting commercial sexual abuse of a minor is a class A
13 felony.

14 (3) For the purposes of this section:

15 (a) A person "advances commercial sexual abuse of a minor" if,
16 acting other than as a minor receiving compensation for personally
17 rendered sexual conduct or as a person engaged in commercial sexual
18 abuse of a minor, he or she causes or aids a person to commit or
19 engage in commercial sexual abuse of a minor, procures or solicits
20 customers for commercial sexual abuse of a minor, provides persons or
21 premises for the purposes of engaging in commercial sexual abuse of a
22 minor, operates or assists in the operation of a house or enterprise
23 for the purposes of engaging in commercial sexual abuse of a minor,
24 or engages in any other conduct designed to institute, aid, cause,
25 assist, or facilitate an act or enterprise of commercial sexual abuse
26 of a minor.

27 (b) A person "profits from commercial sexual abuse of a minor"
28 if, acting other than as a minor receiving compensation for
29 personally rendered sexual conduct, he or she accepts or receives
30 money or anything of value pursuant to an agreement or understanding
31 with any person whereby he or she participates or will participate in
32 the proceeds of commercial sexual abuse of a minor.

33 (c) A person "advances a sexually explicit act of a minor" if he
34 or she causes or aids a sexually explicit act of a minor, procures or
35 solicits customers for a sexually explicit act of a minor, provides
36 persons or premises for the purposes of a sexually explicit act of a
37 minor, or engages in any other conduct designed to institute, aid,
38 cause, assist, or facilitate a sexually explicit act of a minor.

1 (d) A "sexually explicit act" is a public, private, or live
2 photographed, recorded, or videotaped act or show intended to arouse
3 or satisfy the sexual desires or appeal to the prurient interests of
4 patrons and for which anything of value is given or received.

5 (e) A "patron" is a person who provides or agrees to provide
6 anything of value to another person as compensation for a sexually
7 explicit act of a minor or who solicits or requests a sexually
8 explicit act of a minor in return for a fee.

9 (4) Consent of a minor to the sexually explicit act or sexual
10 conduct does not constitute a defense to any offense listed in this
11 section.

12 (5) If the person was under 18 years old at the time of
13 commission of the offense, this offense shall be known and charged as
14 promoting commercial sexual abuse of a minor as a minor.

15 (6) For purposes of this section, "sexual conduct" means sexual
16 intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

17 **Sec. 33.** RCW 9.68A.102 and 2013 c 302 s 4 are each amended to
18 read as follows:

19 (1) A person commits the offense of promoting travel for
20 commercial sexual abuse of a minor if he or she knowingly sells or
21 offers to sell travel services that include or facilitate travel for
22 the purpose of engaging in what would be commercial sexual abuse of a
23 minor or promoting commercial sexual abuse of a minor, if occurring
24 in this state.

25 (2) Promoting travel for commercial sexual abuse of a minor is a
26 class C felony.

27 (3) Consent of a minor to the travel for commercial sexual abuse,
28 or the sexually explicit act or sexual conduct itself, does not
29 constitute a defense to any offense listed in this section.

30 (4) If the person was under 18 years old at the time of
31 commission of the offense, this offense shall be known and charged as
32 promoting travel for commercial sexual abuse of a minor as a minor.

33 (5) For purposes of this section, "travel services" has the same
34 meaning as defined in RCW 19.138.021.

35 **Sec. 34.** RCW 9.68A.103 and 2013 c 302 s 5 are each amended to
36 read as follows:

37 (1) A person is guilty of permitting commercial sexual abuse of a
38 minor if, having possession or control of premises which he or she

1 knows are being used for the purpose of commercial sexual abuse of a
2 minor, he or she fails without lawful excuse to make reasonable
3 effort to halt or abate such use and to make a reasonable effort to
4 notify law enforcement of such use.

5 (2) Permitting commercial sexual abuse of a minor is a gross
6 misdemeanor.

7 (3) Consent of a minor to the sexually explicit act or sexual
8 conduct does not constitute a defense to any offense listed in this
9 section.

10 (4) If the person was under 18 years old at the time of
11 commission of the offense, this offense shall be known and charged as
12 permitting commercial sexual abuse of a minor as a minor.

13 **Sec. 35.** RCW 9.94A.835 and 2009 c 28 s 15 are each amended to
14 read as follows:

15 (1) The prosecuting attorney shall file a special allegation of
16 sexual motivation in every criminal case, felony, gross misdemeanor,
17 or misdemeanor, other than sex offenses as defined in RCW 9.94A.030
18 when sufficient admissible evidence exists, which, when considered
19 with the most plausible, reasonably foreseeable defense that could be
20 raised under the evidence, would justify a finding of sexual
21 motivation by a reasonable and objective fact finder.

22 (2) In a criminal case wherein there has been a special
23 allegation the state shall prove beyond a reasonable doubt that the
24 accused committed the crime with a sexual motivation. The court shall
25 make a finding of fact of whether or not a sexual motivation was
26 present at the time of the commission of the crime, or if a jury
27 trial is had, the jury shall, if it finds the defendant guilty, also
28 find a special verdict as to whether or not the defendant committed
29 the crime with a sexual motivation. This finding shall not be applied
30 to sex offenses as defined in RCW 9.94A.030.

31 (3) The prosecuting attorney shall not withdraw the special
32 allegation of sexual motivation without approval of the court through
33 an order of dismissal of the special allegation. The court shall not
34 dismiss this special allegation unless it finds that such an order is
35 necessary to correct an error in the initial charging decision or
36 unless there are evidentiary problems which make proving the special
37 allegation doubtful.

38 (4) If the person was under the age of 18 at the time of
39 commission of the offense, the special allegation shall be known and

1 charged as sexual motivation as a minor. After the effective date of
2 this section, convictions for offenses with this designation are not
3 eligible to receive the sexual motivation sentencing enhancement
4 under RCW 9.94A.533 nor may this designation be used to define a
5 persistent offender under RCW 9.94A.030.

6 **Sec. 36.** RCW 13.04.030 and 2020 c 41 s 4 are each amended to
7 read as follows:

8 (1) Except as provided in this section, the juvenile courts in
9 this state shall have exclusive original jurisdiction over all
10 proceedings:

11 (a) Under the interstate compact on placement of children as
12 provided in chapter 26.34 RCW;

13 (b) Relating to children alleged or found to be dependent as
14 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

15 (c) Relating to the termination of a parent and child
16 relationship as provided in RCW 13.34.180 through 13.34.210;

17 (d) To approve or disapprove out-of-home placement as provided in
18 RCW 13.32A.170;

19 (e) Relating to juveniles alleged or found to have committed
20 offenses, traffic or civil infractions, or violations as provided in
21 RCW 13.40.020 through 13.40.230, unless:

22 (i) The juvenile court transfers jurisdiction of a particular
23 juvenile to adult criminal court pursuant to RCW 13.40.110;

24 (ii) The statute of limitations applicable to adult prosecution
25 for the offense, traffic or civil infraction, or violation has
26 expired;

27 (iii) The alleged offense or infraction is a traffic, fish,
28 boating, or game offense, or traffic or civil infraction committed by
29 a juvenile sixteen years of age or older and would, if committed by
30 an adult, be tried or heard in a court of limited jurisdiction, in
31 which instance the appropriate court of limited jurisdiction shall
32 have jurisdiction over the alleged offense or infraction, and no
33 guardian ad litem is required in any such proceeding due to the
34 juvenile's age. If such an alleged offense or infraction and an
35 alleged offense or infraction subject to juvenile court jurisdiction
36 arise out of the same event or incident, the juvenile court may have
37 jurisdiction of both matters. The jurisdiction under this subsection
38 does not constitute "transfer" or a "decline" for purposes of RCW
39 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited

1 jurisdiction which confine juveniles for an alleged offense or
2 infraction may place juveniles in juvenile detention facilities under
3 an agreement with the officials responsible for the administration of
4 the juvenile detention facility in RCW 13.04.035 and 13.20.060;

5 (iv) The alleged offense is a traffic or civil infraction, a
6 violation of compulsory school attendance provisions under chapter
7 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction
8 has assumed concurrent jurisdiction over those offenses as provided
9 in RCW 13.04.0301; or

10 (v) The juvenile is sixteen or seventeen years old on the date
11 the alleged offense is committed and the alleged offense is:

12 (A) A serious violent offense as defined in RCW 9.94A.030; or

13 (B) A violent offense as defined in RCW 9.94A.030 and the
14 juvenile has a criminal history consisting of: One or more prior
15 serious violent offenses; two or more prior violent offenses; or
16 three or more of any combination of the following offenses: Any class
17 A felony, any class B felony, vehicular assault, or manslaughter in
18 the second degree, all of which must have been committed after the
19 juvenile's thirteenth birthday and prosecuted separately(~~(+or~~

20 ~~(C) Rape of a child in the first degree)~~).

21 (I) In such a case the adult criminal court shall have exclusive
22 original jurisdiction, except as provided in (e)(v)(~~(+C))~~) (B)(II)
23 and (III) of this subsection.

24 (II) The juvenile court shall have exclusive jurisdiction over
25 the disposition of any remaining charges in any case in which the
26 juvenile is found not guilty in the adult criminal court of the
27 charge or charges for which he or she was transferred, or is
28 convicted in the adult criminal court of an offense that is not also
29 an offense listed in (e)(v) of this subsection. The juvenile court
30 shall maintain residual juvenile court jurisdiction up to age twenty-
31 five if the juvenile has turned eighteen years of age during the
32 adult criminal court proceedings but only for the purpose of
33 returning a case to juvenile court for disposition pursuant to RCW
34 13.40.300(3)(d).

35 (III) The prosecutor and respondent may agree to juvenile court
36 jurisdiction and waive application of exclusive adult criminal
37 jurisdiction in (e)(v)(A) (~~(through (C))~~) and (B) of this subsection
38 and remove the proceeding back to juvenile court with the court's
39 approval.

1 If the juvenile challenges the state's determination of the
2 juvenile's criminal history under (e)(v) of this subsection, the
3 state may establish the offender's criminal history by a
4 preponderance of the evidence. If the criminal history consists of
5 adjudications entered upon a plea of guilty, the state shall not bear
6 a burden of establishing the knowing and voluntariness of the plea;

7 (f) Under the interstate compact on juveniles as provided in
8 chapter 13.24 RCW;

9 (g) Relating to termination of a diversion agreement under RCW
10 13.40.080, including a proceeding in which the divertee has attained
11 eighteen years of age;

12 (h) Relating to court validation of a voluntary consent to an
13 out-of-home placement under chapter 13.34 RCW, by the parent or
14 Indian custodian of an Indian child, except if the parent or Indian
15 custodian and child are residents of or domiciled within the
16 boundaries of a federally recognized Indian reservation over which
17 the tribe exercises exclusive jurisdiction; and

18 (i) Relating to petitions to compel disclosure of information
19 filed by the department of social and health services pursuant to RCW
20 74.13.042.

21 (2) The family court shall have concurrent original jurisdiction
22 with the juvenile court over all proceedings under this section if
23 the superior court judges of a county authorize concurrent
24 jurisdiction as provided in RCW 26.12.010.

25 (3) The juvenile court shall have concurrent original
26 jurisdiction with the family court over child custody proceedings
27 under chapter 26.10 or 11.130 RCW and parenting plans or residential
28 schedules under chapter 26.09, 26.26A, or 26.26B RCW as provided for
29 in RCW 13.34.155.

30 (4) A juvenile subject to adult superior court jurisdiction under
31 subsection (1)(e)(i) through (v) of this section, who is detained
32 pending trial, may be detained in a detention facility as defined in
33 RCW 13.40.020 pending sentencing or a dismissal.

34 **Sec. 37.** RCW 13.40.0357 and 2020 c 18 s 8 are each amended to
35 read as follows:

36 **DESCRIPTION AND OFFENSE CATEGORY**

1		JUVENILE DISPOSITION
2	JUVENILE	CATEGORY FOR
3	DISPOSITION	ATTEMPT, BAILJUMP,
4	OFFENSE	CONSPIRACY, OR
5	CATEGORY	DESCRIPTION (RCW CITATION)
6		SOLICITATION
	Arson and Malicious Mischief	
7	A	Arson 1 (9A.48.020) B+
8	B	Arson 2 (9A.48.030) C
9	C	Reckless Burning 1 (9A.48.040) D
10	D	Reckless Burning 2 (9A.48.050) E
11	B	Malicious Mischief 1 (9A.48.070) C
12	C	Malicious Mischief 2 (9A.48.080) D
13	D	Malicious Mischief 3 (9A.48.090) E
14	E	Tampering with Fire Alarm Apparatus E
15		(9.40.100)
16	E	Tampering with Fire Alarm Apparatus E
17		with Intent to Commit Arson (9.40.105)
18	A	Possession of Incendiary Device B+
19		(9.40.120)
20	Assault and Other Crimes Involving	
21	Physical Harm	
22	A	Assault 1 (9A.36.011) B+
23	B+	Assault 2 (9A.36.021) C+
24	C+	Assault 3 (9A.36.031) D+
25	D+	Assault 4 (9A.36.041) E
26	B+	Drive-By Shooting (9A.36.045) C+
27		committed at age 15 or under
28	A++	Drive-By Shooting (9A.36.045) A
29		committed at age 16 or 17
30	D+	Reckless Endangerment (9A.36.050) E
31	C+	Promoting Suicide Attempt (9A.36.060) D+
32	D+	Coercion (9A.36.070) E
33	C+	Custodial Assault (9A.36.100) D+
34	Burglary and Trespass	
35	B+	Burglary 1 (9A.52.020) committed at C+
36		age 15 or under

1	A-	Burglary 1 (9A.52.020) committed at	B+
2		age 16 or 17	
3	B	Residential Burglary (9A.52.025)	C
4	B	Burglary 2 (9A.52.030)	C
5	D	Burglary Tools (Possession of)	E
6		(9A.52.060)	
7	D	Criminal Trespass 1 (9A.52.070)	E
8	E	Criminal Trespass 2 (9A.52.080)	E
9	C	Mineral Trespass (78.44.330)	C
10	C	Vehicle Prowling 1 (9A.52.095)	D
11	D	Vehicle Prowling 2 (9A.52.100)	E
12		Drugs	
13	E	Possession/Consumption of Alcohol	E
14		(66.44.270)	
15	C	Illegally Obtaining Legend Drug	D
16		(69.41.020)	
17	C+	Sale, Delivery, Possession of Legend	D+
18		Drug with Intent to Sell (69.41.030(2)(a))	
19	E	Possession of Legend	E
20		Drug (69.41.030(2)(b))	
21	B+	Violation of Uniform Controlled	B+
22		Substances Act - Narcotic,	
23		Methamphetamine, or Flunitrazepam	
24		Sale (69.50.401(2) (a) or (b))	
25	C	Violation of Uniform Controlled	C
26		Substances Act - Nonnarcotic Sale	
27		(69.50.401(2)(c))	
28	E	Possession of Marihuana <40 grams	E
29		(69.50.4014)	
30	C	Fraudulently Obtaining Controlled	C
31		Substance (69.50.403)	
32	C+	Sale of Controlled Substance for Profit	C+
33		(69.50.410)	
34	E	Unlawful Inhalation (9.47A.020)	E

1	B	Violation of Uniform Controlled	B
2		Substances Act - Narcotic,	
3		Methamphetamine, or Flunitrazepam	
4		Counterfeit Substances (69.50.4011(2)	
5		(a) or (b))	
6	C	Violation of Uniform Controlled	C
7		Substances Act - Nonnarcotic Counterfeit	
8		Substances (69.50.4011(2) (c), (d), or (e))	
9	C	Violation of Uniform Controlled	C
10		Substances Act - Possession of a	
11		Controlled Substance (69.50.4013)	
12	C	Violation of Uniform Controlled	C
13		Substances Act - Possession of a	
14		Controlled Substance (69.50.4012)	
15		Firearms and Weapons	
16	B	Theft of Firearm (9A.56.300)	C
17	B	Possession of Stolen Firearm	C
18		(9A.56.310)	
19	E	Carrying Loaded Pistol Without Permit	E
20		(9.41.050)	
21	C	Possession of Firearms by Minor (<18)	C
22		(9.41.040(2)(a) (vi))	
23	D+	Possession of Dangerous Weapon	E
24		(9.41.250)	
25	D	Intimidating Another Person by use of	E
26		Weapon (9.41.270)	
27		Homicide	
28	A+	Murder 1 (9A.32.030)	A
29	A+	Murder 2 (9A.32.050)	B+
30	B+	Manslaughter 1 (9A.32.060)	C+
31	C+	Manslaughter 2 (9A.32.070)	D+
32	B+	Vehicular Homicide (46.61.520)	C+
33		Kidnapping	
34	A	Kidnap 1 (9A.40.020)	B+
35	B+	Kidnap 2 (9A.40.030)	C+
36	C+	Unlawful Imprisonment (9A.40.040)	D+
37		Obstructing Governmental Operation	

1	D	Obstructing a Law Enforcement Officer	E
2		(9A.76.020)	
3	E	Resisting Arrest (9A.76.040)	E
4	B	Introducing Contraband 1 (9A.76.140)	C
5	C	Introducing Contraband 2 (9A.76.150)	D
6	E	Introducing Contraband 3 (9A.76.160)	E
7	B+	Intimidating a Public Servant	C+
8		(9A.76.180)	
9	B+	Intimidating a Witness (9A.72.110)	C+
10		Public Disturbance	
11	C+	Criminal Mischief with Weapon	D+
12		(9A.84.010(2)(b))	
13	D+	Criminal Mischief Without Weapon	E
14		(9A.84.010(2)(a))	
15	E	Failure to Disperse (9A.84.020)	E
16	E	Disorderly Conduct (9A.84.030)	E
17		Sex Crimes	
18	A	Rape 1 <u>as a minor</u> (9A.44.040)	B+
19	B++	Rape 2 <u>as a minor</u> (9A.44.050)	B+
20		committed at age 14 or under	
21	A-	Rape 2 <u>as a minor</u> (9A.44.050)	B+
22		committed at age 15 through age 17	
23	C+	Rape 3 <u>as a minor</u> (9A.44.060)	D+
24	B++	((Rape of a Child 1 (9A.44.073)))	B+
25		<u>Problem Sexual Behavior by a Minor 1</u>	
26		<u>(section 12 of this act)</u>	
27		committed at age 14 or under	
28	A-	((Rape of a Child 1 (9A.44.073)))	B+
29		<u>Problem Sexual Behavior by a Minor 1</u>	
30		<u>(section 12 of this act)</u>	
31		committed at age 15-17	
32	B+	((Rape of a Child 2 (9A.44.076)))	C+
33		<u>Problem Sexual Behavior by a Minor 2</u>	
34		<u>(section 13 of this act)</u>	
35	B	<u>Problem Sexual Behavior by a Minor 3</u>	C+
36		<u>(section 14 of this act)</u>	
37	B	Incest 1 (9A.64.020(1))	C

1	C	Incest 2 (9A.64.020(2))	D
2	D+	Indecent Exposure (Victim <14)	E
3		(9A.88.010)	
4	E	Indecent Exposure (Victim 14 or over)	E
5		(9A.88.010)	
6	B+	Promoting Prostitution 1 (9A.88.070)	C+
7	C+	Promoting Prostitution 2 (9A.88.080)	D+
8	(E)	○ & A (Prostitution) (9A.88.030)	(E))
9	B+	Indecent Liberties <u>as a minor</u>	C+
10		(9A.44.100)	
11	((B++	Child Molestation 1 (9A.44.083)	B+
12		committed at age 14 or under	
13	A-	Child Molestation 1 (9A.44.083)	B+
14		committed at age 15 through age 17	
15	B	Child Molestation 2 (9A.44.086)	C+
16	C	Failure to Register as a Sex Offender	D))
17		(9A.44.132)	
18		Theft, Robbery, Extortion, and	
19		Forgery	
20	B	Theft 1 (9A.56.030)	C
21	C	Theft 2 (9A.56.040)	D
22	D	Theft 3 (9A.56.050)	E
23	B	Theft of Livestock 1 and 2 (9A.56.080	C
24		and 9A.56.083)	
25	C	Forgery (9A.60.020)	D
26	A	Robbery 1 (9A.56.200) committed at	B+
27		age 15 or under	
28	A++	Robbery 1 (9A.56.200) committed at	A
29		age 16 or 17	
30	B+	Robbery 2 (9A.56.210)	C+
31	B+	Extortion 1 (9A.56.120)	C+
32	C+	Extortion 2 (9A.56.130)	D+
33	C	Identity Theft 1 (9.35.020(2))	D
34	D	Identity Theft 2 (9.35.020(3))	E
35	D	Improperly Obtaining Financial	E
36		Information (9.35.010)	

1	B	Possession of a Stolen Vehicle	C
2		(9A.56.068)	
3	B	Possession of Stolen Property 1	C
4		(9A.56.150)	
5	C	Possession of Stolen Property 2	D
6		(9A.56.160)	
7	D	Possession of Stolen Property 3	E
8		(9A.56.170)	
9	B	Taking Motor Vehicle Without	C
10		Permission 1 (9A.56.070)	
11	C	Taking Motor Vehicle Without	D
12		Permission 2 (9A.56.075)	
13	B	Theft of a Motor Vehicle (9A.56.065)	C
14		Motor Vehicle Related Crimes	
15	E	Driving Without a License (46.20.005)	E
16	B+	Hit and Run - Death (46.52.020(4)(a))	C+
17	C	Hit and Run - Injury (46.52.020(4)(b))	D
18	D	Hit and Run-Attended (46.52.020(5))	E
19	E	Hit and Run-Unattended (46.52.010)	E
20	C	Vehicular Assault (46.61.522)	D
21	C	Attempting to Elude Pursuing Police	D
22		Vehicle (46.61.024)	
23	E	Reckless Driving (46.61.500)	E
24	D	Driving While Under the Influence	E
25		(46.61.502 and 46.61.504)	
26	B+	Felony Driving While Under the	B
27		Influence (46.61.502(6))	
28	B+	Felony Physical Control of a Vehicle	B
29		While Under the Influence (46.61.504(6))	
30		Other	
31	B	Animal Cruelty 1 (16.52.205)	C
32	B	Bomb Threat (9.61.160)	C
33	C	Escape 1 ¹ (9A.76.110)	C
34	C	Escape 2 ¹ (9A.76.120)	C
35	D	Escape 3 (9A.76.130)	E

1	E	Obscene, Harassing, Etc., Phone Calls	E
2		(9.61.230)	
3	A	Other Offense Equivalent to an Adult	B+
4		Class A Felony	
5	B	Other Offense Equivalent to an Adult	C
6		Class B Felony	
7	C	Other Offense Equivalent to an Adult	D
8		Class C Felony	
9	D	Other Offense Equivalent to an Adult	E
10		Gross Misdemeanor	
11	E	Other Offense Equivalent to an Adult	E
12		Misdemeanor	
13	V	Violation of Order of Restitution,	V
14		Community Supervision, or Confinement	
15		(13.40.200) ²	

16 ¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
17 and the standard range is established as follows:

18 1st escape or attempted escape during 12-month period - 28 days
19 confinement

20 2nd escape or attempted escape during 12-month period - 8 weeks
21 confinement

22 3rd and subsequent escape or attempted escape during 12-month
23 period - 12 weeks confinement

24 ²If the court finds that a respondent has violated terms of an order,
25 it may impose a penalty of up to 30 days of confinement.

26 **JUVENILE SENTENCING STANDARDS**

27 This schedule must be used for juvenile offenders. The court may
28 select sentencing option A, B, C, or D.

29 **OPTION A**

30 **JUVENILE OFFENDER SENTENCING GRID**

31 **STANDARD RANGE**

32 A++ 129 to 260 weeks for all category A++ offenses

33 A+ 180 weeks to age 21 for all category A+ offenses

34 A 103-129 weeks for all category A offenses

1	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
2	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
3	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
4	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
5	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
6		C	LS	LS	LS	LS	15-36 weeks
7		D+	LS	LS	LS	LS	LS
8		D	LS	LS	LS	LS	LS
9		E	LS	LS	LS	LS	LS
10	PRIOR		0	1	2	3	4 or more
11	ADJUDICATIONS						

12 NOTE: References in the grid to days or weeks mean periods of
13 confinement. "LS" means "local sanctions" as defined in RCW
14 13.40.020.

15 (1) The vertical axis of the grid is the current offense
16 category. The current offense category is determined by the offense
17 of adjudication.

18 (2) The horizontal axis of the grid is the number of prior
19 adjudications included in the juvenile's criminal history. Each prior
20 felony adjudication shall count as one point. Each prior violation,
21 misdemeanor, and gross misdemeanor adjudication shall count as 1/4
22 point. Fractional points shall be rounded down.

23 (3) The standard range disposition for each offense is determined
24 by the intersection of the column defined by the prior adjudications
25 and the row defined by the current offense category.

26 (4) RCW 13.40.180 applies if the offender is being sentenced for
27 more than one offense.

28 (5) A current offense that is a violation is equivalent to an
29 offense category of E. However, a disposition for a violation shall
30 not include confinement.

31 **OR**
32 **OPTION B**
33 **SUSPENDED DISPOSITION ALTERNATIVE**

34 (1) If the offender is subject to a standard range disposition
35 involving confinement by the department, the court may impose the

1 standard range and suspend the disposition on condition that the
2 offender comply with one or more local sanctions and any educational
3 or treatment requirement. The treatment programs provided to the
4 offender must be either research-based best practice programs as
5 identified by the Washington state institute for public policy or the
6 joint legislative audit and review committee, or for chemical
7 dependency treatment programs or services, they must be evidence-
8 based or research-based best practice programs. For the purposes of
9 this subsection:

10 (a) "Evidence-based" means a program or practice that has had
11 multiple site random controlled trials across heterogeneous
12 populations demonstrating that the program or practice is effective
13 for the population; and

14 (b) "Research-based" means a program or practice that has some
15 research demonstrating effectiveness, but that does not yet meet the
16 standard of evidence-based practices.

17 (2) If the offender fails to comply with the suspended
18 disposition, the court may impose sanctions pursuant to RCW 13.40.200
19 or may revoke the suspended disposition and order the disposition's
20 execution.

21 (3) An offender is ineligible for the suspended disposition
22 option under this section if the offender:

23 (a) Is adjudicated of an A+ or A++ offense;

24 (b) Is fourteen years of age or older and is adjudicated of one
25 or more of the following offenses:

26 (i) A class A offense, or an attempt, conspiracy, or solicitation
27 to commit a class A offense;

28 (ii) Manslaughter in the first degree (RCW 9A.32.060);

29 (iii) Assault in the second degree (RCW 9A.36.021), extortion in
30 the first degree (RCW 9A.56.120), kidnapping in the second degree
31 (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular
32 homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or
33 manslaughter 2 (RCW 9A.32.070); or

34 (iv) Violation of the uniform controlled substances act (RCW
35 69.50.401(2) (a) and (b)), when the offense includes infliction of
36 bodily harm upon another or when during the commission or immediate
37 withdrawal from the offense the respondent was armed with a deadly
38 weapon;

39 (c) Is ordered to serve a disposition for a firearm violation
40 under RCW 13.40.193;

1 (d) Is adjudicated of a sex offense as defined in RCW 9.94A.030;
2 or
3 (e) Has a prior option B disposition.

4 OR

5 **OPTION C**

6 **CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

7 If the juvenile offender is subject to a standard range
8 disposition of local sanctions or 15 to 36 weeks of confinement and
9 has not committed a B++ or B+ offense, the court may impose a
10 disposition under RCW 13.40.160(4) and 13.40.165.

11 OR

12 **OPTION D**

13 **MANIFEST INJUSTICE**

14 If the court determines that a disposition under option A, B, or C
15 would effectuate a manifest injustice, the court shall impose a
16 disposition outside the standard range under RCW 13.40.160(2).

17 **Sec. 38.** RCW 9.94A.515 and 2020 c 344 s 4 are each amended to
18 read as follows:

19 **TABLE 2**

20 **CRIMES INCLUDED WITHIN EACH**
21 **SERIOUSNESS LEVEL**

- 22 XVI Aggravated Murder 1 (RCW 10.95.020)
- 23 XV Homicide by abuse (RCW 9A.32.055)
- 24 Malicious explosion 1 (RCW
25 70.74.280(1))
- 26 Murder 1 (RCW 9A.32.030)
- 27 XIV Murder 2 (RCW 9A.32.050)
- 28 Trafficking 1 (RCW 9A.40.100(1))
- 29 XIII Malicious explosion 2 (RCW
30 70.74.280(2))
- 31 Malicious placement of an explosive 1
32 (RCW 70.74.270(1))
- 33 XII Assault 1 (RCW 9A.36.011)
- 34 Assault of a Child 1 (RCW 9A.36.120)

1 Malicious placement of an imitation
2 device 1 (RCW 70.74.272(1)(a))
3 Problem Sexual Behavior by a Minor 1
4 (section 12 of this act)
5 Promoting Commercial Sexual Abuse of
6 a Minor (RCW 9.68A.101)
7 Rape 1 (RCW 9A.44.040)
8 Rape 1 as a Minor (RCW 9A.44.040)
9 Rape of a Child 1 (RCW 9A.44.073)
10 Trafficking 2 (RCW 9A.40.100(3))
11 XI Manslaughter 1 (RCW 9A.32.060)
12 Rape 2 (RCW 9A.44.050)
13 Rape 2 as a Minor (RCW 9A.44.050)
14 Rape of a Child 2 (RCW 9A.44.076)
15 Vehicular Homicide, by being under the
16 influence of intoxicating liquor or
17 any drug (RCW 46.61.520)
18 Vehicular Homicide, by the operation of
19 any vehicle in a reckless manner
20 (RCW 46.61.520)
21 X Child Molestation 1 (RCW 9A.44.083)
22 Criminal Mistreatment 1 (RCW
23 9A.42.020)
24 Indecent Liberties (with forcible
25 compulsion) (RCW
26 9A.44.100(1)(a))
27 Indecent Liberties as a Minor (with
28 forcible compulsion) (RCW
29 9A.44.100(1)(a))
30 Kidnapping 1 (RCW 9A.40.020)
31 Leading Organized Crime (RCW
32 9A.82.060(1)(a))
33 Malicious explosion 3 (RCW
34 70.74.280(3))

1 Problem Sexual Behavior by a Minor 2
2 (section 13 of this act)
3 Sexually Violent Predator Escape (RCW
4 9A.76.115)
5 IX Abandonment of Dependent Person 1
6 (RCW 9A.42.060)
7 Assault of a Child 2 (RCW 9A.36.130)
8 Explosive devices prohibited (RCW
9 70.74.180)
10 Hit and Run—Death (RCW
11 46.52.020(4)(a))
12 Homicide by Watercraft, by being under
13 the influence of intoxicating liquor
14 or any drug (RCW 79A.60.050)
15 Inciting Criminal Profiteering (RCW
16 9A.82.060(1)(b))
17 Malicious placement of an explosive 2
18 (RCW 70.74.270(2))
19 Robbery 1 (RCW 9A.56.200)
20 Sexual Exploitation (RCW 9.68A.040)
21 VIII Arson 1 (RCW 9A.48.020)
22 Commercial Sexual Abuse of a Minor
23 (RCW 9.68A.100)
24 Homicide by Watercraft, by the
25 operation of any vessel in a reckless
26 manner (RCW 79A.60.050)
27 Manslaughter 2 (RCW 9A.32.070)
28 Promoting Prostitution 1 (RCW
29 9A.88.070)
30 Theft of Ammonia (RCW 69.55.010)
31 VII Air bag diagnostic systems (causing
32 bodily injury or death) (RCW
33 46.37.660(2)(b))

1 Air bag replacement requirements
2 (causing bodily injury or death)
3 (RCW 46.37.660(1)(b))
4 Burglary 1 (RCW 9A.52.020)
5 Child Molestation 2 (RCW 9A.44.086)
6 Civil Disorder Training (RCW
7 9A.48.120)
8 Dealing in depictions of minor engaged
9 in sexually explicit conduct 1
10 (RCW 9.68A.050(1))
11 Drive-by Shooting (RCW 9A.36.045)
12 False Reporting 1 (RCW
13 9A.84.040(2)(a))
14 Homicide by Watercraft, by disregard
15 for the safety of others (RCW
16 79A.60.050)
17 Indecent Liberties (without forcible
18 compulsion) (RCW 9A.44.100(1)
19 (b) and (c))
20 Indecent Liberties as a Minor (without
21 forcible compulsion) (RCW
22 9A.44.100(1) (b) and (c))
23 Introducing Contraband 1 (RCW
24 9A.76.140)
25 Malicious placement of an explosive 3
26 (RCW 70.74.270(3))
27 Manufacture or import counterfeit,
28 nonfunctional, damaged, or
29 previously deployed air bag
30 (causing bodily injury or death)
31 (RCW 46.37.650(1)(b))
32 Negligently Causing Death By Use of a
33 Signal Preemption Device (RCW
34 46.37.675)
35 Problem Sexual Behavior by a Minor 3
36 (section 14 of this act)

1 Sell, install, or reinstall counterfeit,
2 nonfunctional, damaged, or
3 previously deployed airbag (RCW
4 46.37.650(2)(b))
5 Sending, bringing into state depictions
6 of minor engaged in sexually
7 explicit conduct 1 (RCW
8 9.68A.060(1))
9 Unlawful Possession of a Firearm in the
10 first degree (RCW 9.41.040(1))
11 Use of a Machine Gun or Bump-fire
12 Stock in Commission of a Felony
13 (RCW 9.41.225)
14 Vehicular Homicide, by disregard for
15 the safety of others (RCW
16 46.61.520)
17 VI Bail Jumping with Murder 1 (RCW
18 9A.76.170(3)(a))
19 Bribery (RCW 9A.68.010)
20 Incest 1 (RCW 9A.64.020(1))
21 Intimidating a Judge (RCW 9A.72.160)
22 Intimidating a Juror/Witness (RCW
23 9A.72.110, 9A.72.130)
24 Malicious placement of an imitation
25 device 2 (RCW 70.74.272(1)(b))
26 Possession of Depictions of a Minor
27 Engaged in Sexually Explicit
28 Conduct 1 (RCW 9.68A.070(1))
29 Rape of a Child 3 (RCW 9A.44.079)
30 Theft of a Firearm (RCW 9A.56.300)
31 Theft from a Vulnerable Adult 1 (RCW
32 9A.56.400(1))
33 Unlawful Storage of Ammonia (RCW
34 69.55.020)
35 V Abandonment of Dependent Person 2
36 (RCW 9A.42.070)

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

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

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

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

10 Child Molestation 3 (RCW 9A.44.089)

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

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

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

18 Domestic Violence Court Order
19 Violation (RCW 10.99.040,
20 10.99.050, 26.09.300, 26.10.220,
21 26.26B.050, 26.50.110, 26.52.070,
22 or 74.34.145)

23 Extortion 1 (RCW 9A.56.120)

24 Extortionate Extension of Credit (RCW
25 9A.82.020)

26 Extortionate Means to Collect
27 Extensions of Credit (RCW
28 9A.82.040)

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

30 Kidnapping 2 (RCW 9A.40.030)

31 Manufacture or import counterfeit,
32 nonfunctional, damaged, or
33 previously deployed air bag (RCW
34 46.37.650(1)(c))

35 Perjury 1 (RCW 9A.72.020)

1 Persistent prison misbehavior (RCW
2 9.94.070)
3 Possession of a Stolen Firearm (RCW
4 9A.56.310)
5 Rape 3 (RCW 9A.44.060)
6 Rape 3 as a Minor (RCW 9A.44.060)
7 Rendering Criminal Assistance 1 (RCW
8 9A.76.070)
9 Sell, install, or reinstall counterfeit,
10 nonfunctional, damaged, or
11 previously deployed airbag (RCW
12 46.37.650(2)(c))
13 Sending, Bringing into State Depictions
14 of Minor Engaged in Sexually
15 Explicit Conduct 2 (RCW
16 9.68A.060(2))
17 Sexual Misconduct with a Minor 1
18 (RCW 9A.44.093)
19 Sexually Violating Human Remains
20 (RCW 9A.44.105)
21 Stalking (RCW 9A.46.110)
22 Taking Motor Vehicle Without
23 Permission 1 (RCW 9A.56.070)
24 IV Arson 2 (RCW 9A.48.030)
25 Assault 2 (RCW 9A.36.021)
26 Assault 3 (of a Peace Officer with a
27 Projectile Stun Gun) (RCW
28 9A.36.031(1)(h))
29 Assault 4 (third domestic violence
30 offense) (RCW 9A.36.041(3))
31 Assault by Watercraft (RCW
32 79A.60.060)
33 Bribing a Witness/Bribe Received by
34 Witness (RCW 9A.72.090,
35 9A.72.100)
36 Cheating 1 (RCW 9.46.1961)

1 Commercial Bribery (RCW 9A.68.060)
2 Counterfeiting (RCW 9.16.035(4))
3 Driving While Under the Influence
4 (RCW 46.61.502(6))
5 Endangerment with a Controlled
6 Substance (RCW 9A.42.100)
7 Escape 1 (RCW 9A.76.110)
8 Hate Crime (RCW 9A.36.080)
9 Hit and Run—Injury (RCW
10 46.52.020(4)(b))
11 Hit and Run with Vessel—Injury
12 Accident (RCW 79A.60.200(3))
13 Identity Theft 1 (RCW 9.35.020(2))
14 Indecent Exposure to Person Under Age
15 Fourteen (subsequent sex offense)
16 (RCW 9A.88.010)
17 Influencing Outcome of Sporting Event
18 (RCW 9A.82.070)
19 Physical Control of a Vehicle While
20 Under the Influence (RCW
21 46.61.504(6))
22 Possession of Depictions of a Minor
23 Engaged in Sexually Explicit
24 Conduct 2 (RCW 9.68A.070(2))
25 Residential Burglary (RCW 9A.52.025)
26 Robbery 2 (RCW 9A.56.210)
27 Theft of Livestock 1 (RCW 9A.56.080)
28 Threats to Bomb (RCW 9.61.160)
29 Trafficking in Stolen Property 1 (RCW
30 9A.82.050)
31 Unlawful factoring of a credit card or
32 payment card transaction (RCW
33 9A.56.290(4)(b))

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

1 Communication with a Minor for
2 Immoral Purposes (RCW
3 9.68A.090)
4 Criminal Gang Intimidation (RCW
5 9A.46.120)
6 Custodial Assault (RCW 9A.36.100)
7 Cyberstalking (subsequent conviction or
8 threat of death) (RCW 9.61.260(3))
9 Escape 2 (RCW 9A.76.120)
10 Extortion 2 (RCW 9A.56.130)
11 False Reporting 2 (RCW
12 9A.84.040(2)(b))
13 Harassment (RCW 9A.46.020)
14 Intimidating a Public Servant (RCW
15 9A.76.180)
16 Introducing Contraband 2 (RCW
17 9A.76.150)
18 Malicious Injury to Railroad Property
19 (RCW 81.60.070)
20 Manufacture of Untraceable Firearm
21 with Intent to Sell (RCW 9.41.190)
22 Manufacture or Assembly of an
23 Undetectable Firearm or
24 Untraceable Firearm (RCW
25 9.41.325)
26 Mortgage Fraud (RCW 19.144.080)
27 Negligently Causing Substantial Bodily
28 Harm By Use of a Signal
29 Preemption Device (RCW
30 46.37.674)
31 Organized Retail Theft 1 (RCW
32 9A.56.350(2))
33 Perjury 2 (RCW 9A.72.030)
34 Possession of Incendiary Device (RCW
35 9.40.120)

1 Possession of Machine Gun, Bump-Fire
2 Stock, Undetectable Firearm, or
3 Short-Barreled Shotgun or Rifle
4 (RCW 9.41.190)
5 Promoting Prostitution 2 (RCW
6 9A.88.080)
7 Retail Theft with Special Circumstances
8 1 (RCW 9A.56.360(2))
9 Securities Act violation (RCW
10 21.20.400)
11 Tampering with a Witness (RCW
12 9A.72.120)
13 Telephone Harassment (subsequent
14 conviction or threat of death) (RCW
15 9.61.230(2))
16 Theft of Livestock 2 (RCW 9A.56.083)
17 Theft with the Intent to Resell 1 (RCW
18 9A.56.340(2))
19 Trafficking in Stolen Property 2 (RCW
20 9A.82.055)
21 Unlawful Hunting of Big Game 1 (RCW
22 77.15.410(3)(b))
23 Unlawful Imprisonment (RCW
24 9A.40.040)
25 Unlawful Misbranding of Fish or
26 Shellfish 1 (RCW 77.140.060(3))
27 Unlawful possession of firearm in the
28 second degree (RCW 9.41.040(2))
29 Unlawful Taking of Endangered Fish or
30 Wildlife 1 (RCW 77.15.120(3)(b))
31 Unlawful Trafficking in Fish, Shellfish,
32 or Wildlife 1 (RCW
33 77.15.260(3)(b))
34 Unlawful Use of a Nondesignated
35 Vessel (RCW 77.15.530(4))

1 Vehicular Assault, by the operation or
2 driving of a vehicle with disregard
3 for the safety of others (RCW
4 46.61.522)

5 Willful Failure to Return from Work
6 Release (RCW 72.65.070)

7 II Commercial Fishing Without a License
8 1 (RCW 77.15.500(3)(b))

9 Computer Trespass 1 (RCW 9A.90.040)

10 Counterfeiting (RCW 9.16.035(3))

11 Electronic Data Service Interference
12 (RCW 9A.90.060)

13 Electronic Data Tampering 1 (RCW
14 9A.90.080)

15 Electronic Data Theft (RCW 9A.90.100)

16 Engaging in Fish Dealing Activity
17 Unlicensed 1 (RCW 77.15.620(3))

18 Escape from Community Custody
19 (RCW 72.09.310)

20 Failure to Register as a Sex Offender
21 (second or subsequent offense)
22 (RCW 9A.44.130 prior to June 10,
23 2010, and RCW 9A.44.132)

24 Health Care False Claims (RCW
25 48.80.030)

26 Identity Theft 2 (RCW 9.35.020(3))

27 Improperly Obtaining Financial
28 Information (RCW 9.35.010)

29 Malicious Mischief 1 (RCW 9A.48.070)

30 Organized Retail Theft 2 (RCW
31 9A.56.350(3))

32 Possession of Stolen Property 1 (RCW
33 9A.56.150)

34 Possession of a Stolen Vehicle (RCW
35 9A.56.068)

1 Retail Theft with Special Circumstances
2 2 (RCW 9A.56.360(3))
3 Scrap Processing, Recycling, or
4 Supplying Without a License
5 (second or subsequent offense)
6 (RCW 19.290.100)
7 Theft 1 (RCW 9A.56.030)
8 Theft of a Motor Vehicle (RCW
9 9A.56.065)
10 Theft of Rental, Leased, Lease-
11 purchased, or Loaned Property
12 (valued at five thousand dollars or
13 more) (RCW 9A.56.096(5)(a))
14 Theft with the Intent to Resell 2 (RCW
15 9A.56.340(3))
16 Trafficking in Insurance Claims (RCW
17 48.30A.015)
18 Unlawful factoring of a credit card or
19 payment card transaction (RCW
20 9A.56.290(4)(a))
21 Unlawful Participation of Non-Indians
22 in Indian Fishery (RCW
23 77.15.570(2))
24 Unlawful Practice of Law (RCW
25 2.48.180)
26 Unlawful Purchase or Use of a License
27 (RCW 77.15.650(3)(b))
28 Unlawful Trafficking in Fish, Shellfish,
29 or Wildlife 2 (RCW
30 77.15.260(3)(a))
31 Unlicensed Practice of a Profession or
32 Business (RCW 18.130.190(7))
33 Voyeurism 1 (RCW 9A.44.115)
34 Voyeurism 1 as a Minor (RCW
35 9A.44.115)

1 I Attempting to Elude a Pursuing Police
2 Vehicle (RCW 46.61.024)
3 False Verification for Welfare (RCW
4 74.08.055)
5 Forgery (RCW 9A.60.020)
6 Fraudulent Creation or Revocation of a
7 Mental Health Advance Directive
8 (RCW 9A.60.060)
9 Malicious Mischief 2 (RCW 9A.48.080)
10 Mineral Trespass (RCW 78.44.330)
11 Possession of Stolen Property 2 (RCW
12 9A.56.160)
13 Reckless Burning 1 (RCW 9A.48.040)
14 Spotlighting Big Game 1 (RCW
15 77.15.450(3)(b))
16 Suspension of Department Privileges 1
17 (RCW 77.15.670(3)(b))
18 Taking Motor Vehicle Without
19 Permission 2 (RCW 9A.56.075)
20 Theft 2 (RCW 9A.56.040)
21 Theft from a Vulnerable Adult 2 (RCW
22 9A.56.400(2))
23 Theft of Rental, Leased, Lease-
24 purchased, or Loaned Property
25 (valued at seven hundred fifty
26 dollars or more but less than five
27 thousand dollars) (RCW
28 9A.56.096(5)(b))
29 Transaction of insurance business
30 beyond the scope of licensure
31 (RCW 48.17.063)
32 Unlawful Fish and Shellfish Catch
33 Accounting (RCW 77.15.630(3)(b))
34 Unlawful Issuance of Checks or Drafts
35 (RCW 9A.56.060)

1 Unlawful Possession of Fictitious
2 Identification (RCW 9A.56.320)
3 Unlawful Possession of Instruments of
4 Financial Fraud (RCW 9A.56.320)
5 Unlawful Possession of Payment
6 Instruments (RCW 9A.56.320)
7 Unlawful Possession of a Personal
8 Identification Device (RCW
9 9A.56.320)
10 Unlawful Production of Payment
11 Instruments (RCW 9A.56.320)
12 Unlawful Releasing, Planting,
13 Possessing, or Placing Deleterious
14 Exotic Wildlife (RCW
15 77.15.250(2)(b))
16 Unlawful Trafficking in Food Stamps
17 (RCW 9.91.142)
18 Unlawful Use of Food Stamps (RCW
19 9.91.144)
20 Unlawful Use of Net to Take Fish 1
21 (RCW 77.15.580(3)(b))
22 Unlawful Use of Prohibited Aquatic
23 Animal Species (RCW
24 77.15.253(3))
25 Vehicle Prowl 1 (RCW 9A.52.095)
26 Violating Commercial Fishing Area or
27 Time 1 (RCW 77.15.550(3)(b))

28 NEW SECTION. **Sec. 39.** A new section is added to chapter 9A.44
29 RCW to read as follows:

30 (1) Sections 13 through 16, 18, 19, and 21 through 27 of this act
31 are retroactive to the extent that:

32 (a) A violation of RCW 9A.44.073 adjudicated prior to the
33 effective date of this section committed by a person alleged in the
34 charging documents to have a date of birth that indicates that the
35 person was under the age of 18 at the time of the offense shall be
36 considered a violation of section 12 of this act;

1 (b) Violations of RCW 9A.44.083 and 9A.44.076 adjudicated prior
2 to the effective date of this section committed by a person alleged
3 in the charging documents to have a date of birth that indicates that
4 the person was under the age of 18 at the time of the offense shall
5 be considered violations of section 13 of this act;

6 (c) A violation of RCW 9A.44.086 adjudicated prior to the
7 effective date of this section committed by a person alleged in the
8 charging documents to have a date of birth that indicates that the
9 person was under the age of 18 at the time of the offense shall be
10 considered a violation of section 14 of this act; and

11 (d) Violations of RCW 9A.44.040, 9A.44.050, 9A.44.060, 9A.44.100,
12 9A.44.105, 9A.44.115, 9A.44.132, and 9A.44.196 adjudicated prior to
13 the effective date of this section committed by a person alleged in
14 the charging documents to have a date of birth that indicates that
15 the person was under the age of 18 at the time of the offense shall
16 be considered to bear an "as a minor" designation.

17 (2) Public officials shall refer to the offenses described under
18 subsection (1) of this section prospectively using their new
19 designations in both oral and written communications created after
20 the effective date of this section.

21 (3) A person convicted or adjudicated for an offense described
22 under subsection (1) of this section committed when the person was
23 under the age of 18 is entitled to refer to the prior offenses for
24 all purposes using the new designation as provided under subsection
25 (1) of this section.

26 (4) This act shall not create a basis for vacation, new trial,
27 resentencing, appeal, or modification of judgment and sentence for
28 any conviction or adjudication entered prior to the effective date of
29 this section.

30 (5) The Washington state patrol shall update its conviction
31 records to reflect new offense designations in accordance with this
32 section by October 1, 2021, and submit updates to all appropriate
33 federal databases.

34 NEW SECTION. **Sec. 40.** A new section is added to chapter 9.68A
35 RCW to read as follows:

36 (1) Sections 28 through 34 of this act are retroactive to the
37 extent that violations of RCW 9.68A.040, 9.68A.060, 9.68A.090,
38 9.68A.100, 9.68A.101, 9.68A.102, and 9.68A.103 adjudicated prior to
39 the effective date of this section and committed by a person alleged

1 in the charging documents to have a date of birth that indicates that
2 the person was under the age of 18 at the time of the offense shall
3 be considered to bear an "as a minor" designation.

4 (2) Public officials shall refer to the offenses described under
5 subsection (1) of this section prospectively using their new
6 designations in both oral and written communications created after
7 the effective date of this section.

8 (3) A person convicted or adjudicated for an offense described in
9 subsection (1) of this section committed when the person was under
10 the age of 18 is entitled to refer to the prior offense for all
11 purposes using the new designation as provided under subsection (1)
12 of this section.

13 (4) This act shall not create a basis for vacation, new trial,
14 resentencing, appeal, or modification of judgment and sentence for
15 any conviction or adjudication entered prior to the effective date of
16 this section.

17 (5) The Washington state patrol shall update its conviction
18 records to reflect the new offense designations in accordance with
19 this section by October 1, 2021, and submit updates to all
20 appropriate federal databases.

21 NEW SECTION. **Sec. 41.** A new section is added to chapter 9.94A
22 RCW to read as follows:

23 (1) Section 35 of this act is retroactive to the extent that
24 convictions that include the special allegation under RCW 9.94A.835
25 adjudicated prior to the effective date of this section and committed
26 by a person alleged in the charging documents to have a date of birth
27 that indicates that the person was under the age of 18 at the time of
28 the offense shall be considered to bear an "as a minor" designation.

29 (2) Public officials shall refer to the offenses described under
30 subsection (1) of this section prospectively using their new
31 designations in both oral and written communications created after
32 the effective date of this section.

33 (3) A person convicted or adjudicated for an offense described in
34 subsection (1) of this section committed when the person was under
35 the age of 18 is entitled to refer to the prior offense for all
36 purposes using the new designation as provided under subsection (1)
37 of this section.

38 (4) This act shall not create a basis for vacation, new trial,
39 resentencing, appeal, or modification of judgment and sentence for

1 any conviction or adjudication entered prior to the effective date of
2 this section.

3 (5) The Washington state patrol shall update its conviction
4 records to reflect the new offense designations in accordance with
5 this section by October 1, 2021, and submit updates to all
6 appropriate federal databases.

7 **PART III**

8 **MISCELLANEOUS PROVISIONS**

9 **Sec. 42.** RCW 9.94A.507 and 2008 c 231 s 33 are each amended to
10 read as follows:

11 (1) An offender who is not a persistent offender shall be
12 sentenced under this section if the offender:

13 (a) Is convicted of:

14 (i) Rape in the first degree, rape in the second degree, rape of
15 a child in the first degree, child molestation in the first degree,
16 rape of a child in the second degree, or indecent liberties by
17 forcible compulsion;

18 (ii) Any of the following offenses with a finding of sexual
19 motivation: Murder in the first degree, murder in the second degree,
20 homicide by abuse, kidnapping in the first degree, kidnapping in the
21 second degree, assault in the first degree, assault in the second
22 degree, assault of a child in the first degree, assault of a child in
23 the second degree, or burglary in the first degree; or

24 (iii) An attempt to commit any crime listed in this subsection
25 (1)(a); or

26 (b) Has a prior conviction for an offense listed in RCW
27 9.94A.030(31)(b), and is convicted of any sex offense other than
28 failure to register.

29 (2) An offender convicted of rape of a child in the first or
30 second degree or child molestation in the first degree who was
31 seventeen years of age or younger at the time of the offense shall
32 not be sentenced under this section.

33 (3)(a) Upon a finding that the offender is subject to sentencing
34 under this section, the court shall impose a sentence to a maximum
35 term and a minimum term.

36 (b) The maximum term shall consist of the statutory maximum
37 sentence for the offense.

1 (c)(i) Except as provided in (c)(ii) of this subsection, the
2 minimum term shall be either within the standard sentence range for
3 the offense, or outside the standard sentence range pursuant to RCW
4 9.94A.535, if the offender is otherwise eligible for such a sentence.

5 (ii) If the offense that caused the offender to be sentenced
6 under this section was rape of a child in the first degree, rape of a
7 child in the second degree, or child molestation in the first degree,
8 and there has been a finding that the offense was predatory under RCW
9 9.94A.836, the minimum term shall be either the maximum of the
10 standard sentence range for the offense or twenty-five years,
11 whichever is greater. If the offense that caused the offender to be
12 sentenced under this section was rape in the first degree, rape in
13 the second degree, indecent liberties by forcible compulsion, or
14 kidnapping in the first degree with sexual motivation, and there has
15 been a finding that the victim was under the age of fifteen at the
16 time of the offense under RCW 9.94A.837, the minimum term shall be
17 either the maximum of the standard sentence range for the offense or
18 twenty-five years, whichever is greater. If the offense that caused
19 the offender to be sentenced under this section is rape in the first
20 degree, rape in the second degree with forcible compulsion, indecent
21 liberties with forcible compulsion, or kidnapping in the first degree
22 with sexual motivation, and there has been a finding under RCW
23 9.94A.838 that the victim was, at the time of the offense,
24 developmentally disabled, mentally disordered, or a frail elder or
25 vulnerable adult, the minimum sentence shall be either the maximum of
26 the standard sentence range for the offense or twenty-five years,
27 whichever is greater.

28 (d) The minimum terms in (c)(ii) of this subsection do not apply
29 to ~~((a juvenile tried as an adult pursuant to RCW 13.04.030(1)(e) (i)~~
30 ~~or (v))~~ offenses committed by a person who was under the age of 18
31 at the time of the offense. The minimum term for such a juvenile
32 shall be imposed under (c)(i) of this subsection.

33 (4) A person sentenced under subsection (3) of this section shall
34 serve the sentence in a facility or institution operated, or utilized
35 under contract, by the state.

36 (5) When a court sentences a person to the custody of the
37 department under this section, the court shall, in addition to the
38 other terms of the sentence, sentence the offender to community
39 custody under the supervision of the department and the authority of

1 the board for any period of time the person is released from total
2 confinement before the expiration of the maximum sentence.

3 (6) (a) As part of any sentence under this section, the court
4 shall also require the offender to comply with any conditions imposed
5 by the board under RCW 9.95.420 through 9.95.435.

6 (b) An offender released by the board under RCW 9.95.420 is
7 subject to the supervision of the department until the expiration of
8 the maximum term of the sentence. The department shall monitor the
9 offender's compliance with conditions of community custody imposed by
10 the court, department, or board, and promptly report any violations
11 to the board. Any violation of conditions of community custody
12 established or modified by the board are subject to the provisions of
13 RCW 9.95.425 through 9.95.440.

14 **Sec. 43.** RCW 9.94A.525 and 2017 c 272 s 3 are each amended to
15 read as follows:

16 The offender score is measured on the horizontal axis of the
17 sentencing grid. The offender score rules are as follows:

18 The offender score is the sum of points accrued under this
19 section rounded down to the nearest whole number.

20 (1) A prior conviction is a conviction which exists before the
21 date of sentencing for the offense for which the offender score is
22 being computed. Convictions entered or sentenced on the same date as
23 the conviction for which the offender score is being computed shall
24 be deemed "other current offenses" within the meaning of RCW
25 9.94A.589.

26 (2) (a) Class A and sex prior felony convictions shall always be
27 included in the offender score.

28 (b) Class B prior felony convictions other than sex offenses
29 shall not be included in the offender score, if since the last date
30 of release from confinement (including full-time residential
31 treatment) pursuant to a felony conviction, if any, or entry of
32 judgment and sentence, the offender had spent ten consecutive years
33 in the community without committing any crime that subsequently
34 results in a conviction.

35 (c) Except as provided in (e) of this subsection, class C prior
36 felony convictions other than sex offenses shall not be included in
37 the offender score if, since the last date of release from
38 confinement (including full-time residential treatment) pursuant to a
39 felony conviction, if any, or entry of judgment and sentence, the

1 offender had spent five consecutive years in the community without
2 committing any crime that subsequently results in a conviction.

3 (d) Except as provided in (e) of this subsection, serious traffic
4 convictions shall not be included in the offender score if, since the
5 last date of release from confinement (including full-time
6 residential treatment) pursuant to a conviction, if any, or entry of
7 judgment and sentence, the offender spent five years in the community
8 without committing any crime that subsequently results in a
9 conviction.

10 (e) If the present conviction is felony driving while under the
11 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
12 felony physical control of a vehicle while under the influence of
13 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate
14 crimes for the offense as defined by RCW 46.61.5055(14) shall be
15 included in the offender score, and prior convictions for felony
16 driving while under the influence of intoxicating liquor or any drug
17 (RCW 46.61.502(6)) or felony physical control of a vehicle while
18 under the influence of intoxicating liquor or any drug (RCW
19 46.61.504(6)) shall always be included in the offender score. All
20 other convictions of the defendant shall be scored according to this
21 section.

22 (f) Prior convictions for a repetitive domestic violence offense,
23 as defined in RCW 9.94A.030, shall not be included in the offender
24 score if, since the last date of release from confinement or entry of
25 judgment and sentence, the offender had spent ten consecutive years
26 in the community without committing any crime that subsequently
27 results in a conviction.

28 (g) This subsection applies to both adult and juvenile prior
29 convictions.

30 (3) Out-of-state convictions for offenses shall be classified
31 according to the comparable offense definitions and sentences
32 provided by Washington law. Federal convictions for offenses shall be
33 classified according to the comparable offense definitions and
34 sentences provided by Washington law. If there is no clearly
35 comparable offense under Washington law or the offense is one that is
36 usually considered subject to exclusive federal jurisdiction, the
37 offense shall be scored as a class C felony equivalent if it was a
38 felony under the relevant federal statute.

1 (4) Score prior convictions for felony anticipatory offenses
2 (attempts, criminal solicitations, and criminal conspiracies) the
3 same as if they were convictions for completed offenses.

4 (5) (a) In the case of multiple prior convictions, for the purpose
5 of computing the offender score, count all convictions separately,
6 except:

7 (i) Prior offenses which were found, under RCW 9.94A.589(1) (a),
8 to encompass the same criminal conduct, shall be counted as one
9 offense, the offense that yields the highest offender score. The
10 current sentencing court shall determine with respect to other prior
11 adult offenses for which sentences were served concurrently or prior
12 juvenile offenses for which sentences were served consecutively,
13 whether those offenses shall be counted as one offense or as separate
14 offenses using the "same criminal conduct" analysis found in RCW
15 9.94A.589(1) (a), and if the court finds that they shall be counted as
16 one offense, then the offense that yields the highest offender score
17 shall be used. The current sentencing court may presume that such
18 other prior offenses were not the same criminal conduct from
19 sentences imposed on separate dates, or in separate counties or
20 jurisdictions, or in separate complaints, indictments, or
21 informations;

22 (ii) In the case of multiple prior convictions for offenses
23 committed before July 1, 1986, for the purpose of computing the
24 offender score, count all adult convictions served concurrently as
25 one offense, and count all juvenile convictions entered on the same
26 date as one offense. Use the conviction for the offense that yields
27 the highest offender score.

28 (b) As used in this subsection (5), "served concurrently" means
29 that: (i) The latter sentence was imposed with specific reference to
30 the former; (ii) the concurrent relationship of the sentences was
31 judicially imposed; and (iii) the concurrent timing of the sentences
32 was not the result of a probation or parole revocation on the former
33 offense.

34 (6) If the present conviction is one of the anticipatory offenses
35 of criminal attempt, solicitation, or conspiracy, count each prior
36 conviction as if the present conviction were for a completed offense.
37 When these convictions are used as criminal history, score them the
38 same as a completed crime.

39 (7) If the present conviction is for a nonviolent offense and not
40 covered by subsection (11), (12), or (13) of this section, count one

1 point for each adult prior felony conviction and one point for each
2 juvenile prior violent felony conviction and 1/2 point for each
3 juvenile prior nonviolent felony conviction.

4 (8) If the present conviction is for a violent offense and not
5 covered in subsection (9), (10), (11), (12), or (13) of this section,
6 count two points for each prior adult and juvenile violent felony
7 conviction, one point for each prior adult nonviolent felony
8 conviction, and 1/2 point for each prior juvenile nonviolent felony
9 conviction.

10 (9) If the present conviction is for a serious violent offense,
11 count three points for prior adult and juvenile convictions for
12 crimes in this category, two points for each prior adult and juvenile
13 violent conviction (not already counted), one point for each prior
14 adult nonviolent felony conviction, and 1/2 point for each prior
15 juvenile nonviolent felony conviction.

16 (10) If the present conviction is for Burglary 1, count prior
17 convictions as in subsection (8) of this section; however count two
18 points for each prior adult Burglary 2 or residential burglary
19 conviction, and one point for each prior juvenile Burglary 2 or
20 residential burglary conviction.

21 (11) If the present conviction is for a felony traffic offense
22 count two points for each adult or juvenile prior conviction for
23 Vehicular Homicide or Vehicular Assault; for each felony offense
24 count one point for each adult and 1/2 point for each juvenile prior
25 conviction; for each serious traffic offense, other than those used
26 for an enhancement pursuant to RCW 46.61.520(2), count one point for
27 each adult and 1/2 point for each juvenile prior conviction; count
28 one point for each adult and 1/2 point for each juvenile prior
29 conviction for operation of a vessel while under the influence of
30 intoxicating liquor or any drug.

31 (12) If the present conviction is for homicide by watercraft or
32 assault by watercraft count two points for each adult or juvenile
33 prior conviction for homicide by watercraft or assault by watercraft;
34 for each felony offense count one point for each adult and 1/2 point
35 for each juvenile prior conviction; count one point for each adult
36 and 1/2 point for each juvenile prior conviction for driving under
37 the influence of intoxicating liquor or any drug, actual physical
38 control of a motor vehicle while under the influence of intoxicating
39 liquor or any drug, or operation of a vessel while under the
40 influence of intoxicating liquor or any drug.

1 (13) If the present conviction is for manufacture of
2 methamphetamine count three points for each adult prior manufacture
3 of methamphetamine conviction and two points for each juvenile
4 manufacture of methamphetamine offense. If the present conviction is
5 for a drug offense and the offender has a criminal history that
6 includes a sex offense or serious violent offense, count three points
7 for each adult prior felony drug offense conviction and two points
8 for each juvenile drug offense. All other adult and juvenile felonies
9 are scored as in subsection (8) of this section if the current drug
10 offense is violent, or as in subsection (7) of this section if the
11 current drug offense is nonviolent.

12 (14) If the present conviction is for Escape from Community
13 Custody, RCW 72.09.310, count only prior escape convictions in the
14 offender score. Count adult prior escape convictions as one point and
15 juvenile prior escape convictions as 1/2 point.

16 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
17 Escape 2, RCW 9A.76.120, count adult prior convictions as one point
18 and juvenile prior convictions as 1/2 point.

19 (16) If the present conviction is for Burglary 2 or residential
20 burglary, count priors as in subsection (7) of this section; however,
21 count two points for each adult and juvenile prior Burglary 1
22 conviction, two points for each adult prior Burglary 2 or residential
23 burglary conviction, and one point for each juvenile prior Burglary 2
24 or residential burglary conviction.

25 (17) If the present conviction is for a sex offense, count priors
26 as in subsections (7) through (11) and (13) through (16) of this
27 section; however, count three points for each ((adult and juvenile))
28 prior sex offense conviction committed while the offender was 18
29 years of age or older.

30 ~~(18) ((If the present conviction is for failure to register as a~~
31 ~~sex offender under RCW 9A.44.130 or 9A.44.132, count priors as in~~
32 ~~subsections (7) through (11) and (13) through (16) of this section;~~
33 ~~however count three points for each adult and juvenile prior sex~~
34 ~~offense conviction, excluding prior convictions for failure to~~
35 ~~register as a sex offender under RCW 9A.44.130 or 9A.44.132, which~~
36 ~~shall count as one point.~~

37 ~~(19))~~ If the present conviction is for an offense committed
38 while the offender was under community custody, add one point. For
39 purposes of this subsection, community custody includes community

1 placement or postrelease supervision, as defined in chapter 9.94B
2 RCW.

3 ~~((20))~~ (19) If the present conviction is for Theft of a Motor
4 Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle
5 Without Permission 1, or Taking a Motor Vehicle Without Permission 2,
6 count priors as in subsections (7) through ~~((18))~~ (17) of this
7 section; however, count one point for prior convictions of Vehicle
8 Prowling 2, and three points for each adult and juvenile prior Theft
9 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of
10 Stolen Property 1 (of a motor vehicle), Possession of Stolen Property
11 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a
12 Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or
13 Taking a Motor Vehicle Without Permission 2 conviction.

14 ~~((21))~~ (20) If the present conviction is for a felony domestic
15 violence offense where domestic violence as defined in RCW 9.94A.030
16 was pleaded and proven, count priors as in subsections (7) through
17 ~~((20))~~ (19) of this section; however, count points as follows:

18 (a) Count two points for each adult prior conviction where
19 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
20 after August 1, 2011, for any of the following offenses: A felony
21 violation of a no-contact or protection order RCW 26.50.110, felony
22 Harassment (RCW 9A.46.020(2)(b)), felony Stalking (RCW
23 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020), Kidnapping 1 (RCW
24 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful imprisonment (RCW
25 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2 (RCW 9A.56.210),
26 Assault 1 (RCW 9A.36.011), Assault 2 (RCW 9A.36.021), Assault 3 (RCW
27 9A.36.031), Arson 1 (RCW 9A.48.020), or Arson 2 (RCW 9A.48.030);

28 (b) Count two points for each adult prior conviction where
29 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
30 after July 23, 2017, for any of the following offenses: Assault of a
31 child in the first degree, RCW 9A.36.120; Assault of a child in the
32 second degree, RCW 9A.36.130; Assault of a child in the third degree,
33 RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW
34 9A.42.020; or Criminal Mistreatment in the second degree, RCW
35 9A.42.030;

36 (c) Count one point for each second and subsequent juvenile
37 conviction where domestic violence as defined in RCW 9.94A.030 was
38 pleaded and proven after August 1, 2011, for the offenses listed in
39 (a) of this subsection; and

1 (d) Count one point for each adult prior conviction for a
2 repetitive domestic violence offense as defined in RCW 9.94A.030,
3 where domestic violence as defined in RCW 9.94A.030, was pleaded and
4 proven after August 1, 2011.

5 (~~(22)~~) (21) The fact that a prior conviction was not included
6 in an offender's offender score or criminal history at a previous
7 sentencing shall have no bearing on whether it is included in the
8 criminal history or offender score for the current offense. Prior
9 convictions that were not counted in the offender score or included
10 in criminal history under repealed or previous versions of the
11 sentencing reform act shall be included in criminal history and shall
12 count in the offender score if the current version of the sentencing
13 reform act requires including or counting those convictions. Prior
14 convictions that were not included in criminal history or in the
15 offender score shall be included upon any resentencing to ensure
16 imposition of an accurate sentence.

17 **Sec. 44.** RCW 13.40.162 and 2020 c 249 s 1 are each amended to
18 read as follows:

19 (1) A juvenile offender is eligible for the special sex offender
20 disposition alternative when:

21 (a) The offender is found to have committed a sex offense, other
22 than a sex offense that is also a serious violent offense as defined
23 by RCW 9.94A.030, and the offender has no history of a prior sex
24 offense; or

25 (b) The offender is found to have committed assault in the fourth
26 degree with sexual motivation, and the offender has no history of a
27 prior sex offense.

28 (2) If the court finds the offender is eligible for this
29 alternative, the court, on its own motion or the motion of the state
30 or the respondent, may order an examination to determine whether the
31 respondent is amenable to treatment.

32 (a) The report of the examination shall include at a minimum the
33 following:

34 (i) The respondent's version of the facts and the official
35 version of the facts;

36 (ii) The respondent's offense history;

37 (iii) An assessment of problems in addition to alleged deviant
38 behaviors;

1 (iv) The respondent's social, educational, and employment
2 situation;

3 (v) Other evaluation measures used.

4 The report shall set forth the sources of the evaluator's
5 information.

6 (b) The examiner shall assess and report regarding the
7 respondent's amenability to treatment and relative risk to the
8 community. A proposed treatment plan shall be provided and shall
9 include, at a minimum:

10 (i) The frequency and type of contact between the offender and
11 therapist;

12 (ii) Specific issues to be addressed in the treatment and
13 description of planned treatment modalities;

14 (iii) Monitoring plans, including any requirements regarding
15 living conditions, lifestyle requirements, and monitoring by family
16 members, legal guardians, or others;

17 (iv) Anticipated length of treatment; and

18 (v) Recommended crime-related prohibitions.

19 (c) The court on its own motion may order, or on a motion by the
20 state shall order, a second examination regarding the offender's
21 amenability to treatment. The evaluator shall be selected by the
22 party making the motion. The defendant shall pay the cost of any
23 second examination ordered unless the court finds the defendant to be
24 indigent in which case the state shall pay the cost.

25 (3) After receipt of reports of the examination, the court shall
26 then consider whether the offender and the community will benefit
27 from use of this special sex offender disposition alternative and
28 consider the victim's opinion whether the offender should receive a
29 treatment disposition under this section. If the court determines
30 that this special sex offender disposition alternative is
31 appropriate, then the court shall (~~impose a determinate disposition~~
32 ~~within the standard range for the offense, or if the court concludes,~~
33 ~~and enters reasons for its conclusions, that such disposition would~~
34 ~~cause a manifest injustice, the court shall impose a disposition~~
35 ~~under option D, and the court may suspend)) defer the ((~~execution of~~
36 ~~the~~)) disposition and place the offender on community supervision for
37 at least two years.~~

38 (4) As a condition of the ((~~suspended~~)) deferred disposition, the
39 court may impose the conditions of community supervision and other

1 conditions, including up to thirty days of confinement and
2 requirements that the offender do any one or more of the following:

3 (a) Devote time to a specific education, employment, or
4 occupation;

5 (b) Undergo available outpatient sex offender treatment for up to
6 two years, or inpatient sex offender treatment not to exceed the
7 standard range of confinement for that offense. A community mental
8 health center may not be used for such treatment unless it has an
9 appropriate program designed for sex offender treatment. The
10 respondent shall not change sex offender treatment providers or
11 treatment conditions without first notifying the prosecutor, the
12 probation counselor, and the court, and shall not change providers
13 without court approval after a hearing if the prosecutor or probation
14 counselor object to the change;

15 (c) Remain within prescribed geographical boundaries and notify
16 the court or the probation counselor prior to any change in the
17 offender's address, educational program, or employment;

18 (d) Report to the prosecutor and the probation counselor prior to
19 any change in a sex offender treatment provider. This change shall
20 have prior approval by the court;

21 (e) Report as directed to the court and a probation counselor;

22 (f) Pay (~~all~~) any court-ordered legal financial obligations,
23 perform community restitution, or any combination thereof;

24 (g) Make restitution to the victim for the cost of any counseling
25 reasonably related to the offense; or

26 (h) Comply with the conditions of any court-ordered probation
27 bond.

28 (5) If the court orders twenty-four hour, continuous monitoring
29 of the offender while on probation, the court shall include the basis
30 for this condition in its findings.

31 (6) (a) The court must order the offender not to attend the public
32 or approved private elementary, middle, or high school attended by
33 the victim or the victim's siblings.

34 (b) The parents or legal guardians of the offender are
35 responsible for transportation or other costs associated with the
36 offender's change of school that would otherwise be paid by the
37 school district.

38 (c) The court shall send notice of the deferred disposition and
39 restriction on attending the same school as the victim or victim's
40 siblings to the public or approved private school the juvenile will

1 attend, if known, or if unknown, to the approved private schools and
2 the public school district board of directors of the district in
3 which the juvenile resides or intends to reside. This notice must be
4 sent at the earliest possible date but not later than ten calendar
5 days after entry of the deferred disposition.

6 ~~(7) ((For offenders required to register under RCW 9A.44.130, at
7 the end of the supervision ordered under this disposition
8 alternative, there is a presumption that the offender is sufficiently
9 rehabilitated to warrant removal from the central registry of sex
10 offenders. The court shall relieve the offender's duty to register
11 unless the court finds that the offender is not sufficiently
12 rehabilitated to warrant removal and may consider the following
13 factors:~~

14 ~~(a) The nature of the offense committed, including the number of
15 victims and the length of the offense history;~~

16 ~~(b) Any subsequent criminal history of the juvenile;~~

17 ~~(c) The juvenile's compliance with supervision requirements;~~

18 ~~(d) The length of time since the charged incident occurred;~~

19 ~~(e) Any input from community corrections officers, juvenile
20 parole or probation officers, law enforcement, or treatment
21 providers;~~

22 ~~(f) The juvenile's participation in sex offender treatment;~~

23 ~~(g) The juvenile's participation in other treatment and
24 rehabilitative programs;~~

25 ~~(h) The juvenile's stability in employment and housing;~~

26 ~~(i) The juvenile's community and personal support system;~~

27 ~~(j) Any risk assessments or evaluations prepared by a qualified
28 professional related to the juvenile;~~

29 ~~(k) Any updated polygraph examination completed by the juvenile;~~

30 ~~(l) Any input of the victim; and~~

31 ~~(m) Any other factors the court may consider relevant.~~

32 ~~(8-))~~ (a) The sex offender treatment provider shall submit
33 quarterly reports on the respondent's progress in treatment to the
34 court and the parties. The reports shall reference the treatment plan
35 and include at a minimum the following: Dates of attendance,
36 respondent's compliance with requirements, treatment activities, the
37 respondent's relative progress in treatment, and any other material
38 specified by the court at the time of the disposition.

39 (b) At the time of the deferred disposition, the court may set
40 treatment review hearings as the court considers appropriate.

1 (c) Except as provided in this subsection, examinations and
2 treatment ordered pursuant to this subsection shall be conducted by
3 qualified professionals as described under (d) of this subsection,
4 certified sex offender treatment providers, or certified affiliate
5 sex offender treatment providers under chapter 18.155 RCW.

6 (d) A sex offender therapist who examines or treats a juvenile
7 sex offender pursuant to this subsection does not have to be
8 certified by the department of health pursuant to chapter 18.155 RCW
9 if the therapist is a professional licensed under chapter 18.225 or
10 18.83 RCW and the treatment employed is evidence-based for sex
11 offender treatment, or if the court finds that: (i) The offender has
12 already moved to another state or plans to move to another state for
13 reasons other than circumventing the certification requirements; (ii)
14 no certified sex offender treatment providers or certified affiliate
15 sex offender treatment providers are available for treatment within a
16 reasonable geographical distance of the offender's home; and (iii)
17 the evaluation and treatment plan comply with this subsection and the
18 rules adopted by the department of health.

19 ~~((9))~~ (8)(a) If the offender violates any condition of the
20 deferred disposition or the court finds that the respondent is
21 failing to make satisfactory progress in treatment, the court may
22 ~~((revoke))~~:

23 (i) Revoke the ~~((suspension and order execution of the))~~ deferred
24 disposition ~~((or the court may impose))~~;

25 (ii) Impose a penalty of up to thirty days confinement for
26 violating conditions of the deferred disposition ~~((-~~

27 ~~b) The court may order both execution of the))~~; or

28 (iii) Both revoke the deferred disposition and order up to thirty
29 days confinement for the violation of the conditions of the deferred
30 disposition.

31 ~~((e))~~ (b) If the court revokes the deferred disposition, the
32 court shall impose a determinate disposition within the standard
33 range for the offense. If the court concludes, and enters reasons for
34 its conclusions, that such disposition would cause a manifest
35 injustice, the court shall impose a disposition under option D. The
36 court shall give credit for any confinement time previously served if
37 that confinement was for the offense for which the ~~((suspension))~~
38 deferred disposition is being revoked.

39 (9) Unless the deferred disposition is revoked, the court shall
40 schedule a dismissal hearing at the end of the period of supervision.

1 At the conclusion of that hearing, the court shall vacate the
2 respondent's conviction and dismiss the charges unless the state
3 proves by clear and convincing evidence that dismissal of charges is
4 not in the best interest of the respondent and the community.

5 (10) For purposes of this section, "victim" means any person who
6 has sustained emotional, psychological, physical, or financial injury
7 to person or property as a direct result of the crime charged.
8 "Victim" may also include a known parent or guardian of a victim who
9 is a minor child unless the parent or guardian is the perpetrator of
10 the offense.

11 (11) A disposition entered under this section is not appealable
12 under RCW 13.40.230.

13 NEW SECTION. Sec. 45. Sections 4 through 9 and 44 of this act
14 take effect August 1, 2021.

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