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**HOUSE BILL 1591**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Representatives Taylor, Goodman, Parshley, Simmons, Ormsby, Scott, Doglio, Salahuddin, Reed, and Davis

Read first time 01/24/25. Referred to Committee on Community Safety.

1 AN ACT Relating to providing remedies for defendant survivors of  
2 domestic violence, sexual assault, or human trafficking; amending RCW  
3 9.94A.501, 9.94A.533, 9.94A.535, 9.94A.540, 9.94A.570, 9.94A.640, and  
4 9.96.060; reenacting and amending RCW 9.94A.501; adding new sections  
5 to chapter 9.94A RCW; adding a new section to chapter 9.96 RCW;  
6 providing an effective date; and providing an expiration date.

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

8 **Sentencing Alternative**

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

11 (1) Notwithstanding any other provision of this chapter, the  
12 court may reduce any term of incarceration or other criminal  
13 penalties under this chapter or impose available alternatives as  
14 provided under subsection (2) of this section when sentencing any  
15 defendant for one or more crimes where: At the time of the offense,  
16 the defendant was a victim of domestic violence, sexual assault, or  
17 human trafficking, and subjected to substantial physical, sexual, or  
18 psychological abuse inflicted by an intimate partner or family or  
19 household member; the domestic violence or abuse suffered by the  
20 defendant was a significant contributing factor to the defendant's

1 criminal conduct; and the generally applicable sentencing  
2 requirements under this chapter would be unduly harsh given the  
3 nature and circumstances of the crime and the history, character, and  
4 condition of the defendant.

5 (2) (a) Prior to reducing a term of incarceration or imposing  
6 alternatives under this section, the court shall make findings as to  
7 whether the defendant qualifies under this section. The court may  
8 determine a defendant qualifies under this section regardless of  
9 whether the defendant previously raised any defense related to the  
10 domestic violence or abuse.

11 (b) The court may consider the following when making its finding  
12 as to whether the domestic violence or abuse suffered by the  
13 defendant was a significant contributing factor to his or her  
14 criminal conduct: Whether the defendant is being sentenced for a  
15 crime against an intimate partner who committed domestic violence  
16 against the defendant; whether, at any point in time, the defendant  
17 has been diagnosed with or treated for any behavioral health  
18 condition related to prior victimization; evidence that the  
19 defendant's prior victimization has affected how the defendant  
20 perceives their safety and security; evidence that the defendant's  
21 prior victimization has affected how the defendant perceives their  
22 ability to receive help through law enforcement or other government  
23 entities; evidence that the defendant's prior victimization has  
24 limited the defendant's ability to achieve financial independence;  
25 and any other factors deemed relevant by the court.

26 (c) In making findings under this section, the court may consider  
27 any of the following: Oral and written arguments; a written statement  
28 from the defendant; testimony from the defendant or from witnesses  
29 offered by either party; written statements from third parties  
30 regarding whether the defendant is a survivor of domestic violence,  
31 sexual assault, human trafficking, or stalking including, but not  
32 limited to, statements from a mental health or victim service  
33 provider or school administrator or teacher; medical records and  
34 documents; physical evidence; copies of restraining, antiharassment,  
35 or protection orders; police reports; recordings of 911 calls; expert  
36 testimony; and any other relevant evidence.

37 (3) If the court finds that a defendant qualifies under this  
38 section, the court may, in its discretion:

1 (a) Impose a sentence below the standard range under RCW  
2 9.94A.510, and below any mandatory minimum terms under RCW 9.94A.540  
3 and 9.94A.570;

4 (b) Depart downward from any sentencing enhancements under RCW  
5 9.94A.533; or

6 (c) Impose the sentencing alternative under section 2 of this  
7 act.

8 (4) Nothing in this section modifies the authority of the court  
9 to impose any other available sentencing alternatives for a  
10 qualifying defendant including, but not limited to, alternatives  
11 under RCW 9.94A.650, 9.94A.655, 9.94A.660, 9.94A.670, or 9.94A.711.

12 (5) Defendants sentenced for offenses under any of the following  
13 are not eligible for alternative sentencing under this act: RCW  
14 10.95.020 (aggravated first degree murder); RCW 9A.32.030 (first  
15 degree murder); RCW 9A.32.055 (homicide by abuse; minors and  
16 dependent adults); an offense committed with intent to commit a  
17 terrorist act under chapter 70.74 RCW; any offense requiring sex  
18 offender registration under chapter 9A.44 RCW; and attempt or  
19 conspiracy to commit any of the foregoing.

20 (6) For the purposes of this section, "family or household  
21 member" and "intimate partner" have the same meanings as provided in  
22 RCW 10.99.020.

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

25 (1) A person is eligible for the sentencing alternative under  
26 this section if the court finds that he or she meets the criteria  
27 under section 1 of this act. To assist the court in determining  
28 whether the alternative is appropriate for the defendant, the court  
29 may order the department to complete a risk assessment report or a  
30 chemical dependency screening report as provided in RCW 9.94A.500.

31 (2) If the sentencing court determines that the person is  
32 eligible for the sentencing alternative under this section and that  
33 the sentencing alternative is appropriate and should be imposed, the  
34 court shall waive the sentence within the standard sentence range and  
35 any applicable enhancements, and instead impose: A reduced term of  
36 confinement with an extended term of community custody, as determined  
37 by the court; or waive the term of confinement and impose an extended  
38 term of community custody. The court has complete discretion to  
39 determine the term of incarceration and community custody, provided

1 that the combined length of both does not exceed the standard range  
2 and enhancements applicable to the underlying crime or crimes for  
3 which the defendant has been convicted. For the term of community  
4 custody, the court may impose conditions as provided in RCW 9.94A.703  
5 and may impose other affirmative conditions as the court considers  
6 appropriate, and the department may impose conditions and sanctions  
7 as authorized in RCW 9.94A.704 and 9.94A.737.

8 (3) For any person serving a term of community custody under this  
9 section:

10 (a) The department shall report to the court if the person  
11 commits any violations of the conditions imposed by the court or the  
12 department;

13 (b) The court may order the person to report to court at any time  
14 during the period of community custody in order to evaluate the  
15 person's compliance or progress with his or her conditions, or to  
16 determine if any violations of the conditions have occurred;

17 (c) The court may modify the conditions of community custody or  
18 impose sanctions for violations, including extending the term of  
19 community custody; and

20 (d) The court may order the person to serve a term of total  
21 confinement within the standard range for the offense at any time  
22 during the period of community custody, if the person violates the  
23 conditions or requirements of the sentence.

## 24 **Resentencing**

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A  
26 RCW to read as follows:

27 (1)(a) Any person who is currently incarcerated and serving a  
28 sentence of at least eight years imposed prior to the effective date  
29 of this section may petition the sentencing court for resentencing on  
30 the basis that he or she meets the requirements described in section  
31 1(1) of this act. A petition must include at least two pieces of  
32 evidence corroborating the applicant's claim of eligibility:

33 (i) At least one piece of evidence must be either a court record,  
34 presentence report, social services record, hospital record, sworn  
35 statement from a witness to the domestic violence or abuse, law  
36 enforcement record, domestic incident report, or order of protection.

37 (ii) Other evidence may include, but shall not be limited to,  
38 local and state department of corrections or other corrections

1 records, a showing based in part on documentation prepared at or near  
2 the time of the commission of the offense or the prosecution thereof  
3 tending to support the person's claim, or verification of  
4 consultation with a licensed medical or mental health care provider,  
5 employee of a court acting within the scope of his or her employment,  
6 member of the clergy, attorney, social worker, or other advocate  
7 acting on behalf of an agency that assists victims of domestic  
8 violence for the purpose of assisting such person with domestic  
9 violence victim counseling or support.

10 (2) The court may deny a petition for resentencing without a  
11 hearing and must notify the person and dismiss the petition without  
12 prejudice. If the court orders a hearing on the petition, the court  
13 may receive testimony and evidence as provided under section 1(2) of  
14 this act.

15 (a) The court may consider any fact or circumstances relevant to  
16 the imposition of a new sentence which are submitted by the  
17 petitioner or the prosecuting attorney, including the petitioner's  
18 record of confinement.

19 (b) The court's consideration of the individual's record of  
20 confinement shall include, but not be limited to, such applicant's  
21 participation in or willingness to participate in programming  
22 concerning domestic violence, parenting and substance abuse treatment  
23 while incarcerated, and the applicant's disciplinary history. The  
24 fact that the applicant may have been unable to participate in  
25 treatment or other programming while incarcerated despite such  
26 applicant's willingness to do so shall not be considered a negative  
27 factor in making a determination on a petition pursuant to this  
28 section.

29 (c) If the court grants a petition, the court may resentence the  
30 person in accordance with sections 1 and 2 of this act, provided that  
31 any new sentence may not be greater than the initial sentence.

32 (d) If the court determines that the applicant should not be  
33 resentenced in accordance with this act, the court shall inform such  
34 petitioner and shall enter an order to that effect. Any order issued  
35 by a court pursuant to this section must include written findings of  
36 fact and the reasons for such order.

37 (3) If a hearing on a petition is scheduled pursuant to this  
38 section, the prosecuting attorney shall make reasonable efforts to  
39 notify victims and survivors of victims of the petition and the date  
40 of hearing. The prosecuting attorney shall provide victims and

1 survivors of victims access to available victim advocates and other  
2 related services. The court shall provide an opportunity for victims  
3 and survivors of victims of any crimes for which the defendant has  
4 been convicted to present a statement personally or by  
5 representation. The prosecuting attorney and the court shall comply  
6 with the requirements set forth in chapter 7.69 RCW.

7 (4) A petition filed under this section does not reopen the  
8 defendant's conviction to challenges that would otherwise be barred.

9 (5)(a) An appeal may be taken as of right in accordance with  
10 applicable provisions of this act:

11 (i) From an order denying resentencing; or

12 (ii) From a new sentence imposed under this provision.

13 (b) An appeal may be based on the grounds that:

14 (i) The term of the new sentence is harsh or excessive; or

15 (ii) The term of the new sentence is unauthorized as a matter of  
16 law.

17 (c) Upon remand to the sentencing court following such appeal the  
18 applicant shall be given an opportunity to withdraw an application  
19 for resentencing before any resentence is imposed.

20 **Sec. 4.** RCW 9.94A.501 and 2024 c 63 s 3 are each amended to read  
21 as follows:

22 (1) The department shall supervise the following offenders who  
23 are sentenced to probation in superior court, pursuant to RCW  
24 9.92.060, 9.95.204, or 9.95.210:

25 (a) Offenders convicted of:

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

27 (ii) Custodial sexual misconduct second degree;

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

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

30 (b) Offenders who have:

31 (i) A current conviction for a repetitive domestic violence  
32 offense after August 1, 2011; and

33 (ii) A prior conviction for a repetitive domestic violence  
34 offense or domestic violence felony offense after August 1, 2011.

35 (2) Misdemeanor and gross misdemeanor offenders supervised by the  
36 department pursuant to this section shall be placed on community  
37 custody.

38 (3) The department shall supervise every felony offender  
39 sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702

1 whose risk assessment classifies the offender as one who is at a high  
2 risk to reoffend.

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

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

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

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

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

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

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

26 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660,  
27 9.94A.670, 9.94A.711, section 1 or 2 of this act, or 9.94A.695;

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

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

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

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

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

4 (8) The period of time the department is authorized to supervise  
5 an offender under this section may not exceed the duration of  
6 community custody specified under RCW 9.94B.050, 9.94A.701 (1)  
7 through (9), or 9.94A.702, except in cases where the court has  
8 imposed an exceptional term of community custody under RCW 9.94A.535.

9 (9) The period of time the department is authorized to supervise  
10 an offender under this section may be reduced by the earned award of  
11 supervision compliance credit pursuant to RCW 9.94A.717.

12 **Sec. 5.** RCW 9.94A.501 and 2024 c 306 s 4 and 2024 c 63 s 3 are  
13 each reenacted and amended to read as follows:

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

17 (a) Offenders convicted of:

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

19 (ii) Custodial sexual misconduct second degree;

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

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

22 (b) Offenders who have:

23 (i) A current conviction for a repetitive domestic violence  
24 offense after August 1, 2011; and

25 (ii) A prior conviction for a repetitive domestic violence  
26 offense or domestic violence felony offense after August 1, 2011.

27 (2) Misdemeanor and gross misdemeanor offenders supervised by the  
28 department pursuant to this section shall be placed on community  
29 custody.

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

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

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



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

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

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

8 (e)(i) Has a current conviction for a domestic violence felony  
9 offense after August 1, 2011, and a prior conviction for a repetitive  
10 domestic violence offense or domestic violence felony offense after  
11 August 1, 2011. This subsection (4)(e)(i) applies only to offenses  
12 committed prior to July 24, 2015;

13 (ii) Has a current conviction for a domestic violence felony  
14 offense. The state and its officers, agents, and employees shall not  
15 be held criminally or civilly liable for its supervision of an  
16 offender under this subsection (4)(e)(ii) unless the state and its  
17 officers, agents, and employees acted with gross negligence;

18 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660,  
19 9.94A.670, 9.94A.711, 9.94A.695, section 1 or 2 of this act, or  
20 9.94A.661;

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

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

25 (5) The department shall supervise any offender who is released  
26 by the indeterminate sentence review board and who was sentenced to  
27 community custody or subject to community custody under the terms of  
28 release.

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

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

36 (8) The period of time the department is authorized to supervise  
37 an offender under this section may not exceed the duration of  
38 community custody specified under RCW 9.94B.050, 9.94A.701 (1)  
39 through (9), or 9.94A.702, except in cases where the court has  
40 imposed an exceptional term of community custody under RCW 9.94A.535.

1 (9) The period of time the department is authorized to supervise  
2 an offender under this section may be reduced by the earned award of  
3 supervision compliance credit pursuant to RCW 9.94A.717.

4 **Sec. 6.** RCW 9.94A.533 and 2024 c 301 s 28 are each amended to  
5 read as follows:

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

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

14 (3) The following additional times shall be added to the standard  
15 sentence range for felony crimes committed after July 23, 1995, if  
16 the offender or an accomplice was armed with a firearm as defined in  
17 RCW 9.41.010 and the offender is being sentenced for one of the  
18 crimes listed in this subsection as eligible for any firearm  
19 enhancements based on the classification of the completed felony  
20 crime. If the offender is being sentenced for more than one offense,  
21 the firearm enhancement or enhancements must be added to the total  
22 period of confinement for all offenses, regardless of which  
23 underlying offense is subject to a firearm enhancement. If the  
24 offender or an accomplice was armed with a firearm as defined in RCW  
25 9.41.010 and the offender is being sentenced for an anticipatory  
26 offense under chapter 9A.28 RCW to commit one of the crimes listed in  
27 this subsection as eligible for any firearm enhancements, the  
28 following additional times shall be added to the standard sentence  
29 range determined under subsection (2) of this section based on the  
30 felony crime of conviction as classified under RCW 9A.28.020:

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

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

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

1 (d) If the offender is being sentenced for any firearm  
2 enhancements under (a), (b), and/or (c) of this subsection and the  
3 offender has previously been sentenced for any deadly weapon  
4 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
5 subsection or subsection (4)(a), (b), and/or (c) of this section, or  
6 both, all firearm enhancements under this subsection shall be twice  
7 the amount of the enhancement listed;

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

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

17 (ii) Released under the provisions of RCW 9.94A.730;

18 (f) The firearm enhancements in this section shall apply to all  
19 felony crimes except the following: Possession of a machine gun or  
20 bump-fire stock, possessing a stolen firearm, drive-by shooting,  
21 theft of a firearm, unlawful possession of a firearm in the first and  
22 second degree, and use of a machine gun or bump-fire stock in a  
23 felony;

24 (g) If the standard sentence range under this section exceeds the  
25 statutory maximum sentence for the offense, the statutory maximum  
26 sentence shall be the presumptive sentence unless the offender is a  
27 persistent offender. If the addition of a firearm enhancement  
28 increases the sentence so that it would exceed the statutory maximum  
29 for the offense, the portion of the sentence representing the  
30 enhancement may not be reduced.

31 (4) The following additional times shall be added to the standard  
32 sentence range for felony crimes committed after July 23, 1995, if  
33 the offender or an accomplice was armed with a deadly weapon other  
34 than a firearm as defined in RCW 9.41.010 and the offender is being  
35 sentenced for one of the crimes listed in this subsection as eligible  
36 for any deadly weapon enhancements based on the classification of the  
37 completed felony crime. If the offender is being sentenced for more  
38 than one offense, the deadly weapon enhancement or enhancements must  
39 be added to the total period of confinement for all offenses,  
40 regardless of which underlying offense is subject to a deadly weapon

1 enhancement. If the offender or an accomplice was armed with a deadly  
2 weapon other than a firearm as defined in RCW 9.41.010 and the  
3 offender is being sentenced for an anticipatory offense under chapter  
4 9A.28 RCW to commit one of the crimes listed in this subsection as  
5 eligible for any deadly weapon enhancements, the following additional  
6 times shall be added to the standard sentence range determined under  
7 subsection (2) of this section based on the felony crime of  
8 conviction as classified under RCW 9A.28.020:

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

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

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

18 (d) If the offender is being sentenced under (a), (b), and/or (c)  
19 of this subsection for any deadly weapon enhancements and the  
20 offender has previously been sentenced for any deadly weapon  
21 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
22 subsection or subsection (3)(a), (b), and/or (c) of this section, or  
23 both, all deadly weapon enhancements under this subsection shall be  
24 twice the amount of the enhancement listed;

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

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

34 (ii) Released under the provisions of RCW 9.94A.730;

35 (f) The deadly weapon enhancements in this section shall apply to  
36 all felony crimes except the following: Possession of a machine gun  
37 or bump-fire stock, possessing a stolen firearm, drive-by shooting,  
38 theft of a firearm, unlawful possession of a firearm in the first and  
39 second degree, and use of a machine gun or bump-fire stock in a  
40 felony;

1 (g) If the standard sentence range under this section exceeds the  
2 statutory maximum sentence for the offense, the statutory maximum  
3 sentence shall be the presumptive sentence unless the offender is a  
4 persistent offender. If the addition of a deadly weapon enhancement  
5 increases the sentence so that it would exceed the statutory maximum  
6 for the offense, the portion of the sentence representing the  
7 enhancement may not be reduced.

8 (5) The following additional times shall be added to the standard  
9 sentence range if the offender or an accomplice committed the offense  
10 while in a county jail or state correctional facility and the  
11 offender is being sentenced for one of the crimes listed in this  
12 subsection. If the offender or an accomplice committed one of the  
13 crimes listed in this subsection while in a county jail or state  
14 correctional facility, and the offender is being sentenced for an  
15 anticipatory offense under chapter 9A.28 RCW to commit one of the  
16 crimes listed in this subsection, the following additional times  
17 shall be added to the standard sentence range determined under  
18 subsection (2) of this section:

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

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

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

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

27 (6) An additional twenty-four months shall be added to the  
28 standard sentence range for any ranked offense involving a violation  
29 of chapter 69.50 RCW if the offense was also a violation of RCW  
30 69.50.435 or 9.94A.827. All enhancements under this subsection shall  
31 run consecutively to all other sentencing provisions, for all  
32 offenses sentenced under this chapter.

33 (7) An additional two years shall be added to the standard  
34 sentence range for vehicular homicide committed while under the  
35 influence of intoxicating liquor or any drug as defined by RCW  
36 46.61.502 for each prior offense as defined in RCW 46.61.5055.

37 Notwithstanding any other provision of law, all impaired driving  
38 enhancements under this subsection are mandatory, shall be served in  
39 total confinement, and shall run consecutively to all other

1 sentencing provisions, including other impaired driving enhancements,  
2 for all offenses sentenced under this chapter.

3 An offender serving a sentence under this subsection may be  
4 granted an extraordinary medical placement when authorized under RCW  
5 9.94A.728(1)(c).

6 (8)(a) The following additional times shall be added to the  
7 standard sentence range for felony crimes committed on or after July  
8 1, 2006, if the offense was committed with sexual motivation, as that  
9 term is defined in RCW 9.94A.030. If the offender is being sentenced  
10 for more than one offense, the sexual motivation enhancement must be  
11 added to the total period of total confinement for all offenses,  
12 regardless of which underlying offense is subject to a sexual  
13 motivation enhancement. If the offender committed the offense with  
14 sexual motivation and the offender is being sentenced for an  
15 anticipatory offense under chapter 9A.28 RCW, the following  
16 additional times shall be added to the standard sentence range  
17 determined under subsection (2) of this section based on the felony  
18 crime of conviction as classified under RCW 9A.28.020:

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

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

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

27 (iv) If the offender is being sentenced for any sexual motivation  
28 enhancements under (a)(i), (ii), and/or (iii) of this subsection and  
29 the offender has previously been sentenced for any sexual motivation  
30 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or  
31 (iii) of this subsection, all sexual motivation enhancements under  
32 this subsection shall be twice the amount of the enhancement listed;

33 (b) Notwithstanding any other provision of law, all sexual  
34 motivation enhancements under this subsection are mandatory, shall be  
35 served in total confinement, and shall run consecutively to all other  
36 sentencing provisions, including other sexual motivation  
37 enhancements, for all offenses sentenced under this chapter. However,  
38 whether or not a mandatory minimum term has expired, an offender  
39 serving a sentence under this subsection may be:

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

3 (ii) Released under the provisions of RCW 9.94A.730;

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

6 (d) If the standard sentence range under this subsection exceeds  
7 the statutory maximum sentence for the offense, the statutory maximum  
8 sentence shall be the presumptive sentence unless the offender is a  
9 persistent offender. If the addition of a sexual motivation  
10 enhancement increases the sentence so that it would exceed the  
11 statutory maximum for the offense, the portion of the sentence  
12 representing the enhancement may not be reduced;

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

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

19 (9) An additional one-year enhancement shall be added to the  
20 standard sentence range for the felony crimes of RCW 9A.44.073,  
21 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on  
22 or after July 22, 2007, if the offender engaged, agreed, or offered  
23 to engage the victim in the sexual conduct in return for a fee. If  
24 the offender is being sentenced for more than one offense, the  
25 one-year enhancement must be added to the total period of total  
26 confinement for all offenses, regardless of which underlying offense  
27 is subject to the enhancement. If the offender is being sentenced for  
28 an anticipatory offense for the felony crimes of RCW 9A.44.073,  
29 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the  
30 offender attempted, solicited another, or conspired to engage, agree,  
31 or offer to engage the victim in the sexual conduct in return for a  
32 fee, an additional one-year enhancement shall be added to the  
33 standard sentence range determined under subsection (2) of this  
34 section. For purposes of this subsection, "sexual conduct" means  
35 sexual intercourse or sexual contact, both as defined in chapter  
36 9A.44 RCW.

37 (10)(a) For a person age eighteen or older convicted of any  
38 criminal street gang-related felony offense for which the person  
39 compensated, threatened, or solicited a minor in order to involve the  
40 minor in the commission of the felony offense, the standard sentence

1 range is determined by locating the sentencing grid sentence range  
2 defined by the appropriate offender score and the seriousness level  
3 of the completed crime, and multiplying the range by one hundred  
4 twenty-five percent. If the standard sentence range under this  
5 subsection exceeds the statutory maximum sentence for the offense,  
6 the statutory maximum sentence is the presumptive sentence unless the  
7 offender is a persistent offender.

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

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

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

20 (12) An additional twelve months shall be added to the standard  
21 sentence range for an offense that is also a violation of RCW  
22 9.94A.831.

23 (13) An additional twelve months shall be added to the standard  
24 sentence range for vehicular homicide committed while under the  
25 influence of intoxicating liquor or any drug as defined by RCW  
26 46.61.520 or for vehicular assault committed while under the  
27 influence of intoxicating liquor or any drug as defined by RCW  
28 46.61.522, or for any felony driving under the influence (RCW  
29 46.61.502(6)) or felony physical control under the influence (RCW  
30 46.61.504(6)) for each child passenger under the age of sixteen who  
31 is an occupant in the defendant's vehicle. These enhancements shall  
32 be mandatory, shall be served in total confinement, and shall run  
33 consecutively to all other sentencing provisions, including other  
34 minor child enhancements, for all offenses sentenced under this  
35 chapter. If the addition of a minor child enhancement increases the  
36 sentence so that it would exceed the statutory maximum for the  
37 offense, the portion of the sentence representing the enhancement  
38 shall be mandatory, shall be served in total confinement, and shall  
39 run consecutively to all other sentencing provisions.



1 (14) An additional twelve months shall be added to the standard  
2 sentence range for an offense that is also a violation of RCW  
3 9.94A.832.

4 (15) An additional 12 months may, at the discretion of the court,  
5 be added to the standard sentence range for an offense that is also a  
6 violation of RCW 9.94A.828.

7 (16) Regardless of any provisions in this section, if a person is  
8 being sentenced in adult court for a crime committed under age  
9 eighteen, the court has full discretion to depart from mandatory  
10 sentencing enhancements and to take the particular circumstances  
11 surrounding the defendant's youth into account.

12 (17) Regardless of any provisions in this section, if the court  
13 finds a person qualifies under section 1 or 2 of this act, the court  
14 has full discretion to depart downward from mandatory sentencing  
15 enhancements.

16 **Sec. 7.** RCW 9.94A.535 and 2019 c 219 s 1 are each amended to  
17 read as follows:

18 The court may impose a sentence outside the standard sentence  
19 range for an offense if it finds, considering the purpose of this  
20 chapter, that there are substantial and compelling reasons justifying  
21 an exceptional sentence. Facts supporting aggravated sentences, other  
22 than the fact of a prior conviction, shall be determined pursuant to  
23 the provisions of RCW 9.94A.537.

24 Whenever a sentence outside the standard sentence range is  
25 imposed, the court shall set forth the reasons for its decision in  
26 written findings of fact and conclusions of law. A sentence outside  
27 the standard sentence range shall be a determinate sentence.

28 If the sentencing court finds that an exceptional sentence  
29 outside the standard sentence range should be imposed, the sentence  
30 is subject to review only as provided for in RCW 9.94A.585(4).

31 A departure from the standards in RCW 9.94A.589 (1) and (2)  
32 governing whether sentences are to be served consecutively or  
33 concurrently is an exceptional sentence subject to the limitations in  
34 this section, and may be appealed by the offender or the state as set  
35 forth in RCW 9.94A.585 (2) through (6).

36 (1) Mitigating Circumstances - Court to Consider

37 The court may impose an exceptional sentence below the standard  
38 range if it finds that mitigating circumstances are established by a  
39 preponderance of the evidence. The following are illustrative only

1 and are not intended to be exclusive reasons for exceptional  
2 sentences.

3 (a) To a significant degree, the victim was an initiator, willing  
4 participant, aggressor, or provoker of the incident.

5 (b) Before detection, the defendant compensated, or made a good  
6 faith effort to compensate, the victim of the criminal conduct for  
7 any damage or injury sustained.

8 (c) The defendant committed the crime under duress, coercion,  
9 threat, or compulsion insufficient to constitute a complete defense  
10 but which significantly affected his or her conduct.

11 (d) The defendant, with no apparent predisposition to do so, was  
12 induced by others to participate in the crime.

13 (e) The defendant's capacity to appreciate the wrongfulness of  
14 his or her conduct, or to conform his or her conduct to the  
15 requirements of the law, was significantly impaired. Voluntary use of  
16 drugs or alcohol is excluded.

17 (f) The offense was principally accomplished by another person  
18 and the defendant manifested extreme caution or sincere concern for  
19 the safety or well-being of the victim.

20 (g) The operation of the multiple offense policy of RCW 9.94A.589  
21 results in a presumptive sentence that is clearly excessive in light  
22 of the purpose of this chapter, as expressed in RCW 9.94A.010.

23 (h) The defendant or the defendant's children suffered a  
24 continuing pattern of physical or sexual abuse by the victim of the  
25 offense and the offense is a response to that abuse.

26 (i) The defendant was making a good faith effort to obtain or  
27 provide medical assistance for someone who is experiencing a drug-  
28 related overdose.

29 (j) The current offense involved domestic violence, as defined in  
30 RCW 10.99.020, and the defendant suffered a continuing pattern of  
31 coercion, control, or abuse by the victim of the offense and the  
32 offense is a response to that coercion, control, or abuse.

33 (k) The defendant was convicted of vehicular homicide, by the  
34 operation of a vehicle in a reckless manner and has committed no  
35 other previous serious traffic offenses as defined in RCW 9.94A.030,  
36 and the sentence is clearly excessive in light of the purpose of this  
37 chapter, as expressed in RCW 9.94A.010.

38 (l) The defendant was a victim of domestic violence, sexual  
39 assault, or human trafficking at the time of the offense, subjected  
40 to substantial physical, sexual, or psychological abuse inflicted by

1 an intimate partner or family or household member, the domestic  
2 violence or abuse was a significant contributing factor to the  
3 defendant's criminal conduct, and the sentence would be unduly harsh  
4 given the nature and circumstances of the crime and the history,  
5 character, and condition of the defendant.

6 (2) Aggravating Circumstances - Considered and Imposed by the  
7 Court

8 The trial court may impose an aggravated exceptional sentence  
9 without a finding of fact by a jury under the following  
10 circumstances:

11 (a) The defendant and the state both stipulate that justice is  
12 best served by the imposition of an exceptional sentence outside the  
13 standard range, and the court finds the exceptional sentence to be  
14 consistent with and in furtherance of the interests of justice and  
15 the purposes of the sentencing reform act.

16 (b) The defendant's prior unscored misdemeanor or prior unscored  
17 foreign criminal history results in a presumptive sentence that is  
18 clearly too lenient in light of the purpose of this chapter, as  
19 expressed in RCW 9.94A.010.

20 (c) The defendant has committed multiple current offenses and the  
21 defendant's high offender score results in some of the current  
22 offenses going unpunished.

23 (d) The failure to consider the defendant's prior criminal  
24 history which was omitted from the offender score calculation  
25 pursuant to RCW 9.94A.525 results in a presumptive sentence that is  
26 clearly too lenient.

27 (3) Aggravating Circumstances - Considered by a Jury - Imposed by  
28 the Court

29 Except for circumstances listed in subsection (2) of this  
30 section, the following circumstances are an exclusive list of factors  
31 that can support a sentence above the standard range. Such facts  
32 should be determined by procedures specified in RCW 9.94A.537.

33 (a) The defendant's conduct during the commission of the current  
34 offense manifested deliberate cruelty to the victim.

35 (b) The defendant knew or should have known that the victim of  
36 the current offense was particularly vulnerable or incapable of  
37 resistance.

38 (c) The current offense was a violent offense, and the defendant  
39 knew that the victim of the current offense was pregnant.

1 (d) The current offense was a major economic offense or series of  
2 offenses, so identified by a consideration of any of the following  
3 factors:

4 (i) The current offense involved multiple victims or multiple  
5 incidents per victim;

6 (ii) The current offense involved attempted or actual monetary  
7 loss substantially greater than typical for the offense;

8 (iii) The current offense involved a high degree of  
9 sophistication or planning or occurred over a lengthy period of time;  
10 or

11 (iv) The defendant used his or her position of trust, confidence,  
12 or fiduciary responsibility to facilitate the commission of the  
13 current offense.

14 (e) The current offense was a major violation of the Uniform  
15 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to  
16 trafficking in controlled substances, which was more onerous than the  
17 typical offense of its statutory definition: The presence of ANY of  
18 the following may identify a current offense as a major VUCSA:

19 (i) The current offense involved at least three separate  
20 transactions in which controlled substances were sold, transferred,  
21 or possessed with intent to do so;

22 (ii) The current offense involved an attempted or actual sale or  
23 transfer of controlled substances in quantities substantially larger  
24 than for personal use;

25 (iii) The current offense involved the manufacture of controlled  
26 substances for use by other parties;

27 (iv) The circumstances of the current offense reveal the offender  
28 to have occupied a high position in the drug distribution hierarchy;

29 (v) The current offense involved a high degree of sophistication  
30 or planning, occurred over a lengthy period of time, or involved a  
31 broad geographic area of disbursement; or

32 (vi) The offender used his or her position or status to  
33 facilitate the commission of the current offense, including positions  
34 of trust, confidence or fiduciary responsibility (e.g., pharmacist,  
35 physician, or other medical professional).

36 (f) The current offense included a finding of sexual motivation  
37 pursuant to RCW 9.94A.835.

38 (g) The offense was part of an ongoing pattern of sexual abuse of  
39 the same victim under the age of eighteen years manifested by  
40 multiple incidents over a prolonged period of time.

1 (h) The current offense involved domestic violence, as defined in  
2 RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one or  
3 more of the following was present:

4 (i) The offense was part of an ongoing pattern of psychological,  
5 physical, or sexual abuse of a victim or multiple victims manifested  
6 by multiple incidents over a prolonged period of time;

7 (ii) The offense occurred within sight or sound of the victim's  
8 or the offender's minor children under the age of eighteen years; or

9 (iii) The offender's conduct during the commission of the current  
10 offense manifested deliberate cruelty or intimidation of the victim.

11 (i) The offense resulted in the pregnancy of a child victim of  
12 rape.

13 (j) The defendant knew that the victim of the current offense was  
14 a youth who was not residing with a legal custodian and the defendant  
15 established or promoted the relationship for the primary purpose of  
16 victimization.

17 (k) The offense was committed with the intent to obstruct or  
18 impair human or animal health care or agricultural or forestry  
19 research or commercial production.

20 (l) The current offense is trafficking in the first degree or  
21 trafficking in the second degree and any victim was a minor at the  
22 time of the offense.

23 (m) The offense involved a high degree of sophistication or  
24 planning.

25 (n) The defendant used his or her position of trust, confidence,  
26 or fiduciary responsibility to facilitate the commission of the  
27 current offense.

28 (o) The defendant committed a current sex offense, has a history  
29 of sex offenses, and is not amenable to treatment.

30 (p) The offense involved an invasion of the victim's privacy.

31 (q) The defendant demonstrated or displayed an egregious lack of  
32 remorse.

33 (r) The offense involved a destructive and foreseeable impact on  
34 persons other than the victim.

35 (s) The defendant committed the offense to obtain or maintain his  
36 or her membership or to advance his or her position in the hierarchy  
37 of an organization, association, or identifiable group.

38 (t) The defendant committed the current offense shortly after  
39 being released from incarceration.

1 (u) The current offense is a burglary and the victim of the  
2 burglary was present in the building or residence when the crime was  
3 committed.

4 (v) The offense was committed against a law enforcement officer  
5 who was performing his or her official duties at the time of the  
6 offense, the offender knew that the victim was a law enforcement  
7 officer, and the victim's status as a law enforcement officer is not  
8 an element of the offense.

9 (w) The defendant committed the offense against a victim who was  
10 acting as a good samaritan.

11 (x) The defendant committed the offense against a public official  
12 or officer of the court in retaliation of the public official's  
13 performance of his or her duty to the criminal justice system.

14 (y) The victim's injuries substantially exceed the level of  
15 bodily harm necessary to satisfy the elements of the offense. This  
16 aggravator is not an exception to RCW 9.94A.530(2).

17 (z) (i) (A) The current offense is theft in the first degree, theft  
18 in the second degree, possession of stolen property in the first  
19 degree, or possession of stolen property in the second degree; (B)  
20 the stolen property involved is metal property; and (C) the property  
21 damage to the victim caused in the course of the theft of metal  
22 property is more than three times the value of the stolen metal  
23 property, or the theft of the metal property creates a public hazard.

24 (ii) For purposes of this subsection, "metal property" means  
25 commercial metal property(~~(, private metal property,)~~) or nonferrous  
26 metal property, as defined in RCW 19.290.010.

27 (aa) The defendant committed the offense with the intent to  
28 directly or indirectly cause any benefit, aggrandizement, gain,  
29 profit, or other advantage to or for a criminal street gang as  
30 defined in RCW 9.94A.030, its reputation, influence, or membership.

31 (bb) The current offense involved paying to view, over the  
32 internet in violation of RCW 9.68A.075, depictions of a minor engaged  
33 in an act of sexually explicit conduct as defined in RCW  
34 9.68A.011(~~((+4))~~) (7) (a) through (g).

35 (cc) The offense was intentionally committed because the  
36 defendant perceived the victim to be homeless, as defined in RCW  
37 9.94A.030.

38 (dd) The current offense involved a felony crime against persons,  
39 except for assault in the third degree pursuant to RCW  
40 9A.36.031(1)(k), that occurs in a courtroom, jury room, judge's

1 chamber, or any waiting area or corridor immediately adjacent to a  
2 courtroom, jury room, or judge's chamber. This subsection shall apply  
3 only: (i) During the times when a courtroom, jury room, or judge's  
4 chamber is being used for judicial purposes during court proceedings;  
5 and (ii) if signage was posted in compliance with RCW 2.28.200 at the  
6 time of the offense.

7 (ee) During the commission of the current offense, the defendant  
8 was driving in the opposite direction of the normal flow of traffic  
9 on a multiple lane highway, as defined by RCW 46.04.350, with a  
10 posted speed limit of forty-five miles per hour or greater.

11 (ff) The current offense involved the assault of a utility  
12 employee of any publicly or privately owned utility company or  
13 agency, who is at the time of the act engaged in official duties,  
14 including: (i) The maintenance or repair of utility poles, lines,  
15 conduits, pipes, or other infrastructure; or (ii) connecting,  
16 disconnecting, or recording utility meters.

17 **Sec. 8.** RCW 9.94A.540 and 2014 c 130 s 2 are each amended to  
18 read as follows:

19 (1) Except to the extent provided in subsections (3) and (4) of  
20 this section, the following minimum terms of total confinement are  
21 mandatory and shall not be varied or modified under RCW 9.94A.535:

22 (a) An offender convicted of the crime of murder in the first  
23 degree shall be sentenced to a term of total confinement not less  
24 than twenty years.

25 (b) An offender convicted of the crime of assault in the first  
26 degree or assault of a child in the first degree where the offender  
27 used force or means likely to result in death or intended to kill the  
28 victim shall be sentenced to a term of total confinement not less  
29 than five years.

30 (c) An offender convicted of the crime of rape in the first  
31 degree shall be sentenced to a term of total confinement not less  
32 than five years.

33 (d) An offender convicted of the crime of sexually violent  
34 predator escape shall be sentenced to a minimum term of total  
35 confinement not less than sixty months.

36 (e) An offender convicted of the crime of aggravated first degree  
37 murder for a murder that was committed prior to the offender's  
38 eighteenth birthday shall be sentenced to a term of total confinement  
39 not less than twenty-five years.

1 (2) During such minimum terms of total confinement, no offender  
2 subject to the provisions of this section is eligible for community  
3 custody, earned release time, furlough, home detention, partial  
4 confinement, work crew, work release, or any other form of early  
5 release authorized under RCW 9.94A.728, or any other form of  
6 authorized leave of absence from the correctional facility while not  
7 in the direct custody of a corrections officer. The provisions of  
8 this subsection shall not apply: (a) In the case of an offender in  
9 need of emergency medical treatment; (b) for the purpose of  
10 commitment to an inpatient treatment facility in the case of an  
11 offender convicted of the crime of rape in the first degree; or (c)  
12 for an extraordinary medical placement when authorized under RCW  
13 9.94A.728(~~((3))~~) (1)(c).

14 (3)(a) Subsection (1)(a) through (d) of this section shall not be  
15 applied in sentencing of juveniles tried as adults pursuant to RCW  
16 13.04.030(1)(e)(i).

17 (b) This subsection (3) applies only to crimes committed on or  
18 after July 24, 2005.

19 (4) The mandatory minimum terms under this section do not apply  
20 if a court finds that a defendant qualifies for reduced or  
21 alternative sentencing under section 1 or 2 of this act.

22 **Sec. 9.** RCW 9.94A.570 and 2000 c 28 s 6 are each amended to read  
23 as follows:

24 (~~Notwithstanding~~) (1) Except as provided in subsection (2) of  
25 this section, and notwithstanding the statutory maximum sentence or  
26 any other provision of this chapter, a persistent offender shall be  
27 sentenced to a term of total confinement for life without the  
28 possibility of release or, when authorized by RCW 10.95.030 for the  
29 crime of aggravated murder in the first degree, sentenced to death.  
30 In addition, no offender subject to this (~~section~~) subsection may  
31 be eligible for community custody, earned release time, furlough,  
32 home detention, partial confinement, work crew, work release, or any  
33 other form of release as defined under RCW 9.94A.728 (~~((1), (2), (3),~~  
34 ~~(4), (6), (8), or (9))~~) (1) (b), (c), (e), (h), and (i), or any other  
35 form of authorized leave from a correctional facility while not in  
36 the direct custody of a corrections officer or officers, except:  
37 (~~(1)~~) (a) In the case of an offender in need of emergency medical  
38 treatment; or (~~(2)~~) (b) for the purpose of commitment to an



1 inpatient treatment facility in the case of an offender convicted of  
2 the crime of rape in the first degree.

3 (2) This section does not apply if a court finds a defendant  
4 qualifies for reduced or alternative sentencing under section 1 or 2  
5 of this act.

6 NEW SECTION. **Sec. 10.** A new section is added to chapter 9.94A  
7 RCW to read as follows:

8 (1) Any person who has been discharged under RCW 9.94A.637 may  
9 apply to the sentencing court for a vacation of his or her record of  
10 conviction for an offense occurring prior to the effective date of  
11 this section on the basis that: At the time of the offense, the  
12 person was a victim of domestic violence, sexual assault, or human  
13 trafficking, subjected to substantial physical, sexual, or  
14 psychological abuse inflicted by an intimate partner or family or  
15 household member; the domestic violence or abuse suffered by the  
16 person was a significant contributing factor to the defendant's  
17 criminal conduct; and the collateral consequences of the record of  
18 conviction create an unduly harsh burden on the person given the  
19 nature and circumstances of the offense and the personal history,  
20 character, and condition of the individual.

21 (2) In considering an application under this section, the court  
22 may consider the factors specified in section 1(2)(b) of this act and  
23 any evidence offered by the applicant, the prosecutor, and third  
24 parties including, but not limited to, those specified in section  
25 1(2)(c) of this act; however, the court, in its discretion, may rely  
26 solely upon the sworn testimony of the applicant at a hearing before  
27 the court when granting an application under this section.

28 (3) If the court finds that an applicant qualifies under this  
29 section, the court may, in the interest of justice, waive the  
30 restrictions under RCW 9.94A.640(2) and vacate the conviction  
31 according to the process provided in RCW 9.94A.640(1).

32 (4) For the purposes of this section, "intimate partner" and  
33 "family or household member" have the same meanings as provided in  
34 RCW 10.99.020.

35 **Sec. 11.** RCW 9.94A.640 and 2021 c 237 s 2 are each amended to  
36 read as follows:

37 (1) Every offender who has been discharged under RCW 9.94A.637  
38 may apply to the sentencing court for a vacation of the offender's

1 record of conviction. If the court finds the offender meets the tests  
2 prescribed in subsection (2) of this section or section 10 of this  
3 act, the court may clear the record of conviction by: (a) Permitting  
4 the offender to withdraw the offender's plea of guilty and to enter a  
5 plea of not guilty; or (b) if the offender has been convicted after a  
6 plea of not guilty, by the court setting aside the verdict of guilty;  
7 and (c) by the court dismissing the information or indictment against  
8 the offender.

9 (2) (~~(A)~~) Except as provided under section 10 of this act, an  
10 offender may not have the record of conviction cleared if:

11 (a) There are any criminal charges against the offender pending  
12 in any court of this state or another state, or in any federal court;

13 (b) The offense was a violent offense as defined in RCW 9.94A.030  
14 or crime against persons as defined in RCW 43.43.830, except the  
15 following offenses may be vacated if the conviction did not include a  
16 firearm, deadly weapon, or sexual motivation enhancement: (i) Assault  
17 in the second degree under RCW 9A.36.021; (ii) assault in the third  
18 degree under RCW 9A.36.031 when not committed against a law  
19 enforcement officer or peace officer; and (iii) robbery in the second  
20 degree under RCW 9A.56.210;

21 (c) The offense is a class B felony and the offender has been  
22 convicted of a new crime in this state, another state, or federal  
23 court in the ten years prior to the application for vacation;

24 (d) The offense is a class C felony and the offender has been  
25 convicted of a new crime in this state, another state, or federal  
26 court in the five years prior to the application for vacation;

27 (e) The offense is a class B felony and less than ten years have  
28 passed since the later of: (i) The applicant's release from community  
29 custody; (ii) the applicant's release from full and partial  
30 confinement; or (iii) the applicant's sentencing date;

31 (f) The offense was a class C felony, other than a class C felony  
32 described in RCW 46.61.502(6) or 46.61.504(6), and less than five  
33 years have passed since the later of: (i) The applicant's release  
34 from community custody; (ii) the applicant's release from full and  
35 partial confinement; or (iii) the applicant's sentencing date; or

36 (g) The offense was a felony described in RCW 46.61.502 or  
37 46.61.504.

38 (3) If the applicant is a victim of sex trafficking,  
39 prostitution, or commercial sexual abuse of a minor; sexual assault;  
40 or domestic violence as defined in RCW 9.94A.030, the victim or the

1 prosecutor of the county in which the victim was sentenced may apply  
2 to the sentencing court or the sentencing court's successor to vacate  
3 the victim's record of conviction for a class B or class C felony  
4 offense using the process in RCW 9.94A.648. When preparing or filing  
5 the petition, the prosecutor is not deemed to be providing legal  
6 advice or legal assistance on behalf of the victim, but is fulfilling  
7 an administrative function on behalf of the state in order to further  
8 their responsibility to seek to reform and improve the administration  
9 of criminal justice. A record of conviction vacated using the process  
10 in RCW 9.94A.648 is subject to subsection (4) of this section.

11 (4) (a) Except as otherwise provided, once the court vacates a  
12 record of conviction under subsection (1) of this section, the fact  
13 that the offender has been convicted of the offense shall not be  
14 included in the offender's criminal history for purposes of  
15 determining a sentence in any subsequent conviction, and the offender  
16 shall be released from all penalties and disabilities resulting from  
17 the offense. For all purposes, including responding to questions on  
18 employment applications, an offender whose conviction has been  
19 vacated may state that the offender has never been convicted of that  
20 crime. A conviction that has been vacated under this section may not  
21 be disseminated or disclosed by the state patrol or local law  
22 enforcement agency to any person, except other criminal justice  
23 enforcement agencies. Nothing in this section affects or prevents the  
24 use of an offender's prior conviction in a later criminal  
25 prosecution, and nothing in this section affects the requirements for  
26 restoring a right to possess a firearm under RCW 9.41.040.

27 (b) A conviction vacated on or after July 28, 2019, qualifies as  
28 a prior conviction for the purpose of charging a present recidivist  
29 offense occurring on or after July 28, 2019, and may be used to  
30 establish an ongoing pattern of abuse for purposes of RCW 9.94A.535.

31 NEW SECTION. **Sec. 12.** A new section is added to chapter 9.96  
32 RCW to read as follows:

33 (1) Any person who has completed the conditions of his or her  
34 sentence may apply to the sentencing court for a vacation of his or  
35 her record of conviction for an offense occurring prior to the  
36 effective date of this section on the basis that: At the time of the  
37 offense, the person was a victim of domestic violence, sexual  
38 assault, or human trafficking, subjected to substantial physical,  
39 sexual, or psychological abuse inflicted by an intimate partner or

1 family or household member; the domestic violence or abuse suffered  
2 by the person was a significant contributing factor to the  
3 defendant's criminal conduct; and the collateral consequences of the  
4 record of conviction create an unduly harsh burden on the person  
5 given the nature and circumstances of the offense and the personal  
6 history, character, and condition of the individual.

7 (2) In considering an application under this section, the court  
8 may consider the factors specified in section 1(2)(b) of this act.  
9 The court may consider any evidence offered by the defendant, the  
10 prosecutor, and third parties including, but not limited to, the  
11 types specified in section 1(2)(c) of this act; however, the court,  
12 in its discretion, may rely solely upon the sworn testimony of the  
13 applicant at a hearing before the court when granting an application  
14 under this section.

15 (3) If the court finds that an applicant qualifies under this  
16 section, the court may, in the interest of justice, waive the  
17 restrictions under RCW 9.96.060(2) and vacate the conviction  
18 according to the process provided in RCW 9.96.060(1).

19 (4) For the purposes of this section, "intimate partner" and  
20 "family or household member" have the same meanings as provided in  
21 RCW 10.99.020.

22 **Sec. 13.** RCW 9.96.060 and 2024 c 296 s 1 are each amended to  
23 read as follows:

24 (1) When vacating a conviction under this section or section 12  
25 of this act, the court effectuates the vacation by: (a) (i) Permitting  
26 the applicant to withdraw the applicant's plea of guilty and to enter  
27 a plea of not guilty; or (ii) if the applicant has been convicted  
28 after a plea of not guilty, the court setting aside the verdict of  
29 guilty; and (b) the court dismissing the information, indictment,  
30 complaint, or citation against the applicant and vacating the  
31 judgment and sentence.

32 (2) Every person convicted of a misdemeanor or gross misdemeanor  
33 offense may apply to the sentencing court for a vacation of the  
34 applicant's record of conviction for the offense. If the court finds  
35 the applicant meets the requirements of this subsection, the court  
36 may in its discretion vacate the record of conviction. Except as  
37 provided in subsections (3), (4), (5), and (6) of this section and  
38 section 12 of this act, an applicant may not have the record of

1 conviction for a misdemeanor or gross misdemeanor offense vacated if  
2 any one of the following is present:

3 (a) The applicant has not completed all of the terms of the  
4 sentence for the offense, including satisfaction of financial  
5 obligations;

6 (b) There are any criminal charges against the applicant pending  
7 in any court of this state or another state, or in any federal or  
8 tribal court, at the time of application;

9 (c) The offense was a violent offense as defined in RCW 9.94A.030  
10 or an attempt to commit a violent offense;

11 (d) The offense was a violation of RCW 46.61.502 (driving while  
12 under the influence), 46.61.504 (actual physical control while under  
13 the influence), 9.91.020 (operating a railroad, etc. while  
14 intoxicated), or the offense is considered a "prior offense" under  
15 RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug  
16 violation within 10 years of the date of arrest for the prior offense  
17 or less than 10 years has elapsed since the date of the arrest for  
18 the prior offense;

19 (e) The offense was any misdemeanor or gross misdemeanor  
20 violation, including attempt, of chapter 9.68 RCW (obscenity and  
21 pornography), chapter 9.68A RCW (sexual exploitation of children), or  
22 chapter 9A.44 RCW (sex offenses), except for failure to register as a  
23 sex offender under RCW 9A.44.132;

24 (f) The applicant was convicted of a misdemeanor or gross  
25 misdemeanor offense as defined in RCW 10.99.020, or the court  
26 determines after a review of the court file that the offense was  
27 committed by one family or household member against another or by one  
28 intimate partner against another, or the court, after considering the  
29 damage to person or property that resulted in the conviction, any  
30 prior convictions for crimes defined in RCW 10.99.020, or for  
31 comparable offenses in another state or in federal court, and the  
32 totality of the records under review by the court regarding the  
33 conviction being considered for vacation, determines that the offense  
34 involved domestic violence, and any one of the following factors  
35 exist:

36 (i) The applicant has not provided written notification of the  
37 vacation petition to the prosecuting attorney's office that  
38 prosecuted the offense for which vacation is sought, or has not  
39 provided that notification to the court;

1 (ii) The applicant has two or more domestic violence convictions  
2 stemming from different incidents. For purposes of this subsection,  
3 however, if the current application is for more than one conviction  
4 that arose out of a single incident, none of those convictions counts  
5 as a previous conviction;

6 (iii) The applicant has signed an affidavit under penalty of  
7 perjury affirming that the applicant has not previously had a  
8 conviction for a domestic violence offense, and a criminal history  
9 check reveals that the applicant has had such a conviction; or

10 (iv) Less than five years have elapsed since the person completed  
11 the terms of the original conditions of the sentence, including  
12 successful completion of any treatment ordered as a condition of  
13 sentencing, but excluding the payment of financial obligations;

14 (g) For any offense other than those described in (f) of this  
15 subsection, less than three years have passed since the later of the  
16 applicant's release from supervision or probation; the applicant's  
17 release from total and partial confinement, as defined in RCW  
18 9.94A.030; or the applicant's sentencing date;

19 (h) The offender has been convicted of a new crime in this state,  
20 another state, or federal or tribal court in the three years prior to  
21 the vacation application; or

22 (i) The applicant is currently restrained by a domestic violence  
23 protection order, a no-contact order, an antiharassment order, or a  
24 civil restraining order which restrains one party from contacting the  
25 other party or was previously restrained by such an order and was  
26 found to have committed one or more violations of the order in the  
27 five years prior to the vacation application.

28 (3) If the applicant is a victim of sex trafficking,  
29 prostitution, or commercial sexual abuse of a minor; sexual assault;  
30 or domestic violence as defined in RCW 9.94A.030, or the prosecutor  
31 applies on behalf of the state, the sentencing court may vacate the  
32 record of conviction if the application satisfies the requirements of  
33 RCW 9.96.080. When preparing or filing the petition, the prosecutor  
34 is not deemed to be providing legal advice or legal assistance on  
35 behalf of the victim, but is fulfilling an administrative function on  
36 behalf of the state in order to further their responsibility to seek  
37 to reform and improve the administration of criminal justice. A  
38 record of conviction vacated using the process in RCW 9.96.080 is  
39 subject to subsections (7) and (8) of this section.

1 (4) Every person convicted prior to January 1, 1975, of violating  
2 any statute or rule regarding the regulation of fishing activities,  
3 including, but not limited to, (~~(former)~~) former RCW 75.08.260,  
4 75.12.060, 75.12.070, 75.12.160, 77.16.020, 77.16.030, 77.16.040,  
5 77.16.060, and 77.16.240 who claimed to be exercising a treaty Indian  
6 fishing right, may apply to the sentencing court for vacation of the  
7 applicant's record of the misdemeanor, gross misdemeanor, or felony  
8 conviction for the offense. If the person is deceased, a member of  
9 the person's family or an official representative of the tribe of  
10 which the person was a member may apply to the court on behalf of the  
11 deceased person. Notwithstanding the requirements of RCW 9.94A.640,  
12 the court shall vacate the record of conviction if:

13 (a) The applicant is a member of a tribe that may exercise treaty  
14 Indian fishing rights at the location where the offense occurred; and

15 (b) The state has been enjoined from taking enforcement action of  
16 the statute or rule to the extent that it interferes with a treaty  
17 Indian fishing right as determined under *United States v. Washington*,  
18 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp.  
19 899 (D. Oregon 1969), and any posttrial orders of those courts, or  
20 any other state supreme court or federal court decision.

21 (5) Every person convicted of a misdemeanor cannabis offense, who  
22 was 21 years of age or older at the time of the offense, may apply to  
23 the sentencing court for a vacation of the applicant's record of  
24 conviction for the offense. A misdemeanor cannabis offense includes,  
25 but is not limited to: Any offense under RCW 69.50.4014, from July 1,  
26 2004, onward, and its predecessor statutes, including RCW  
27 69.50.401(e), from March 21, 1979, to July 1, 2004, and RCW  
28 69.50.401(d), from May 21, 1971, to March 21, 1979, and any offense  
29 under an equivalent municipal ordinance. If an applicant qualifies  
30 under this subsection, the court shall vacate the record of  
31 conviction.

32 (6) If a person convicted of violating RCW 69.50.4011(1) (b) or  
33 (c), 69.50.4013, 69.50.4014, or 69.41.030(2) (b) or (c) completes a  
34 substance use disorder program and files proof of completion with the  
35 court, or obtains an assessment from a recovery navigator program  
36 established under RCW 71.24.115, an arrest and jail alternative  
37 program established under RCW 36.28A.450, or a law enforcement  
38 assisted diversion program established under RCW 71.24.589, and has  
39 six months of substantial compliance with recommended treatment or  
40 services and progress toward recovery goals as reflected by a written

1 status update, upon verification the court must vacate the conviction  
2 or convictions.

3 (7) A person who is a family member of a homicide victim may  
4 apply to the sentencing court on the behalf of the victim for  
5 vacation of the victim's record of conviction for prostitution under  
6 RCW 9A.88.030. If an applicant qualifies under this subsection, the  
7 court shall vacate the victim's record of conviction.

8 (8)(a) Except as provided in (c) of this subsection, once the  
9 court vacates a record of conviction under this section, the person  
10 shall be released from all penalties and disabilities resulting from  
11 the offense and the fact that the person has been convicted of the  
12 offense shall not be included in the person's criminal history for  
13 purposes of determining a sentence in any subsequent conviction. For  
14 all purposes, including responding to questions on employment or  
15 housing applications, a person whose conviction has been vacated  
16 under this section may state that he or she has never been convicted  
17 of that crime. However, nothing in this section affects the  
18 requirements for restoring a right to possess a firearm under RCW  
19 9.41.041. Except as provided in (b) of this subsection, nothing in  
20 this section affects or prevents the use of an offender's prior  
21 conviction in a later criminal prosecution.

22 (b) When a court vacates a record of domestic violence as defined  
23 in RCW 10.99.020 under this section, the state may not use the  
24 vacated conviction in a later criminal prosecution unless the  
25 conviction was for: (i) Violating the provisions of a restraining  
26 order, no-contact order, or protection order restraining or enjoining  
27 the person or restraining the person from going on to the grounds of  
28 or entering a residence, workplace, school, or day care, or  
29 prohibiting the person from knowingly coming within, or knowingly  
30 remaining within, a specified distance of a location, a protected  
31 party's person, or a protected party's vehicle (RCW 10.99.040,  
32 10.99.050, 26.09.300, 26.26B.050, 26.44.063, 26.44.150, or 26.52.070,  
33 or any of the former RCW 26.50.060, 26.50.070, 26.50.130, and  
34 74.34.145); (ii) stalking (RCW 9A.46.110); or (iii) a domestic  
35 violence protection order or vulnerable adult protection order  
36 entered under chapter 7.105 RCW. A vacated conviction under this  
37 section is not considered a conviction of such an offense for the  
38 purposes of 27 C.F.R. 478.11.

39 (c) A conviction vacated on or after July 28, 2019, qualifies as  
40 a prior conviction for the purpose of charging a present recidivist



1 offense as defined in RCW 9.94A.030 occurring on or after July 28,  
2 2019.

3 (9) The clerk of the court in which the vacation order is entered  
4 shall immediately transmit the order vacating the conviction to the  
5 Washington state patrol identification section and to the local  
6 police agency, if any, which holds criminal history information for  
7 the person who is the subject of the conviction. The Washington state  
8 patrol and any such local police agency shall immediately update  
9 their records to reflect the vacation of the conviction, and shall  
10 transmit the order vacating the conviction to the federal bureau of  
11 investigation. A conviction that has been vacated under this section  
12 may not be disseminated or disclosed by the state patrol or local law  
13 enforcement agency to any person, except other criminal justice  
14 enforcement agencies.

15 (10) For the purposes of this section, "cannabis" has the meaning  
16 provided in RCW 69.50.101.

17 NEW SECTION. **Sec. 14.** Section 4 of this act expires January 1,  
18 2026.

19 NEW SECTION. **Sec. 15.** Section 5 of this act takes effect  
20 January 1, 2026.

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