
SENATE BILL 6063

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By Senators Frame, Pedersen, Dhingra, Hasegawa, Kuderer, Nguyen, Saldaña, Wellman, and C. Wilson

Read first time 01/09/24. Referred to Committee on Human Services.

1 AN ACT Relating to modifying the definition of persistent
2 offender to exclude convictions for offenses committed by someone
3 under the age of 18 and providing for resentencing; amending RCW
4 9.94A.030; and adding a new section to chapter 9.94A RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A
7 RCW to read as follows:

8 (1) In any criminal case wherein an offender has been sentenced
9 as a persistent offender, the offender must have a resentencing
10 hearing if a conviction for an offense that occurred when the
11 offender was under the age of 18 was used as a basis for the finding
12 that the offender was a persistent offender. The prosecuting attorney
13 for the county in which any offender was sentenced as a persistent
14 offender shall review each sentencing document. If a conviction for
15 an offense that occurred when the offender was under the age of 18
16 was used as a basis for a finding that an offender was a persistent
17 offender, the prosecuting attorney shall, or the offender may, make a
18 motion for relief from sentence to the original sentencing court.

19 (2) The sentencing court shall grant the motion if it finds that
20 a conviction for an offense that was committed when the offender was
21 under the age of 18 was used as a basis for a finding that the

1 offender was a persistent offender and shall immediately set an
2 expedited date for resentencing. At resentencing, the court shall
3 sentence the offender as if the conviction for an offense occurring
4 under the age of 18 was not a most serious offense at the time the
5 original sentence was imposed.

6 (3) Notwithstanding the provisions of RCW 9.94A.345, for purposes
7 of resentencing under this section or sentencing any person as a
8 persistent offender after the effective date of this section, an
9 offense occurring when the offender was under the age of 18 shall not
10 be considered a most serious offense regardless of whether the
11 offense was committed before, on, or after the effective date of
12 chapter 187, Laws of 2019, July 28, 2019.

13 **Sec. 2.** RCW 9.94A.030 and 2022 c 231 s 11 are each amended to
14 read as follows:

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

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

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

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

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

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

38 (6) "Community protection zone" means the area within 880 feet of
39 the facilities and grounds of a public or private school.

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

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

5 (9) "Conviction" means an adjudication of guilt pursuant to Title
6 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
7 and acceptance of a plea of guilty.

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

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

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

24 (b) A conviction may be removed from a defendant's criminal
25 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
26 9.95.240, or a similar out-of-state statute, or if the conviction has
27 been vacated pursuant to a governor's pardon. However, when a
28 defendant is charged with a recidivist offense, "criminal history"
29 includes a vacated prior conviction for the sole purpose of
30 establishing that such vacated prior conviction constitutes an
31 element of the present recidivist offense as provided in RCW
32 9.94A.640(4)(b) and 9.96.060(~~(7)~~) (8)(c).

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

38 (12) "Criminal street gang" means any ongoing organization,
39 association, or group of three or more persons, whether formal or
40 informal, having a common name or common identifying sign or symbol,

1 having as one of its primary activities the commission of criminal
2 acts, and whose members or associates individually or collectively
3 engage in or have engaged in a pattern of criminal street gang
4 activity. This definition does not apply to employees engaged in
5 concerted activities for their mutual aid and protection, or to the
6 activities of labor and bona fide nonprofit organizations or their
7 members or agents.

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (20)(a) "Domestic violence" has the same meaning as defined in
28 RCW 10.99.020.

29 (b) "Domestic violence" also means: (i) Physical harm, bodily
30 injury, assault, or the infliction of fear of imminent physical harm,
31 bodily injury, or assault, sexual assault, or stalking, as defined in
32 RCW 9A.46.110, of one intimate partner by another intimate partner as
33 defined in RCW 10.99.020; or (ii) physical harm, bodily injury,
34 assault, or the infliction of fear of imminent physical harm, bodily
35 injury, or assault, sexual assault, or stalking, as defined in RCW
36 9A.46.110, of one family or household member by another family or
37 household member as defined in RCW 10.99.020.

38 (21) "Drug offender sentencing alternative" is a sentencing
39 option available to persons convicted of a felony offense who are
40 eligible for the option under RCW 9.94A.660.

1 (22) "Drug offense" means:

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

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

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

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

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

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

22 (b) Active or passive global positioning system technology, which
23 detects the location of the monitored individual and notifies the
24 monitoring agency of the monitored individual's location and which
25 may also include electronic monitoring with victim notification
26 technology that is capable of notifying a victim or protected party,
27 either directly or through a monitoring agency, if the monitored
28 individual enters within the restricted distance of a victim or
29 protected party, or within the restricted distance of a designated
30 location.

31 (25) "Escape" means:

32 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
33 the first degree (RCW 9A.76.110), escape in the second degree (RCW
34 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
35 willful failure to return from work release (RCW 72.65.070), or
36 willful failure to be available for supervision by the department
37 while in community custody (RCW 72.09.310); or

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

1 (26) "Felony traffic offense" means:

2 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
3 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
4 run injury-accident (RCW 46.52.020(4)), felony driving while under
5 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
6 or felony physical control of a vehicle while under the influence of
7 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

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

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

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

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

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

33 (31) "Legal financial obligation" means a sum of money that is
34 ordered by a superior court of the state of Washington for legal
35 financial obligations which may include restitution to the victim,
36 statutorily imposed crime victims' compensation fees as assessed
37 pursuant to RCW 7.68.035, court costs, county or interlocal drug
38 funds, court-appointed attorneys' fees, and costs of defense, fines,
39 and any other financial obligation that is assessed to the offender
40 as a result of a felony conviction. Upon conviction for vehicular

1 assault while under the influence of intoxicating liquor or any drug,
2 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
3 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
4 financial obligations may also include payment to a public agency of
5 the expense of an emergency response to the incident resulting in the
6 conviction, subject to RCW 38.52.430.

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

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

12 (b) Assault in the second degree;

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

14 (d) Child molestation in the second degree;

15 (e) Controlled substance homicide;

16 (f) Extortion in the first degree;

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

18 (h) Indecent liberties;

19 (i) Kidnapping in the second degree;

20 (j) Leading organized crime;

21 (k) Manslaughter in the first degree;

22 (l) Manslaughter in the second degree;

23 (m) Promoting prostitution in the first degree;

24 (n) Rape in the third degree;

25 (o) Sexual exploitation;

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

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

34 (r) Any other class B felony offense with a finding of sexual
35 motivation;

36 (s) Any other felony with a deadly weapon verdict under RCW
37 9.94A.825;

38 (t) Any felony offense in effect at any time prior to December 2,
39 1993, that is comparable to a most serious offense under this
40 subsection, or any federal or out-of-state conviction for an offense

1 that under the laws of this state would be a felony classified as a
2 most serious offense under this subsection;

3 (u) (i) A prior conviction for indecent liberties under RCW
4 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
5 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
6 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
7 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
8 until July 1, 1988;

9 (ii) A prior conviction for indecent liberties under RCW
10 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
11 if: (A) The crime was committed against a child under the age of 14;
12 or (B) the relationship between the victim and perpetrator is
13 included in the definition of indecent liberties under RCW
14 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
15 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
16 1993, through July 27, 1997;

17 (v) Any out-of-state conviction for a felony offense with a
18 finding of sexual motivation if the minimum sentence imposed was 10
19 years or more; provided that the out-of-state felony offense must be
20 comparable to a felony offense under this title and Title 9A RCW and
21 the out-of-state definition of sexual motivation must be comparable
22 to the definition of sexual motivation contained in this section.

23 (33) "Nonviolent offense" means an offense which is not a violent
24 offense.

25 (34) "Offender" means a person who has committed a felony
26 established by state law and is 18 years of age or older or is less
27 than 18 years of age but whose case is under superior court
28 jurisdiction under RCW 13.04.030 or has been transferred by the
29 appropriate juvenile court to a criminal court pursuant to RCW
30 13.40.110. In addition, for the purpose of community custody
31 requirements under this chapter, "offender" also means a misdemeanor
32 or gross misdemeanor probationer ordered by a superior court to
33 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
34 supervised by the department pursuant to RCW 9.94A.501 and
35 9.94A.5011. Throughout this chapter, the terms "offender" and
36 "defendant" are used interchangeably.

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

1 home detention has been ordered by the department as part of the
2 parenting program or the graduated reentry program, in an approved
3 residence, for a substantial portion of each day with the balance of
4 the day spent in the community. Partial confinement includes work
5 release, home detention, work crew, electronic monitoring, and a
6 combination of work crew, electronic monitoring, and home detention.

7 (36) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

22 (vii) Hate Crime (RCW 9A.36.080);

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

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

26 (x) Any felony conviction by a person 18 years of age or older
27 with a special finding of involving a juvenile in a felony offense
28 under RCW 9.94A.833;

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

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

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

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

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

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

35 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
36 9A.56.070);

37 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
38 9A.56.075);

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

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

1 (xxi) Intimidating a Witness (RCW 9A.72.110);
2 (xxii) Tampering with a Witness (RCW 9A.72.120);
3 (xxiii) Reckless Endangerment (RCW 9A.36.050);
4 (xxiv) Coercion (RCW 9A.36.070);
5 (xxv) Harassment (RCW 9A.46.020); or
6 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
7 (b) That at least one of the offenses listed in (a) of this
8 subsection shall have occurred after July 1, 2008;
9 (c) That the most recent committed offense listed in (a) of this
10 subsection occurred within three years of a prior offense listed in
11 (a) of this subsection; and
12 (d) Of the offenses that were committed in (a) of this
13 subsection, the offenses occurred on separate occasions or were
14 committed by two or more persons.
15 (37) "Persistent offender" is an offender who:
16 (a) (i) Has been convicted in this state of any felony considered
17 a most serious offense and was 18 years of age or older on the
18 offense date; and
19 (ii) Has, before the commission of the offense under (a) of this
20 subsection, been convicted as an offender, who was 18 years of age or
21 older on the offense date, on at least two separate occasions,
22 whether in this state or elsewhere, of felonies that under the laws
23 of this state would be considered most serious offenses and would be
24 included in the offender score under RCW 9.94A.525; provided that of
25 the two or more previous convictions, at least one conviction must
26 have occurred before the commission of any of the other most serious
27 offenses for which the offender was previously convicted; or
28 (b) (i) Has been convicted, and was 18 years of age or older on
29 the offense date, of: (A) Rape in the first degree, rape of a child
30 in the first degree, child molestation in the first degree, rape in
31 the second degree, rape of a child in the second degree, or indecent
32 liberties by forcible compulsion; (B) any of the following offenses
33 with a finding of sexual motivation: Murder in the first degree,
34 murder in the second degree, homicide by abuse, kidnapping in the
35 first degree, kidnapping in the second degree, assault in the first
36 degree, assault in the second degree, assault of a child in the first
37 degree, assault of a child in the second degree, or burglary in the
38 first degree; or (C) an attempt to commit any crime listed in this
39 subsection (37) (b) (i); and

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

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

38 (39) "Private school" means a school regulated under chapter
39 28A.195 or 28A.205 RCW.

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

1 (41) "Recidivist offense" means a felony offense where a prior
2 conviction of the same offense or other specified offense is an
3 element of the crime including, but not limited to:

4 (a) Assault in the fourth degree where domestic violence is
5 pleaded and proven, RCW 9A.36.041(3);

6 (b) Cyber harassment, RCW 9A.90.120(2)(b)(i);

7 (c) Harassment, RCW 9A.46.020(2)(b)(i);

8 (d) Indecent exposure, RCW 9A.88.010(2)(c);

9 (e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);

10 (f) Telephone harassment, RCW 9.61.230(2)(a); and

11 (g) Violation of a no-contact or protection order, RCW 7.105.450
12 or former RCW 26.50.110(5).

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

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

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

18 (iii) Domestic violence violation of a protection order under
19 chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or
20 violation of a domestic violence protection order under chapter 7.105
21 RCW, that is not a felony offense;

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

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

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

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

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

38 (45) "Serious traffic offense" means:

39 (a) Nonfelony driving while under the influence of intoxicating
40 liquor or any drug (RCW 46.61.502), nonfelony actual physical control

1 while under the influence of intoxicating liquor or any drug (RCW
2 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
3 attended vehicle (RCW 46.52.020(5)); or

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

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

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

10 (ii) Homicide by abuse;

11 (iii) Murder in the second degree;

12 (iv) Manslaughter in the first degree;

13 (v) Assault in the first degree;

14 (vi) Kidnapping in the first degree;

15 (vii) Rape in the first degree;

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

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

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

22 (47) "Sex offense" means:

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

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

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

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

31 (v) A felony violation of RCW 9A.44.132(1) (failure to register
32 as a sex offender) if the person has been convicted of violating RCW
33 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
34 prior to June 10, 2010, on at least one prior occasion;

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

38 (c) A felony with a finding of sexual motivation under RCW
39 9.94A.835 or 13.40.135; or

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

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

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

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

14 (51) "Stranger" means that the victim did not know the offender
15 24 hours before the offense.

16 (52) "Total confinement" means confinement inside the physical
17 boundaries of a facility or institution operated or utilized under
18 contract by the state or any other unit of government for 24 hours a
19 day, or pursuant to RCW 72.64.050 and 72.64.060.

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

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

29 (55) "Victim of domestic violence" means an intimate partner or
30 household member who has been subjected to the infliction of physical
31 harm or sexual and psychological abuse by an intimate partner or
32 household member as part of a pattern of assaultive, coercive, and
33 controlling behaviors directed at achieving compliance from or
34 control over that intimate partner or household member. Domestic
35 violence includes, but is not limited to, the offenses listed in RCW
36 10.99.020 and 26.50.010 committed by an intimate partner or household
37 member against a victim who is an intimate partner or household
38 member.

39 (56) "Victim of sex trafficking, prostitution, or commercial
40 sexual abuse of a minor" means a person who has been forced or

1 coerced to perform a commercial sex act including, but not limited
2 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,
3 9.68A.101, and the trafficking victims protection act of 2000, 22
4 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a
5 commercial sex act when they were less than 18 years of age including
6 but not limited to the offenses defined in chapter 9.68A RCW.

7 (57) "Victim of sexual assault" means any person who is a victim
8 of a sexual assault offense, nonconsensual sexual conduct, or
9 nonconsensual sexual penetration and as a result suffers physical,
10 emotional, financial, or psychological impacts. Sexual assault
11 offenses include, but are not limited to, the offenses defined in
12 chapter 9A.44 RCW.

13 (58) "Violent offense" means:

14 (a) Any of the following felonies:

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

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

19 (iii) Manslaughter in the first degree;

20 (iv) Manslaughter in the second degree;

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

22 (vi) Kidnapping in the second degree;

23 (vii) Arson in the second degree;

24 (viii) Assault in the second degree;

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

26 (x) Extortion in the first degree;

27 (xi) Robbery in the second degree;

28 (xii) Drive-by shooting;

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

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

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

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

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

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

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

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