
SUBSTITUTE HOUSE BILL 1101

State of Washington

69th Legislature

2025 Regular Session

By House Community Safety (originally sponsored by Representatives Jacobsen and Klicker)

READ FIRST TIME 02/03/25.

1 AN ACT Relating to vehicular homicide offenses; amending RCW
2 9.94A.030 and 9.94A.030; creating a new section; providing an
3 effective date; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the crime of
6 vehicular homicide is a class A felony offense which may be committed
7 under one of three different circumstances: While under the influence
8 of intoxicating liquor or any drug; in a reckless manner; or with
9 disregard for the safety of others. A vehicular homicide committed
10 while under the influence or in a reckless manner is currently
11 classified as a violent offense, making it ineligible for a first-
12 time offender waiver. However, the Washington state courts have held
13 that a vehicular homicide committed with disregard for the safety of
14 others is not a violent offense. This distinction is inconsistent
15 with the fact that all forms of vehicular homicide are categorized as
16 class A felonies and has resulted in a loophole where some vehicular
17 homicide convictions may be sentenced more leniently despite
18 resulting in the same unconscionable loss of life.

19 The legislature therefore intends to designate that vehicular
20 homicide committed under any circumstances is a violent offense.

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

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

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

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

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

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

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

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

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

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

32 (9) "Conviction" means an adjudication of guilt pursuant to Title
33 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
34 and acceptance of a plea of guilty.

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

1 compliance with the order of a court may be required by the
2 department.

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

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

11 (b) A conviction may be removed from a defendant's criminal
12 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
13 9.95.240, or a similar out-of-state statute, or if the conviction has
14 been vacated pursuant to a governor's pardon. However, when a
15 defendant is charged with a recidivist offense, "criminal history"
16 includes a vacated prior conviction for the sole purpose of
17 establishing that such vacated prior conviction constitutes an
18 element of the present recidivist offense as provided in RCW
19 9.94A.640(4)(b) and 9.96.060(~~((7))~~) (8)(c).

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

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

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

39 (14) "Criminal street gang-related offense" means any felony or
40 misdemeanor offense, whether in this state or elsewhere, that is

1 committed for the benefit of, at the direction of, or in association
2 with any criminal street gang, or is committed with the intent to
3 promote, further, or assist in any criminal conduct by the gang, or
4 is committed for one or more of the following reasons:

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

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

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

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

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

15 (f) To provide the gang with any advantage in, or any control or
16 dominance over any criminal market sector, including, but not limited
17 to, manufacturing, delivering, or selling any controlled substance
18 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
19 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
20 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
21 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
22 9.68 RCW).

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

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

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

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

1 (19) "Disposable earnings" means that part of the earnings of an
2 offender remaining after the deduction from those earnings of any
3 amount required by law to be withheld. For the purposes of this
4 definition, "earnings" means compensation paid or payable for
5 personal services, whether denominated as wages, salary, commission,
6 bonuses, or otherwise, and, notwithstanding any other provision of
7 law making the payments exempt from garnishment, attachment, or other
8 process to satisfy a court-ordered legal financial obligation,
9 specifically includes periodic payments pursuant to pension or
10 retirement programs, or insurance policies of any type, but does not
11 include payments made under Title 50 RCW, except as provided in RCW
12 50.40.020 and 50.40.050, or Title 74 RCW.

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

15 (b) "Domestic violence" also means: (i) Physical harm, bodily
16 injury, assault, or the infliction of fear of imminent physical harm,
17 bodily injury, or assault, sexual assault, or stalking, as defined in
18 RCW 9A.46.110, of one intimate partner by another intimate partner as
19 defined in RCW 10.99.020; or (ii) physical harm, bodily injury,
20 assault, or the infliction of fear of imminent physical harm, bodily
21 injury, or assault, sexual assault, or stalking, as defined in RCW
22 9A.46.110, of one family or household member by another family or
23 household member as defined in RCW 10.99.020.

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

27 (22) "Drug offense" means:

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

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

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

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

39 (24) "Electronic monitoring" means tracking the location of an
40 individual through the use of technology that is capable of

1 determining or identifying the monitored individual's presence or
2 absence at a particular location including, but not limited to:

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

8 (b) Active or passive global positioning system technology, which
9 detects the location of the monitored individual and notifies the
10 monitoring agency of the monitored individual's location and which
11 may also include electronic monitoring with victim notification
12 technology that is capable of notifying a victim or protected party,
13 either directly or through a monitoring agency, if the monitored
14 individual enters within the restricted distance of a victim or
15 protected party, or within the restricted distance of a designated
16 location.

17 (25) "Escape" means:

18 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
19 the first degree (RCW 9A.76.110), escape in the second degree (RCW
20 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
21 willful failure to return from work release (RCW 72.65.070), or
22 willful failure to be available for supervision by the department
23 while in community custody (RCW 72.09.310); or

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

27 (26) "Felony traffic offense" means:

28 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
29 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
30 run injury-accident (RCW 46.52.020(4)), felony driving while under
31 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
32 or felony physical control of a vehicle while under the influence of
33 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

4 (29) "Home detention" is a subset of electronic monitoring and
5 means a program of partial confinement available to offenders wherein
6 the offender is confined in a private residence 24 hours a day,
7 unless an absence from the residence is approved, authorized, or
8 otherwise permitted in the order by the court or other supervising
9 agency that ordered home detention, and the offender is subject to
10 electronic monitoring.

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

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

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

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

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

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

36 (a) Any felony defined under any law as a class A felony or
37 criminal solicitation of or criminal conspiracy to commit a class A
38 felony, except vehicular homicide when proximately caused by the
39 operation of any vehicle with disregard for the safety of others;

40 (b) Assault in the second degree;

- 1 (c) Assault of a child in the second degree;
2 (d) Child molestation in the second degree;
3 (e) Controlled substance homicide;
4 (f) Extortion in the first degree;
5 (g) Incest when committed against a child under age 14;
6 (h) Indecent liberties;
7 (i) Kidnapping in the second degree;
8 (j) Leading organized crime;
9 (k) Manslaughter in the first degree;
10 (l) Manslaughter in the second degree;
11 (m) Promoting prostitution in the first degree;
12 (n) Rape in the third degree;
13 (o) Sexual exploitation;
14 (p) Vehicular assault, when caused by the operation or driving of
15 a vehicle by a person while under the influence of intoxicating
16 liquor or any drug or by the operation or driving of a vehicle in a
17 reckless manner;
18 (q) Vehicular homicide, when proximately caused by the driving of
19 any vehicle by any person while under the influence of intoxicating
20 liquor or any drug as defined by RCW 46.61.502, or by the operation
21 of any vehicle in a reckless manner;
22 (r) Any other class B felony offense with a finding of sexual
23 motivation;
24 (s) Any other felony with a deadly weapon verdict under RCW
25 9.94A.825;
26 (t) Any felony offense in effect at any time prior to December 2,
27 1993, that is comparable to a most serious offense under this
28 subsection, or any federal or out-of-state conviction for an offense
29 that under the laws of this state would be a felony classified as a
30 most serious offense under this subsection;
31 (u) (i) A prior conviction for indecent liberties under RCW
32 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
33 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
34 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
35 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
36 until July 1, 1988;
37 (ii) A prior conviction for indecent liberties under RCW
38 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
39 if: (A) The crime was committed against a child under the age of 14;
40 or (B) the relationship between the victim and perpetrator is

1 included in the definition of indecent liberties under RCW
2 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
3 1997, or RCW 9A.44.100(1)(d) or (e) as it existed from July 25,
4 1993, through July 27, 1997;

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

11 (33) "Nonviolent offense" means an offense which is not a violent
12 offense.

13 (34) "Offender" means a person who has committed a felony
14 established by state law and is 18 years of age or older or is less
15 than 18 years of age but whose case is under superior court
16 jurisdiction under RCW 13.04.030 or has been transferred by the
17 appropriate juvenile court to a criminal court pursuant to RCW
18 13.40.110. In addition, for the purpose of community custody
19 requirements under this chapter, "offender" also means a misdemeanor
20 or gross misdemeanor probationer ordered by a superior court to
21 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
22 supervised by the department pursuant to RCW 9.94A.501 and
23 9.94A.5011. Throughout this chapter, the terms "offender" and
24 "defendant" are used interchangeably.

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

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

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

1 (i) Any "serious violent" felony offense as defined in this
2 section, excluding Homicide by Abuse (RCW 9A.32.055) and Assault of a
3 Child 1 (RCW 9A.36.120);
4 (ii) Any "violent" offense as defined by this section, excluding
5 Assault of a Child 2 (RCW 9A.36.130);
6 (iii) Deliver or Possession with Intent to Deliver a Controlled
7 Substance (chapter 69.50 RCW);
8 (iv) Any violation of the firearms and dangerous weapon act
9 (chapter 9.41 RCW);
10 (v) Theft of a Firearm (RCW 9A.56.300);
11 (vi) Possession of a Stolen Firearm (RCW 9A.56.310);
12 (vii) Hate Crime (RCW 9A.36.080);
13 (viii) Harassment where a subsequent violation or deadly threat
14 is made (RCW 9A.46.020(2)(b));
15 (ix) Criminal Gang Intimidation (RCW 9A.46.120);
16 (x) Any felony conviction by a person 18 years of age or older
17 with a special finding of involving a juvenile in a felony offense
18 under RCW 9.94A.833;
19 (xi) Residential Burglary (RCW 9A.52.025);
20 (xii) Burglary 2 (RCW 9A.52.030);
21 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
22 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
23 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
24 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
25 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
26 9A.56.070);
27 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
28 9A.56.075);
29 (xix) Extortion 1 (RCW 9A.56.120);
30 (xx) Extortion 2 (RCW 9A.56.130);
31 (xxi) Intimidating a Witness (RCW 9A.72.110);
32 (xxii) Tampering with a Witness (RCW 9A.72.120);
33 (xxiii) Reckless Endangerment (RCW 9A.36.050);
34 (xxiv) Coercion (RCW 9A.36.070);
35 (xxv) Harassment (RCW 9A.46.020); or
36 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
37 (b) That at least one of the offenses listed in (a) of this
38 subsection shall have occurred after July 1, 2008;

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

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

7 (37) "Persistent offender" is an offender who:

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

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

18 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
19 of a child in the first degree, child molestation in the first
20 degree, rape in the second degree, rape of a child in the second
21 degree, or indecent liberties by forcible compulsion; (B) any of the
22 following offenses with a finding of sexual motivation: Murder in the
23 first degree, murder in the second degree, homicide by abuse,
24 kidnapping in the first degree, kidnapping in the second degree,
25 assault in the first degree, assault in the second degree, assault of
26 a child in the first degree, assault of a child in the second degree,
27 or burglary in the first degree; or (C) an attempt to commit any
28 crime listed in this subsection (37) (b) (i); and

29 (ii) Has, before the commission of the offense under (b) (i) of
30 this subsection, been convicted as an offender on at least one
31 occasion, whether in this state or elsewhere, of an offense listed in
32 (b) (i) of this subsection or any federal or out-of-state offense or
33 offense under prior Washington law that is comparable to the offenses
34 listed in (b) (i) of this subsection. A conviction for rape of a child
35 in the first degree constitutes a conviction under (b) (i) of this
36 subsection only when the offender was 16 years of age or older when
37 the offender committed the offense. A conviction for rape of a child
38 in the second degree constitutes a conviction under (b) (i) of this
39 subsection only when the offender was 18 years of age or older when
40 the offender committed the offense.

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

25 (39) "Private school" means a school regulated under chapter
26 28A.195 or 28A.205 RCW.

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

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

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

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

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

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

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

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

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

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

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

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

5 (iii) Domestic violence violation of a protection order under
6 chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or
7 violation of a domestic violence protection order under chapter 7.105
8 RCW, that is not a felony offense;

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

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

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

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

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

25 (45) "Serious traffic offense" means:

26 (a) Nonfelony driving while under the influence of intoxicating
27 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
28 while under the influence of intoxicating liquor or any drug (RCW
29 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
30 attended vehicle (RCW 46.52.020(5)); or

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

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

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

37 (ii) Homicide by abuse;

38 (iii) Murder in the second degree;

39 (iv) Manslaughter in the first degree;

40 (v) Assault in the first degree;

1 (vi) Kidnapping in the first degree;

2 (vii) Rape in the first degree;

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

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

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

9 (47) "Sex offense" means:

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

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

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

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

18 (v) A felony violation of RCW 9A.44.132(1) (failure to register
19 as a sex offender) if the person has been convicted of violating RCW
20 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
21 prior to June 10, 2010, on at least one prior occasion;

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

25 (c) A felony with a finding of sexual motivation under RCW
26 9.94A.835 or 13.40.135; or

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

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

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

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

1 (51) "Stranger" means that the victim did not know the offender
2 24 hours before the offense.

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

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

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

16 (55) "Victim of domestic violence" means an intimate partner or
17 household member who has been subjected to the infliction of physical
18 harm or sexual and psychological abuse by an intimate partner or
19 household member as part of a pattern of assaultive, coercive, and
20 controlling behaviors directed at achieving compliance from or
21 control over that intimate partner or household member. Domestic
22 violence includes, but is not limited to, the offenses listed in RCW
23 10.99.020 and 26.50.010 committed by an intimate partner or household
24 member against a victim who is an intimate partner or household
25 member.

26 (56) "Victim of sex trafficking, prostitution, or commercial
27 sexual abuse of a minor" means a person who has been forced or
28 coerced to perform a commercial sex act including, but not limited
29 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,
30 9.68A.101, and the trafficking victims protection act of 2000, 22
31 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a
32 commercial sex act when they were less than 18 years of age including
33 but not limited to the offenses defined in chapter 9.68A RCW.

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

40 (58) "Violent offense" means:

1 (a) Any of the following felonies:
2 (i) Any felony defined under any law as a class A felony or an
3 attempt to commit a class A felony;
4 (ii) Criminal solicitation of or criminal conspiracy to commit a
5 class A felony;
6 (iii) Manslaughter in the first degree;
7 (iv) Manslaughter in the second degree;
8 (v) Indecent liberties if committed by forcible compulsion;
9 (vi) Kidnapping in the second degree;
10 (vii) Arson in the second degree;
11 (viii) Assault in the second degree;
12 (ix) Assault of a child in the second degree;
13 (x) Extortion in the first degree;
14 (xi) Robbery in the second degree;
15 (xii) Drive-by shooting;
16 (xiii) Vehicular assault, when caused by the operation or driving
17 of a vehicle by a person while under the influence of intoxicating
18 liquor or any drug or by the operation or driving of a vehicle in a
19 reckless manner; and
20 (xiv) Vehicular homicide(~~(, when proximately caused by the~~
21 ~~driving of any vehicle by any person while under the influence of~~
22 ~~intoxicating liquor or any drug as defined by RCW 46.61.502, or by~~
23 ~~the operation of any vehicle in a reckless manner));~~
24 (b) Any conviction for a felony offense in effect at any time
25 prior to July 1, 1976, that is comparable to a felony classified as a
26 violent offense in (a) of this subsection; and
27 (c) Any federal or out-of-state conviction for an offense that
28 under the laws of this state would be a felony classified as a
29 violent offense under (a) or (b) of this subsection.
30 (59) "Work crew" means a program of partial confinement
31 consisting of civic improvement tasks for the benefit of the
32 community that complies with RCW 9.94A.725.
33 (60) "Work ethic camp" means an alternative incarceration program
34 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
35 the cost of corrections by requiring offenders to complete a
36 comprehensive array of real-world job and vocational experiences,
37 character-building work ethics training, life management skills
38 development, substance abuse rehabilitation, counseling, literacy
39 training, and basic adult education.

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

4 **Sec. 3.** RCW 9.94A.030 and 2024 c 306 s 2 are each amended to
5 read as follows:

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

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

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

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

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

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

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

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

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

35 (9) "Conviction" means an adjudication of guilt pursuant to Title
36 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
37 and acceptance of a plea of guilty.

38 (10) "Crime-related prohibition" means an order of a court
39 prohibiting conduct that directly relates to the circumstances of the

1 crime for which the offender has been convicted, and shall not be
2 construed to mean orders directing an offender affirmatively to
3 participate in rehabilitative programs or to otherwise perform
4 affirmative conduct. However, affirmative acts necessary to monitor
5 compliance with the order of a court may be required by the
6 department.

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

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

15 (b) A conviction may be removed from a defendant's criminal
16 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
17 9.95.240, or a similar out-of-state statute, or if the conviction has
18 been vacated pursuant to a governor's pardon. However, when a
19 defendant is charged with a recidivist offense, "criminal history"
20 includes a vacated prior conviction for the sole purpose of
21 establishing that such vacated prior conviction constitutes an
22 element of the present recidivist offense as provided in RCW
23 9.94A.640(4)(b) and 9.96.060(~~(+7)~~) (8)(c).

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

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

39 (13) "Criminal street gang associate or member" means any person
40 who actively participates in any criminal street gang and who

1 intentionally promotes, furthers, or assists in any criminal act by
2 the criminal street gang.

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

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

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

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

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

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

19 (f) To provide the gang with any advantage in, or any control or
20 dominance over any criminal market sector, including, but not limited
21 to, manufacturing, delivering, or selling any controlled substance
22 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
23 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
24 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
25 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
26 9.68 RCW).

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

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

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

37 (18) "Determinate sentence" means a sentence that states with
38 exactitude the number of actual years, months, or days of total
39 confinement, of partial confinement, of community custody, the number
40 of actual hours or days of community restitution work, or dollars or

1 terms of a legal financial obligation. The fact that an offender
2 through earned release can reduce the actual period of confinement
3 shall not affect the classification of the sentence as a determinate
4 sentence.

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

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

19 (b) "Domestic violence" also means: (i) Physical harm, bodily
20 injury, assault, or the infliction of fear of imminent physical harm,
21 bodily injury, or assault, sexual assault, or stalking, as defined in
22 RCW 9A.46.110, of one intimate partner by another intimate partner as
23 defined in RCW 10.99.020; or (ii) physical harm, bodily injury,
24 assault, or the infliction of fear of imminent physical harm, bodily
25 injury, or assault, sexual assault, or stalking, as defined in RCW
26 9A.46.110, of one family or household member by another family or
27 household member as defined in RCW 10.99.020.

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

31 (22) "Drug offender sentencing alternative for driving under the
32 influence" is a sentencing option available to persons convicted of
33 felony driving while under the influence of intoxicating liquor or
34 any drug under RCW 46.61.502(6), or felony physical control of a
35 vehicle while under the influence of intoxicating liquor or any drug
36 under RCW 46.61.504(6) who are eligible under RCW 9.94A.661.

37 (23) "Drug offense" means:

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

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

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

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

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

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

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

27 (26) "Escape" means:

28 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
29 the first degree (RCW 9A.76.110), escape in the second degree (RCW
30 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
31 willful failure to return from work release (RCW 72.65.070), or
32 willful failure to be available for supervision by the department
33 while in community custody (RCW 72.09.310); or

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

37 (27) "Felony traffic offense" means:

38 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
39 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
40 run injury-accident (RCW 46.52.020(4)), felony driving while under

1 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
2 or felony physical control of a vehicle while under the influence of
3 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

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

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

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

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

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

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

1 the expense of an emergency response to the incident resulting in the
2 conviction, subject to RCW 38.52.430.

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

5 (a) Any felony defined under any law as a class A felony or
6 criminal solicitation of or criminal conspiracy to commit a class A
7 felony, except vehicular homicide when proximately caused by the
8 operation of any vehicle with disregard for the safety of others;

9 (b) Assault in the second degree;

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

11 (d) Child molestation in the second degree;

12 (e) Controlled substance homicide;

13 (f) Extortion in the first degree;

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

15 (h) Indecent liberties;

16 (i) Kidnapping in the second degree;

17 (j) Leading organized crime;

18 (k) Manslaughter in the first degree;

19 (l) Manslaughter in the second degree;

20 (m) Promoting prostitution in the first degree;

21 (n) Rape in the third degree;

22 (o) Sexual exploitation;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (ii) Has, before the commission of the offense under (b) (i) of
36 this subsection, been convicted as an offender on at least one
37 occasion, whether in this state or elsewhere, of an offense listed in
38 (b) (i) of this subsection or any federal or out-of-state offense or
39 offense under prior Washington law that is comparable to the offenses
40 listed in (b) (i) of this subsection. A conviction for rape of a child

1 in the first degree constitutes a conviction under (b)(i) of this
2 subsection only when the offender was 16 years of age or older when
3 the offender committed the offense. A conviction for rape of a child
4 in the second degree constitutes a conviction under (b)(i) of this
5 subsection only when the offender was 18 years of age or older when
6 the offender committed the offense.

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

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

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

34 (42) "Recidivist offense" means a felony offense where a prior
35 conviction of the same offense or other specified offense is an
36 element of the crime including, but not limited to:

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

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

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

1 (d) Indecent exposure, RCW 9A.88.010(2)(c);
2 (e) Stalking, RCW 9A.46.110(5)(b)(i) and (iii);
3 (f) Telephone harassment, RCW 9.61.230(2)(a); and
4 (g) Violation of a no-contact or protection order, RCW 7.105.450
5 or former RCW 26.50.110(5).

6 (43) "Repetitive domestic violence offense" means any:

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

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

11 (iii) Domestic violence violation of a protection order under
12 chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or
13 violation of a domestic violence protection order under chapter 7.105
14 RCW, that is not a felony offense;

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

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

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

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

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

31 (46) "Serious traffic offense" means:

32 (a)(i) Nonfelony driving while under the influence of
33 intoxicating liquor or any drug (RCW 46.61.502);

34 (ii) Nonfelony actual physical control while under the influence
35 of intoxicating liquor or any drug (RCW 46.61.504);

36 (iii) Reckless driving (RCW 46.61.500);

37 (iv) Negligent driving if the conviction is the result of a
38 charge that was originally filed as a violation of RCW 46.61.502 or
39 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or

1 46.61.522 while under the influence of intoxicating liquor or any
2 drug (RCW 46.61.5249);

3 (v) Reckless endangerment if the conviction is the result of a
4 charge that was originally filed as a violation of RCW 46.61.502 or
5 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
6 46.61.522 while under the influence of intoxicating liquor or any
7 drug (RCW 9A.36.050); or

8 (vi) Hit-and-run an attended vehicle (RCW 46.52.020(5)); or

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

12 (c) This definition applies for the purpose of a personal
13 driver's license only and does not apply to violations related to a
14 commercial motor vehicle under RCW 46.25.090.

15 (47) "Serious violent offense" is a subcategory of violent
16 offense and means:

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

18 (ii) Homicide by abuse;

19 (iii) Murder in the second degree;

20 (iv) Manslaughter in the first degree;

21 (v) Assault in the first degree;

22 (vi) Kidnapping in the first degree;

23 (vii) Rape in the first degree;

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

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

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

30 (48) "Sex offense" means:

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

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

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

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

39 (v) A felony violation of RCW 9A.44.132(1) (failure to register
40 as a sex offender) if the person has been convicted of violating RCW

1 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
2 prior to June 10, 2010, on at least one prior occasion;

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

6 (c) A felony with a finding of sexual motivation under RCW
7 9.94A.835 or 13.40.135; or

8 (d) 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 sex
10 offense under (a) of this subsection.

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

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

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

21 (52) "Stranger" means that the victim did not know the offender
22 24 hours before the offense.

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

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

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

36 (56) "Victim of domestic violence" means an intimate partner or
37 household member who has been subjected to the infliction of physical
38 harm or sexual and psychological abuse by an intimate partner or
39 household member as part of a pattern of assaultive, coercive, and
40 controlling behaviors directed at achieving compliance from or

1 control over that intimate partner or household member. Domestic
2 violence includes, but is not limited to, the offenses listed in RCW
3 10.99.020 and 26.50.010 committed by an intimate partner or household
4 member against a victim who is an intimate partner or household
5 member.

6 (57) "Victim of sex trafficking, prostitution, or commercial
7 sexual abuse of a minor" means a person who has been forced or
8 coerced to perform a commercial sex act including, but not limited
9 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,
10 9.68A.101, and the trafficking victims protection act of 2000, 22
11 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a
12 commercial sex act when they were less than 18 years of age including
13 but not limited to the offenses defined in chapter 9.68A RCW.

14 (58) "Victim of sexual assault" means any person who is a victim
15 of a sexual assault offense, nonconsensual sexual conduct, or
16 nonconsensual sexual penetration and as a result suffers physical,
17 emotional, financial, or psychological impacts. Sexual assault
18 offenses include, but are not limited to, the offenses defined in
19 chapter 9A.44 RCW.

20 (59) "Violent offense" means:

21 (a) Any of the following felonies:

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

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

26 (iii) Manslaughter in the first degree;

27 (iv) Manslaughter in the second degree;

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

29 (vi) Kidnapping in the second degree;

30 (vii) Arson in the second degree;

31 (viii) Assault in the second degree;

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

33 (x) Extortion in the first degree;

34 (xi) Robbery in the second degree;

35 (xii) Drive-by shooting;

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

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

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

8 (c) 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
10 violent offense under (a) or (b) of this subsection.

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

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

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

24 NEW SECTION. **Sec. 4.** Section 2 of this act expires January 1,
25 2026.

26 NEW SECTION. **Sec. 5.** Section 3 of this act takes effect January
27 1, 2026.

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